



**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 Regular Meeting**

**Monday, July 27, 2020 at 6:00 PM**

**City Hall Cowles Council Chambers via Zoom Webinar**

**Dial: +1 669 900 6833 or +1 253 215 8782 or Toll Free 877 853 5247 or 888 788 0099**

**Webinar#205 093 973 Password: 610853**

### **CALL TO ORDER, PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL** (Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

### **MAYORAL PROCLAMATIONS AND RECOGNITIONS**

### **PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA**

### **RECONSIDERATION**

**CONSENT AGENDA** (Items listed below will be enacted by one motion. If a separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- a. City Council Unapproved Regular Meeting Minutes of June 22, 2020 and Special Meeting Minutes of July 1 and July 14, 2020. City Clerk. Recommend adoption.
- b. Memorandum 20-101 from Deputy City Clerk Re: Approval of New Liquor License for Homer Spit Oyster Bar. Recommend approval.
- c. Memorandum 20-102 from Deputy City Clerk Re: Retail Marijuana License Renewal for Uncle Herb's. Recommend approval.
- d. Ordinance 20-42, An Ordinance of the City Council of Homer, Alaska Amending the Official Road Maintenance Map of the City of Homer by adding 2515 Lineal Feet (.48 miles) of Urban Road on Ternview Place, Kilokak Lane, and Virginia Lyn Way. City Manager/Public Works Director. Recommended dates: Introduction July 27, 2020, Public Hearing and Second Reading August 10, 2020

Memorandum 20-103 from Public Works Inspector as backup

- e. Ordinance 20-43, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 11.08.090 Driveways, Road Approaches-Property of City, Relating to

Driveway Construction Permits. City Manager/Public Works Director. Recommended dates: Introduction July 27, 2020, Public Hearing and Second Reading August 10, 2020

Memorandum 20-104 from Public Works Director as backup

f. Ordinance 20-44, An Ordinance of the City Council of Homer, Alaska Amending the 2020-2021 Operating Budget to Appropriate Funds in the Amount of \$47, 080 in the 2020 and \$99,670 in 2021 for a total of \$146,750 from General Fund Fund Balance to Fund Additional Finance Department Personnel.Lord/Aderhold. Recommended dates: Introduction July 27, 2020, Public Hearing and Second Reading August 10, 2020

g. Ordinance 20-48, An Ordinance of the City Council of Homer, Alaska Amending the 2020-2021 Operating Budget and Authorizing Expenditure of an Additional \$29,100 for Porta Potties and Hand Wash Stations, Designating \$24,300 of this a COVID Related Expenses oan Authorizing a Sole Source Contract. City Manager/Public Works Director. Recommended dates: Introduction July 27, 2020, Public Hearing and Second Reading August 10, 2020.

Memorandum 20-105 from Public Works Director as backup

h. Resolution 20-065, A Resolution of the City Council of Homer, Alaska Amending the Homer Fee Schedule under Library Fees to Eliminate Late Fees and Increase the Lost or Damaged Item Processing Fee. Venuti. Recommend adoption.

Memorandum 20-106 from Library Director as backup

i. Resolution 20-066, A Resolution of the City Council of Homer, Alaska Authorizing the City to Apply for the Municipal Arts & Culture Matching Grant Program, a Partnership between Municipal Governments and Rasmuson Foundation. Aderhold/Lord. Recommend adoption.

j. Resolution 20-067, A Resolution of the City Council of Homer, Alaska Approving and Accepting the Donation from Shell Perretta of Wethersfield, Connecticut, for a Park Bench to be placed on the Homer Spit in Memory and Fulfillment of her Mother's Last Wishes. Venuti/Hansen-Cavasos. Recommend adoption.

Memorandum 20-107 from PARCAC as backup

k. Resolution 20-068, A Resolution of the City Council of Homer, Alaska Stating the Critical Importance, and Supporting the Recertification, of the Cook Inlet Regional Citizens Advisory Council (Cook Inlet RCAC). Mayor. Recommend adoption.

l. Resolution 20-069, A Resolution of the City Council of Homer, Alaska Extending the City of Homer Disaster Emergency Declaration to October 27, 2020 due to the Current and Expected Impacts of the COVID-19 Novel Coronavirus Pandemic. Mayor. Recommend adoption.

## **VISITORS**

- a. Prince William Sound Regional Citizens Advisory Council (PWSRCAC) Report - Robert Archibald (10 minutes)
- b. Homer Steps Up Walking Challenge Results - Derotha Ferraro, South Peninsula Hospital Director of Public Relations & Marketing (5 minutes)
- c. Unified Command Report (20 minutes)

## **ANNOUNCEMENTS / PRESENTATIONS / REPORTS** (5 Minute limit per report)

- a. Worksession Report
- b. Committee of the Whole Report
- c. Mayor's Report
  - i. Community Letter Re: Alaska Marine Highway Reshaping Work Group
- d. Borough Report
- e. Library Advisory Board
  - i. Library Advisory Board Report
- f. Planning Commission
  - i. Planning Commission Report
- g. Economic Development Advisory Commission
- h. Parks Art Recreation and Culture Advisory Commission
- i. Port and Harbor Advisory Commission
- j. Americans with Disabilities Act Compliance Committee

## **PUBLIC HEARING(S)**

- [a.](#) Ordinance 20-28, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.060(c) Signs on Private Property, Tables 1, 2, and 3. Planning Commission. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-081 from Acting City Manager as backup

- [b.](#) Ordinance 20-29 An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.46 Small Boat Harbor Overlay Zoning District, Section 21.46.060 Architectural Standards, to Remove the Requirement for Gabled Roofs. Planning Commission. Introduction June 22, 2020. Public Hearing and Second reading July 27, 2020

Memorandum 20-082 from Acting City Manager as backup.

- c. Ordinance 20-30, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Operating Budget and Authorizing Expenditure of Design Funds for the Seawall Armor Rock Installation Project. Aderhold/City Manager.

Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-083 from City Engineer as backup

Memorandum 20-072 from City Engineer as backup

Memorandum 20-073 from City Engineer as backup

- d. Ordinance 20-31, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$90,000 from the HART-Roads Fund to update the City's 1979 Drainage Management Plan. City Manager/Public Works Director. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-084 from Public Works Director as backup

Ordinance 20-31(S), An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating **Capital** Budget and Authorizing Expenditure of \$90,000 from the HART-Roads Fund to update the City's 1979 Drainage Management Plan. City Manager/Public Works Director.

- e. Ordinance 20-32, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing Expenditure of \$98,000 from the HART-Roads Fund for the Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project. City Manager/Public Works Director. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020

Memorandum 20-085 from Public Works Director as backup

- f. Ordinance 20-33, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing of \$175,000 from the HART-Roads Fund for the Small Works Road Repair Program and calling for the development of a Roads Financial Plan. City Manager/Public Works Director, Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-086 from Public Works Director as backup

- g. Ordinance 20-34, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing Expenditure of \$110,000 from the HART-Roads Fund for Small Works Drainage Improvement Program. City Manager/Public Works Director. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-087 from Public Works Director as backup

- [h.](#) Ordinance 20-35, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$95,000 for the Planning, Design, and Permitting for the City of Homer Fuel Island Replacement Project. City Manager/Public Works Director. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-088 from Public Works Director as backup

Ordinance 20-35(S), An Ordinance of the City Council of Homer, Alaska, Amending the ~~2020-2021 Operating~~ **Capital** Budget and Authorizing Expenditure of \$95,000 for the Planning, Design, and Permitting for the City of Homer Fuel Island Replacement Project. City Manager/Public Works Director.

- [i.](#) Ordinance 20-36, an Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$36,000 from the HART-Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan. City Manager/Public Works Director. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-089 from Public Works Director as backup

Ordinance 20-36(S), an Ordinance of the City Council of Homer, Alaska, Amending the ~~2020-2021 Operating~~ **Capital** Budget and Authorizing Expenditure of \$36,000 from the HART-Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan. City Manager/Public Works Director.

- [j.](#) Ordinance 20-37, an Ordinance of the City Council of Homer, Alaska Extending the Moratorium on Applications for Professional Offices and Medical Clinics in the Residential Office District and Directing the Planning Commission to Make a Recommendation to the City Council for the Creation of a Medical District in the Vicinity of the South Peninsula Hospital that was established in Ordinance 19-49(S)(A) to September 15, 2020. Smith. Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

- [k.](#) Ordinance 20-39(A), An Ordinance by the City Council of Homer, Alaska, ~~Amending the FY 2020 Capital Budget to Appropriate~~ **Appropriating** \$20,680 to Support the Additional Assistance Provided by Alaska Municipal League during the COVID 19 Public Health Emergency **from the City's COVID-19 Fund**. Mayor. Introduction June 22, 2020, Public Hearing and Second Reading July 20, 2020.

Memorandum 20-093 from Mayor as backup

## **ORDINANCE(S)**

- [a.](#) Ordinance 20-45, An Ordinance of the City Council of Homer, Alaska Appropriating \$4,031,326.50 in CARES Act Funds from the State of Alaska and Providing for Administrative Flexibility in the Management of these Funds. Lord/Aderhold. Recommended dates: Introduction July 27, 2020 Public Hearing and Second Reading August 10, 2020

Memorandum 20-110 from Interim City Manager as backup

- [b.](#) Ordinance 20-46, An Ordinance of the City Council of Homer, Alaska Promoting Natural Gas as a Cleaner Heating Fuel and Amending Homer City Code Title 7 Vehicles and Traffic, Chapter 7.16 Operating, Stopping or Parking of Motor Vehicles in Beach Areas Prohibited-Exceptions, by Deleting Section 7.16.020(b). Evensen. Recommended dates: Introduction July 27, 2020, Public Hearing and Second Reading August 10, 2020

Memorandum 20-109 from Interim City Manager as backup

- [c.](#) Ordinance 20-47, An Emergency Ordinance of the City Council of Homer, Alaska Authorizing Additional Expenditures in the Amount of \$357,579 for Expenses Related to COVID-19 for Personnel Costs and Material and Service Costs.

Memorandum 20-113 from Interim City Manager as backup

Memorandum 20-114 from Interim City Manager as backup

## **CITY MANAGER'S REPORT**

### **PENDING BUSINESS**

### **NEW BUSINESS**

- [a.](#) Memorandum 20-108 from City Clerk Re: Vacation of the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition Granted by Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska within the Kenai Peninsula Borough.

## **RESOLUTIONS**

- [a.](#) Resolution 20-070, A Resolution of the City Council of Homer, Alaska Amending the Small Business Economic Recovery Grant (SBERG) Program to Clarify Eligibility Requirements Related to Business Operation with the City of Homer as it Relates to Sales Tax Collection with the Kenai Peninsula Borough and Establishing an Appeals Process. Lord/Aderhold.
- [b.](#) Resolution 20-071, A Resolution of the City Council of Homer, Alaska Establishing the Nonprofit Economic Relief Grant Program (NERG), Household Economic Relief Grant Program (HERG), Social Services Economic Relief Grant Program (SOSERG), And Childcare Business Economic Relief Grant Program (CBERG) in Response to the

Economic Downfall Caused by Measures taken to Assure Public Safety in the Face of the Covid-19 Pandemic. Lord/Aderhold/Venuti.

Memorandum 20-111 from Interim City Manager as backup

- c. Resolution 20-072, A Resolution of the City Council of Homer, Alaska Approving a Policy to Establish Campground Host Stipends as a Proactive Step to Incentivize Campground Hosts for City Owned Campgrounds in an amount not to exceed \$100 per Week. City Manager/Public Works Director.

Memorandum 20-112 from Public Works Director as backup

**COMMENTS OF THE AUDIENCE**

**COMMENTS OF THE CITY ATTORNEY**

**COMMENTS OF THE CITY CLERK**

**COMMENTS OF THE CITY MANAGER**

**COMMENTS OF THE MAYOR**

**COMMENTS OF THE CITY COUNCIL**

**ADJOURNMENT**

Next Regular Meeting is Monday, August 10, 2020 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held virtually from the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Session 20-21 a Regular Meeting of the Homer City Council was called to order on June 22, 2020 by Mayor Ken Castner at 6:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: ADERHOLD, EVENSEN, HANSEN-CAVASOS, LORD, SMITH, VENUTI

**STAFF:** ACTING CITY MANAGER ABBOUD  
CITY CLERK JACOBSEN  
DEPUTY CITY CLERK KRAUSE  
PUBLIC WORKS DIRECTOR KEISER  
FIRE CHIEF KIRKO  
DEPUTY CITY CLERK TUSSEY  
CITY ATTORNEY GATTI

**AGENDA APPROVAL** (Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

Mayor Castner asked for consensus to allow Dr. Anne Zink to present. There was no objection from Council.

Dr. Anne Zink, State of Alaska Chief Medical Officer, responded to questions from the Mayor regarding at what point does the growing number positive cases on the Kenai Peninsula become alarming and how can the City best respond given their limited ability to make mandates. Regarding mandating masks, Dr. Zink responded a first step is for the Council to send a letter to the Governor asking the State for a mask mandate in Homer. Regarding increasing cases on the peninsula Dr. Zink addressed challenges with mandating and less tolerance that results for the mandates as things move forward. The challenge is to find new and different ways to mitigate. She shared comments regarding new masking efforts, mitigation steps that Seward is taking related to July 4<sup>th</sup>, Big Groups planning sessions being held to work with communities and organizations. Addressing risks and benefits is important when considering strategies used to move forward with things like events, health care capacity, and closures. Regarding mitigating the disease, the more we can get the population be able to make the individual choices themselves to wear a mask, wash hands, and stay at least 6 feet apart and the better off we are.

Mayor and Council engaged in discussion with Dr. Zink regarding testing in our area and challenges with mitigating spread with increased gathering in Homer, as well as people travelling to Homer.

The following changes were made: Consent agenda: Ordinance 20-32, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing



Expenditure of \$98,000 from the HART Roads Fund for the Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project. City Manager/Public Works Director. Recommended dates: introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020. Written Public Comment; Ordinance 20-36, an Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$36,000 from the HART Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020. Written Public Comment. Public Comment; City Manager's Report Updated FY 20 1st Quarter Expenditure Report, City of Homer General Fund May 2020 Report, Updated General Fund 2019 4th Quarter Report, Photos of Culvert Failures on Fairview Avenue, Letter from Alaska Food Hub/Cook Inletkeeper requesting use of the HERC facility; New Business Memorandum 20-092 from Deputy City Clerk re: Recommendation to Rescind Motion to Adopt Resolution 20-056; draft of 20-056(A) showing edits referenced in the memorandum; Ordinances Pull Ordinance 20-38, An Ordinance of the City Council of Homer, Alaska, Authorizing the Kenai Peninsula Borough to Distribute CARES Act Funding to Businesses with a Physical Location within City Limits that do not Have Sales within City Limits. Mayor. Ordinances pull item c. Ordinance 20-38.

LORD/ADERHOLD MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **MAYORAL PROCLAMATIONS AND RECOGNITIONS**

## **PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA**

## **RECONSIDERATION**

**CONSENT AGENDA** (Items listed below will be enacted by one motion. If a separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- a. Homer City Council unapproved Regular Meeting Minutes of June 8, 2020 and Special Meeting Minutes of June 9 and 10, 2020. Recommend adoption.

June 8, 2020 Regular Meeting Minutes moved to New Business. Mayor.

- b. Memorandum 20-091 from Deputy City Clerk re: Approval of New Liquor License Application for The Broken Oar. Recommend approval.

- c. Ordinance 20-28, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.060(c) Signs on Private Property, Tables 1, 2, and 3. Planning Commission. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-081 from Acting City Manager as backup

- d. Ordinance 20-29 An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.46 Small Boat Harbor Overlay Zoning District, Section 21.46.060 Architectural Standards, to Remove the Requirement for Gabled Roofs. Planning Commission. Recommended dates: introduction June 22, 2020. Public Hearing and Second reading July 27, 2020

Memorandum 20-082 from Acting City Manager as backup.

- e. Ordinance 20-31, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$90,000 from the HART-Roads Fund to update the City's 1979 Drainage Management Plan. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-084 from Public Works Director as backup

- f. Ordinance 20-32, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$98,000 from the HART-Roads Fund for the Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project. City Manager/Public Works Director. Recommended dates: introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020

Memorandum 20-085 from Public Works Director as backup

- g. Ordinance 20-33, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing of \$175,000 from the HART-Roads Fund for the Small Works Road Repair Program and calling for the development of a Roads Financial Plan. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-086 from Public Works Director as backup

- h. Ordinance 20-34, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$110,000 from the HART-Roads Fund for Small Works Drainage Improvement Program. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-087 from Public Works Director as backup

- i. Ordinance 20-35, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$95,000 for the Planning, Design, and Permitting for the City of Homer Fuel Island Replacement Project. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-088 from Public Works Director as backup

- j. Ordinance 20-36, an Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$36,000 from the HART-Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan. City Manager/Public Works Director. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

Memorandum 20-089 from Public Works Director as backup

- k. Ordinance 20-39, An Ordinance by the City Council of Homer, Alaska, Amending the FY 2020 Capital Budget to Appropriate \$20,680 to Support the Additional Assistance Provided by Alaska Municipal League during the COVID 19 Public Health Emergency. Mayor. Introduction June 22, 2020, Public Hearing and Second Reading July 20, 2020.

Moved to Ordinances item c. Lord.

- l. Resolution 20-059, A Resolution of the City Council of Homer, Alaska, Approving and Accepting a Donation of Real Property Described as T6S R13W SEC 19 Seward Meridian HM2007031 Foothills Sub, Sunset View Estates S Addn, No 2 Phase 1 Lot 2, Block 2 from Sunset View Estates, LLC for Continued Use as a Storm Water Retention Area. City Manager.

Memorandum 20-079 from Deputy City Planner/Public Works Superintendent as backup

- m. Resolution 20-060, A Resolution of the City Council of Homer, Alaska Approving the Request for Proposals for a City Lobbyist. City Manager.

Venuti/Aderhold. Recommend adoption.

Item k. moved to Ordinances item c. Lord

City Clerk Jacobsen read the consent agenda and recommendations.

LORD/VENUTI MOVED TO ADOPT THE RECOMMENDATIONS OF THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried

## **VISITORS**

a. South Kenai Peninsula Opioid Task Force Quarterly Update (10 minutes)

Stephanie Stillwell, facilitator for the South Kenai Peninsula (SKP) Opioid Task Force, shared that the task force is continuing their work and aligning with recommendations for the health and wellness of the community by holding their task force and working group meetings via Zoom. The task force continues to meet on the 4<sup>th</sup> Wednesday of every month, everyone is welcome to attend the meeting as well as get involved with the working groups. Last year they put a lot of energy into their strategic planning and their strategic priorities, including reducing stigma, focusing efforts on prevention, increasing access to effective and affordable treatment, and increasing task force capacity. With COVID-19 they've had to adjust and focus on how to remain visible and connected in the community. They're creating a new website that will be live in the next few weeks, [www.allthingsaddiction.net](http://www.allthingsaddiction.net) that will be home to all the task force initiatives and meeting information, and a SKP specific site for resources for all things related to addiction. She shared about additional efforts on their social media campaign through Facebook, treatment and recovery services continue to be available, expanded services, and SetFree Alaska is making progress toward getting started and hope to open in July.

b. Unified Command Update (20 minutes)

Derotha Ferraro, South Peninsula Hospital (SPH) Public Information Officer, reported SPH has run 3609 tests and of those, 70 positive, 3381 negative, 158 pending. There have been 4569 tests done on the peninsula and 80 percent were done at SPH. She reviewed who qualifies testing, critical infrastructure worker, fisheries, recent travel out of state, known exposure to a confirmed positive, anyone with any COVID like symptoms or sudden onset of any unexplained symptom, anyone with a provider referral, anyone for pre-procedure screening, and Alaska Marine Highway (AMH) ferry passengers. It's a new requirement that ferry passengers must test 72 hours before boarding. Currently SPH can't guarantee a 72 hour turnaround time because their testing is averaging 4 to 5 days for results, so they're working with AMH on a solution along with other port towns in the same situation. Ms. Ferraro reported that some hospital employees test positive and no patients or residents were exposed or put at risk, and she reviewed the strict return to work protocols and extreme infection prevention measures that SPH has in place to protect those receiving care and the care givers.

Lorne Carroll, Public Health Nurse, noted the thoughtful layered approach taken to COVID response by SPH, the State of Alaska, and our community because this is a complicated situation. To maintain this approach there has been increased access to data, increased understanding of what the data means, increased access to evaluation and testing, and increased access to necessary pieces of the healthcare. He reported globally we're at 9 million cases, U.S. 2.3 million cases and 120,000 deaths, in Alaska were at 755 total cases, 61 hospitalizations, 63% of our cases have recovered. On the peninsula we have 2% of the State population and 10% of the total Alaska cases. Southern Kenai Peninsula (SKP) is at 76 cases total, 37 are in Homer. 60% of the total SKP cases have recovered. He reported on the uptick in COVID index case investigations and contact tracing over the past few weeks and explained the efforts that go into tracing and follow-up, and shared his appreciation with the Unified Command team efforts for the Tustumena response.

Rachel Tussey, City of Homer Deputy Public Information Officer, reported on the City's public information efforts that include continual information update on the City website, signage, radio ads, and the COVID call line, which has received 210 calls since March 26<sup>th</sup>.

Fire Chief Mark Kirko thanked the Unified Command team for their phenomenal job over the last six months. He acknowledged the great work by SPH regarding testing, and the team's effective response to the Tustumena. He shared about his experience getting tested recently, how easy and well done it was. He reported the EOC is looking at the City of Seward's draft recovery plan and he's thinking additionally about the sustained maintenance of the problem as we continue to work this to the best of our ability, and flatten the curve again. It will be important to look at public event gathering, upcoming holidays, and providing information on best safety practices. They're thinking about what re-opening the school system looks like if it happens, and what do those parameters look like. They're also looking at short and long range budgetary issues from the EOC perspective. He acknowledged the importance of the EOC being aware of public feedback and requests so they can work that into their tactical planning and strategies.

In response to questions Chief Kirko shared information about messaging for the upcoming July 4<sup>th</sup> holiday weekend and that he's willing to assist with a letter to the Governor regarding possible mandates for the City, if Council is interested.

Councilmember Aderhold requested a letter to the Governor be added to their July 1<sup>st</sup> special meeting agenda.

**ANNOUNCEMENTS / PRESENTATIONS / REPORTS** (5 Minute limit per report)

a. Committee of the Whole Report

Councilmember Lord reported Council addressed questions to the Public Works Director regarding the ordinance submitted for introduction under the consent agenda, the donation

to the library and how to confirm donations are used to fulfill the wishes of the donor, and discussed Resolution 20-058 regarding the loan application for improvements to the seawall with City Attorney Gatti.

b. Worksession Report

Councilmember Aderhold reported their worksession was devoted to discussion on uses for upcoming CARES Act funds coming to Homer. She and Councilmember Lord will be working to bring a proposed plan back for their July 27<sup>th</sup> meeting.

c. Mayor's Report

Mayor Castner reported we aren't COVID-19 all the time. A lot of work is being done in the City, things are progressing and departments are working, as seen in new resolutions and ordinances. We aren't at the same pace as before COVID, but still tackling big issues that will help the town recover. He said it's incumbent on everyone to take care of themselves and not fault others on how they are caring for themselves. Remember the virus is still out there and please be safe.

d. Borough Report

KPB Assembly President Kelly Cooper reported at their last meeting the Borough Mayor introduced an ordinance declaring the Borough a 2<sup>nd</sup> amendment sanctuary that is scheduled for public hearing on July 7<sup>th</sup>, she has concerns with the language and will be proposing some amendments showing support for the 2<sup>nd</sup> amendment while encouraging firearm safety training and cleaning up language that may suggest authority the Borough doesn't have, to help clarify that for the public. They passed an ordinance to accept CARES Act funding from the State, administration is setting up a grant application process for businesses outside city limits. The ordinance establishing a Resilience and Security Advisory Commission passed, all the incorporated city's provided resolutions of support and will give public notice when applications can be submitted to serve on the Commission. There was a request to reconsider the hybrid vote by mail ordinance and the reconsideration didn't pass and the Mayor has stated he will veto the ordinance, and two Assembly members have submitted a referendum petition application to the Clerk to have this go to the voters. If the petition is certified sponsors will have to submit 1,362 signatures by July 27<sup>th</sup> to have it on this year's ballot. They're working through the process of re-opening their assembly chambers responsibly and have received positive feedback from constituents on using the Zoom platform. They plan to use some of the CARES Act money to develop a platform that accommodates their legislative software with Zoom.

e. Library Advisory Board

i. Library Advisory Board June 2020 Report

f. Planning Commission

g. Economic Development Advisory Commission

Karin Marks, Economic Development Advisory Commission (EDC) Chair, appreciates the Council's introduction of Ordinance 20-28 regarding the sign code for multi-tenant buildings. This was a business suggestion coming out of the Business Retention and Expansion Survey and the EDC and Planning Commission and staffs working together to bring this about. The EDC met on June 9<sup>th</sup> and discussed ideas with updating their bylaws, particularly concerning CEDS, and looked at goals and strategies in an effort to make them more specific and have clear deliverables.

h. Parks Art Recreation and Culture Advisory Commission

Robert Archibald, Parks Art Recreation and Culture Advisory (PARCAC) Commissioner, reported on PARCAC meeting of June 18<sup>th</sup>. Public Works Director Keiser was there and shared some of her idea. It was exciting to hear about her background with parks. She also provided a COVID-19 update. Deputy City Planner Engebretsen reported a subdivision is going in next to Jack Gist Park that might change some of the complexion and operations of the park, and may also mean water and sewer might come that would benefit the park. Parks Maintenance Coordinator Steffy reported on a heavy level of usage at all the parks. Park Hosts are helping to maintain COVID separation, hand wash stations and an extra porta-restroom have been placed at Mariner Park. Karen Hornaday Park Campground has an area designated as a special use area for those under quarantine, sheltering, or economically displaced due to COVID. The Commission approved a donation request for a bench along the Spit Trail in memory of the donor's mother. The Commission shared their appreciation for Mr. Steffy and his staffs many hours of work maintaining the sanitary conditions of the restrooms. Community Recreation Manager reported on their programs opening up with strict COVID related protection protocols. They discussed CIP projects and funds for community trail infrastructure and maintenance that were addressed in ordinances on today's agenda. The Commission supports the HART Trail fund vision as submitted in the memo from the Public Works Director.

i. Port and Harbor Advisory Commission

j. Americans with Disabilities Act Compliance Committee

Mayor Castner called for a break at 7:41 p.m. and reconvened the meeting at 7:51 p.m.

**PUBLIC HEARING(S)**

- a. Ordinance 20-26, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 11.36 Vegetation in Rights-of-Way Sections 11.36.010 Vegetation in Rights-of-Way; 11.36.020 Removal of Vegetation in Rights-of-Way and Rights-of-Way Maintenance; Repealing 11.36.030 Removal for Compliance-Public Works Director Discretion and Reenacting 11.36.030 Annual Road Maintenance Plan; and Enacting 11.36.040 Public Notice and 11.36.050 Emergency Authority. City Manager/Public Works Director. Introduction June 8, 2020 Public Hearing and Second Reading June 22, 2020.

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

LORD/EVENSEN MOVED TO ADOPT ORDINANCE 20-26 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Councilmember Aderhold commented that overall she's onboard with ordinance, but feels this isn't the proper to place to deal with the climate change issue, noting a statement about climate change when it comes to an existing right-of-way. Trees don't belong where we're trying to move people and if we want to deal with trying to retain trees, which she agrees with, it needs to be more of a planning level effort when developing subdivisions and building areas. She isn't proposing any amendments, but wanted to share that statement.

Councilmember Evensen commented in support of the reference to climate change in the ordinance and that it doesn't take a one size fits all approach, but a different size for different sized roads in our community.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- b. Ordinance 20-27, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Donation from Arnold C. Wallace in the Amount of \$5000 for the Children's Room at the Homer Public Library. City Manager/Library Director. Introduction June 8, 2020 Public Hearing and Second Reading June 22, 2020.

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

LORD/VENUTI MOVED TO ADOPT ORDINANCE 20-27 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **ORDINANCE(S)**

- a. Ordinance 20-30, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Operating Budget and Authorizing Expenditure of Design Funds for the Seawall Armor Rock Installation Project. Aderhold/City Manager. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.



Memorandum 20-083 from City Engineer as backup  
Memorandum 20-072 from City Engineer as backup  
Memorandum 20-073 from City Engineer as backup

LORD/ADERHOLD MOVED TO INTRODUCE ORDINANCE 20-30 BY READING OF TITLE ONLY.

Councilmember Aderhold noted Council discussed this at Committee of the Whole and this is part of the process for moving forward with the armor rock project at the seawall. We need to spend some money to understand more of what the costs will be and be able to refine the cost estimate for the property owners.

Councilmember Venuti thanked Councilmember Aderhold for working hard on this and also Public Works Director Keiser for her explanations. She thinks it's important to move quickly with the project since the season's ending. She doesn't take this lightly but agrees we need to move.

Councilmember Evensen shared his concern about the cost of design for something the city doesn't want to be involved with for the long term and asked for historical information about this seawall.

Councilmember Aderhold encouraged contacting administration for historical information. She briefly summarized that there is an Army Corps of Engineers (ACOE) permit that determines the City is the entity that has to take action on the permit. The City owns two lots and what used to be right-of-way, so a small portion is paid for by the City and the remainder of the funds come from the seawall maintenance fund that's paid into by the property owners themselves. The property owners have asked us to move forward and need us to. There aren't enough funds in the maintenance account to make needed repairs if the armor rock project doesn't go in. Property owners have gone to the ACOE and asked for a permit to do their own rip-rap along their own property and have gotten a no, because the city's in control of the permit.

Mayor Castner asked how the 2020 operating budget is being amended. Councilmember Aderhold responded the maintenance fund for the property owners comes to the city through a mil rate on the properties, those tax funds come to the City and are put into a special project fund used specifically for the seawall maintenance. The other funds are what the city puts aside for its portion.

Councilmember Lord commented in support of the ordinance, it's getting closer to fall and winter and the idea of getting this moving forward is optimistic and this is a critical step to get us on target.

Councilmember Evensen questioned if the city funds the design, what happens if the special assessment district (SAD) isn't formed, and how would the city be reimbursed. Councilmember Aderhold explained the city wouldn't be out the entire cost, only its portion, close to \$6,000.

The property owner are contributing close to \$42,000 for the project. She shared concern about the cost and the dwindling fund, but there needs to be enough information to develop an understanding of what the SAD will cost the property owners.

Councilmember Smith he looks at this as providing a vehicle to get to yes. The reality is the wall as currently constructed won't weather the storms of the future and some resolution has to be reached. The better the information, the better decision they can make.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Ordinance 20-37, an Ordinance of the City Council of Homer, Alaska Extending the Moratorium on Applications for Professional Offices and Medical Clinics in the Residential Office District and Directing the Planning Commission to Make a Recommendation to the City Council for the Creation of a Medical District in the Vicinity of the South Peninsula Hospital that was established in Ordinance 19-49(S)(A) to September 15, 2020. Smith. Recommended dates: Introduction June 22, 2020. Public Hearing and Second Reading July 27, 2020.

LORD/SMITH MOVED TO INTRODUCE ORDINANCE 20-37 BY READING OF TITLE ONLY.

There was brief discussion whether this is an adequate extension for the moratorium. Acting City Manager Abboud believes it is, but will address a future extension if needed. They also addressed some process and reasoning behind a proposed medical district.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- d. Ordinance 20-38, An Ordinance of the City Council of Homer, Alaska, Authorizing the Kenai Peninsula Borough to Distribute CARES Act Funding to Businesses with a Physical Location within City Limits that do not Have Sales within City Limits. Mayor. Introduction June 22, 2020, Public Hearing and Second Reading July 20, 2020.

Pulled under agenda approval.

- e. Ordinance 20-39, An Ordinance by the City Council of Homer, Alaska, Amending the FY 2020 Capital Budget to Appropriate \$20,680 to Support the Additional Assistance Provided by Alaska Municipal League during the COVID 19 Public Health Emergency. Mayor. Introduction June 22, 2020, Public Hearing and Second Reading July 27, 2020.

LORD/VENUTI MOVED TO INTRODUCE ORDINANCE 20-39 BY READING OF TITLE ONLY.

LORD/ADERHOLD MOVED TO AMEND TO DELETE LINE 7 IN THE TITLE AND REPLACING IT WITH THE WORD APPROPRIATING, LINE 10 ADDING AT THE END OF HEALTH EMERGENCY “FROM THE CITY’S COVID-19 FUND, AND UNDER SECTION 1 AMENDING THE FINANCE PIECE TO REFLECT THAT THE FUNDS WILL BE APPROPRIATED FROM THE CITY’S COVID-19 FUND.

Councilmember Lord explained she spoke with the AML Executive Director and confirmed that the stipulations about revenue replacement and those things are specific to governments as the direct grantee from the federal funds. The money AML is requesting is CARES Act eligible and as such all those funds should be coming from our CARES Act fund.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Councilmember Aderhold requested the acronyms in the ordinance be spelled out when it comes back for public hearing.

VOTE (main motion as amended): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **CITY MANAGER'S REPORT**

### a. City Manager's Report

Councilmember Lord asked about SBERG roll out timeline and Acting City Planner Abboud explained Jody Mastey is on board and in the process of setting up communications, educational materials and informational fliers, procedures, FAQ’s, paper applications, and website setup. June 26<sup>th</sup> is the target date to be open for applications. She noted there were suggestions brought forward from the Borough regarding SBERG policies and addressing tax delinquency, and she’ll work with administration and the Borough to bring forward a resolution to clarify and be more consistent with the Borough.

Councilmember Aderhold noted the information included regarding the contract with HDR and she reminded the group she used to work for HDR, it’s been more than three years so there’s no conflict of interest, but wanted to disclose. She addressed the information provided about departments cutting costs, which is appreciated, but we also need to look at the big picture and what we’re accomplishing by cutting further. She encouraged that departments think strategically, if there are cuts to be made, what makes the most sense.

Councilmember Smith appreciated the updated information regarding the police station debt repayment fund. He asked if it changes the number for our excess tax revenue collected last year that have been reported. Acting City Manager Abboud said he’d follow up, but it looks to be so.

Councilmember Venuti commented regarding the dangerous the parking is before people before they get out on the spit, and wonder what ideas are for addressing that. Acting City Manager Abboud explained with the erosion of camping areas on the spit, people are parking and camping on the fog line. Public Works and Port and Harbor are working together to develop some solutions to keep people off the fog line, and opening some parking in another area close by. They're also bringing a parking enforcement officer back to help with the parking situations.

Councilmember Aderhold asked if we're hiring temporary staff in direct response to COVID, when is it appropriate to use general fund dollars and when to use the COVID funds. Acting City Manager Abboud responded it's being evaluated on a case by case basis and shared the City is hiring a COVID Compliance Janitor whose job is specific to compliance and will take part in meetings and working with staff to ensure we're doing the right things.

Councilmember Lord asked if additional action is needed from Council regarding boosting the internet at the Library, she thinks it's a great idea. Acting City Planner Abboud responded he doesn't believe so at this point, he will do is best to continue to provide an anticipated list of expenses for their review, and noted we may need availability of funds in certain circumstances.

## **PENDING BUSINESS**

## **NEW BUSINESS**

Mayor Castner requested that the June 8, 2020 meeting minutes be moved to item a.

LORD/ADERHOLD SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- a. Homer City Council unapproved Regular Meeting Minutes of June 8, 2020

LORD/ADERHOLD MOVED TO ADOPT THE MINUTES FROM THE JUNE 8<sup>TH</sup> REGULAR MEETING

Mayor Castner explained that he made a ruling on the motion to adopt Resolution 20-056 with four yeas and two nays because he was unaware it required a  $\frac{3}{4}$  majority or five votes. Had he announced it required five votes, it may have turned out differently. The minutes reflect that it was later discovered but he prefers the minutes reflect the ruling is was incorrect. He asked for a motion to correct the minutes so the notation of the incorrect ruling was made at that time and not at a later time.

LORD/EVENSEN SO MOVED

Mayor Castner shared that he doesn't accept the footnote as a correction to the error at the meeting, it gives the appearance that someone over-ruled the ruling he made. He wants it clarified that the error was with his declaring that a 4-2 vote passed. Since it involves the seawall he wants to procedurally correct it.

Councilmember Aderhold commented she's uncomfortable with the amendment, and perhaps it could be stated another way, but she feels the minutes reflect what happened at the meeting.

Councilmember Smith noted that no one caught the error in the vote at the meeting so we're all culpable.

Councilmember Lord commented the minutes reflect what happened and the footnote reflects the error that was made. This is clear what happened at the meeting and what the follow-up was.

VOTE: YES: VENUTI

NO: SMITH, ADERHOLD, LORD, EVENSEN, HANSEN-CAVASOS

Motion failed.

There was no further discussion on the motion to approve the minutes.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- b. Memorandum 20-092 from Deputy City Clerk re: Recommendation to Rescind Motion to Adopt Resolution 20-056

LORD/ADERHOLD MOVED TO RESCIND THE MOTION TO ADOPT RESOLUTION 20-056 FROM THE JUNE 8<sup>TH</sup> REGULAR MEETING.

There was discussion to clarify the Mayor had requested this come back to Council so they'd have an opportunity to vote with the understanding five votes were required to pass the initiation of a special assessment district (SAD) in the resolution, and to review the process information provided in Memorandum 20-092. City Clerk Jacobsen explained that if the motion to rescind passes, the resolution would be back before the Council to make a motion to adopt and either vote up or down, or make amendments and vote.

There was also discussion of voting to rescind the motion, and then vote down Resolution 20-056 and have clean resolution to initiate a SAD that includes the expanded district at their July 1<sup>st</sup> special meeting.

VOTE (motion to rescind): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Councilmember Evensen expressed his concern about the City's responsibility in initiating the SAD.

It was clarified that the SAD is the same whether it's initiated by the Council or by a property owner, from the point of the neighborhood meeting on. Council initiated doesn't transfer responsibility from the property owner to the City. We just need to be very clear and transparent in our conversation throughout the development what the City's role is, our obligation, what we own and don't own, and what we will and won't do.

LORD/ADERHOLD MOVED TO ADOPT RESOLUTION 20-056 BY READING OF TITLE ONLY.

There was brief discussion regarding process. Councilmember Aderhold suggested voting the motion down and she'll work with staff on a new resolution for the July 1<sup>st</sup> meeting.

VOTE: NO: ADERHOLD, HANSEN-CAVASOS, LORD, VENUTI, SMITH, EVENSEN

Motion failed.

## **RESOLUTIONS**

### **COMMENTS OF THE AUDIENCE**

### **COMMENTS OF THE CITY ATTORNEY**

City Attorney Gatti had no comments.

### **COMMENTS OF THE CITY CLERK**

City Clerk Jacobsen had no comments.

### **COMMENTS OF THE CITY MANAGER**

Acting City Manager Abboud recognized the hard work staff has done for tonight's meeting and kudos to everyone who's working on this response. It's been very stressful for months on end, he's proud of all the work that's being done under the circumstances. He noted in the City Manager's report there was a request from the Food Hub and was looking for some feedback regarding the request. They can address it at an upcoming meeting.

### **COMMENTS OF THE MAYOR**

Mayor Castner said he had someone visit who said they'd been in the big sporting goods store in Anchorage and they said May was a record month for selling camping equipment. As we were running the meeting he had some email correspondence with Dr. Zink and she has connected with Counselor Gatti and delivered a hopeful message to keep working on the messaging together.

## **COMMENTS OF THE CITY COUNCIL**

Councilmember Evensen encouraged everyone to practice mutual respect during the meeting.

Councilmember Lord shared about her recent camping trip to Denali that was self-contained, they had their masks and used curbside pickup for some supplies. She appreciates the library and efforts their making to provide service to the public, and she thanked Acting City Manager Abboud for stepping into the City Manager position. She reminded and encourage citizens to wear there masks, practice social distancing, and be kind and patient. This is hard for everyone.

Councilmember Smith recognized Sunday was Father's Day and hoped everyone paid respect or had fond memories of their fathers. He appreciated seeing all the flags out on Flag Day, and recognized the Juneteenth celebration. He's thankful we can be a part of the present and future, and not necessarily be tied to the past. He's also excited to see the progress on the Police Station, and reminded everyone the Census is still on going and it's important to participate.

Councilmember Storm thanked all the fathers, wannabe dads, helpful dads, step-dads, and grandfathers, it was a wonderful day. She just went back to work after having to quarantine. She was grateful to have the ability to work from home.

Councilmember Aderhold commented about the Juneteenth celebration at WKFL Park, people were distancing and wearing masks, and it was a great opportunity to experience Juneteenth. She appreciates all who were involved in putting it together. She thanked KBBI for the PSA's, she's been getting good feedback about it. She loves the artwork at the Police Station. She wished everyone a happy summer.

Councilmember Venuti said she also appreciates the PSA's, KBBI, Rachel Tussey for her time preparing them and her everyone who's made time to record them. She commented about Main Street sidewalks and is happy they're moving ahead on that. The Peony Festival is coming up, and the Halibut Tournament was canceled. She encouraged people to wear masks, social distance, and wash their hands often, and wished a happy July 4<sup>th</sup>.

## **ADJOURN**

There being no further business to come before the Council Mayor Castner adjourned the

meeting at 9:29 p.m. The next Regular Meeting is Monday, July 20, 2020 at 6:00 p.m. Committee of the Whole at 5:00 p.m., and a Special Meeting on Wednesday, July 1, 2020. All meetings are scheduled to be held virtually in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

---

Melissa Jacobsen, MMC, City Clerk

Approved: \_\_\_\_\_



Session 20-22 a Special Meeting of the Homer City Council was called to order on July 1, 2020 by Mayor Ken Castner at 5:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: ADERHOLD, VENUTI, EVENSEN, LORD, SMITH, HANSEN-CAVASOS

**STAFF:** ACTING CITY MANAGER ABBOUD  
HR DIRECTOR BROWNING  
DEPUTY CITY CLERK KRAUSE  
DEPUTY CITY CLERK TUSSEY

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

The following changes was made: **Consent Agenda** Ordinance 20-40 An Emergency Ordinance of the City Council of Homer, Alaska, Declaring the Failure of the Woodard Creek Culverts on Fairview Avenue to Constitute an Emergency and Authorizing Emergency Procurement Procedures. City Manager/Public Works Director. Introduction and Public Reading July 1, 2020. Memorandum 20-100 from Public Works Director as backup. Amend the number of Resolution 20-060, A Resolution of the City Council of Homer, Alaska, Initiating a Seawall Improvement Special Assessment District for Armor Rock Toe Improvements. City Manager. To Resolution 20-062 to correct a duplicated resolution number. **New Business** Consideration of City Manager Candidates. Memorandum 20-099 from City Manager Hiring Advisory Committee. Memorandum 20-094 from Councilmember Aderhold re: Letter to Governor regarding Development of Homer Specific COVID 19 Mitigation Plan. Revised Letter to the Governor, Written Public Comments, Proposed verbiage provided by Councilmembers Evensen and Hansen-Cavasos.

LORD/ADERHOLD - MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Mayor Castner recognized the City of Homer Team 1<sup>st</sup> Place win 4<sup>th</sup> year in a row with approximately 14 million steps and Harper School of Music and Dance for Small Group that blew the doors off everyone with the assistance of team member Betty Gugel, 90, for logging 1,607,000 averaging 57,000 steps a day in the Homer Steps Up Walking Challenge. He displayed an award that he will be delivering to Ms. Gugel for bring such an inspiration to the community and leading everyone in the challenge.

**PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA** (3 minute time limit)

David Raskin, commented on Memorandum 20-094 and the letter to Governor Dunleavy noting the urgency to control COVID 19 and supported the wearing of masks indoors and the adoption of these policies believing that are needed.

**CONSENT AGENDA** (Items listed below will be enacted by one motion. If a separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- a. Memorandum 20-095 from Mayor re: Appointments to the Planning Commission. Recommend approval.
- b. Ordinance 20-40, An Emergency Ordinance of the City Council of Homer, Alaska, Declaring the Failure of the Woodard Creek Culverts on Fairview Avenue to Constitute an Emergency and Authorizing Emergency Procurement Procedures. City Manager/Public Works Director. Introduction and Public Reading July 1, 2020. Recommend adoption.

Memorandum 20-096 from Public Works Director as backup.

Moved to New Business Item d. by Councilmember Aderhold

- c. Resolution 20-058, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply to the State of Alaska, Department of Environmental Conservation (ADEC) for a Loan from the Alaska Drinking Water Fund for the Project Entitled Homer Seawall Armor Rock Improvement. City Manager. Recommend adoption.

Moved to New Business Item e. by Councilmember Evensen

- d. Resolution 20-062, A Resolution of the City Council of Homer, Alaska, Initiating a Seawall Improvement Special Assessment District for Armor Rock Toe Improvements. City Manager. Recommend adoption.

Memorandum 20-097 from City Clerk as backup

Memorandum 20-098 from Public Works Director as backup

- e. Resolution 20-061, A Resolution of the Homer City Council Amending the Small Business Economic Recovery Grant (SBERG) Program to Clarify Eligibility Requirements related to Delinquent Status with the Kenai Peninsula Borough Tax Department and Requesting a Review of Audit Requirements and City Process from Staff. Lord. Recommend adoption.

Deputy City Clerk Krause read the consent agenda.

LORD/VENUTI MOVED TO ADOPT THE RECOMMENDATIONS OF THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **CITY MANAGER’S REPORT**

a. City Manager’s Report

Acting City Manager Abboud responded to Councilmember Smith inquiry on the impact to the HERC facility regarding limitations if it was moved to a weekly use that he has a call into the Fire Marshall but he believed it was Class B use and he wants to confirm that before they go further.

Councilmember Lord apprised Council and City Manager that the Food Hub is actively looking for an alternative location and recommended holding tight on the City’s next step.

### **PENDING BUSINESS**

### **NEW BUSINESS**

a. Telephonic Interviews with City Manager Applicant – Rob Dumouchel

An in-person interview via Zoom was held with Rob Dumouchel with prepared questions posed by each Councilmember in round robin format. Each Councilmember asked a follow-up question of Mr. Dumouchel at the end of the prepared questions.

b. Consideration of City Manager Candidates

Mayor Castner requested a motion from Council.

LORD/ADERHOLD – MOVED TO DISCUSS CANDIDATES FOR CITY MANAGER.

Points of discussion on candidate Dumouchel included the following:

- appreciated the input from the City Manager Hiring Committee and the diverse questions that were presented
- overall application and resume
- educational background
- experience in natural resources and maritime community
- calm and even approach to issues
- apparent fit for Homer

LORD/ADERHOLD - MOVED TO OFFER THE JOB OF CITY MANAGER TO ROB DUMOUCHEL AND AUTHORIZE THE ACTING CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE ASSISTANCE FROM THE MAYOR.

Council member Smith requested the motion include the HR Director.

Mayor Castner inquired if Councilmember Lord was amenable to that change.

There was no objection.

Mayor Castner restated the motion for the record.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Castner congratulated Mr. Dumouchel and provided comments on attending the City Manager Hiring Committee meeting on Monday, June 29, 2020 noting the breadth of knowledge of the members of the committee and diversity and that they and Council did an excellent job.

c. Memorandum 20-094 from Councilmember Aderhold re: Letter to Governor Regarding Development of Homer Specific COVID 19 Mitigation Plan

Revised Letter to Governor Dunleavy re: Request for State Consultation in Developing Homer Specific COVID-19 Mitigation Plan

Substitute Letter to Governor Dunleavy offered by Councilmembers Evensen and Hansen-Cavasos

Mayor Castner requested a motion.

LORD/ADERHOLD MOVED TO OPEN DISCUSSION ON THE LETTER TO GOVERNOR

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Aderhold provided a brief summary on the development of the letter and the amended letter to the Governor noting the feedback and revisions received and presented in the revised letter.

A lengthy discussion ensued on the points for bringing this before the Council, the content of the letter and how the request should be presented to the Governor for state resources; the absence of the ability for the city to enact something related to lack of health powers; a plan that provides benchmarks to work by; the number of public comments received and taking the burden from the businesses with regards to masking.

ADERHOLD/LORD MOVED TO SUBSTITUTE THE LETTER IN THE PACKET WITH THE AMENDED LETTER IN THE SUPPLEMENTAL PACKET.

At the request of Councilmember Evensen, Mayor Castner provided some input on the short letter over the longer letter.

Additional comments from Councilmembers on analogy comparison on safety protocols for certain activities and the issues with enforcement and being open for business for residents and visitors and that children will be able to attend school in the fall.

ADERHOLD/VENUTI MOVED TO AMEND LINE 38 OF THE AMENDED LETTER TO ADD THE WORD "IMMEDIATELY"

There was no discussion.

VOTE. (Amendment)NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Castner called for further discussion by Councilmembers.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- d. Ordinance 20-40, An Emergency Ordinance of the City Council of Homer, Alaska, Declaring the Failure of the Woodard Creek Culverts on Fairview Avenue to Constitute an Emergency and Authorizing Emergency Procurement Procedures. City Manager/Public Works Director. Introduction and Public Reading July 1, 2020. Recommend adoption.

Memorandum 20-096 from Public Works Director as backup.

Ordinance 20-40(A), An Emergency Ordinance of the City Council of Homer, Alaska, Declaring the Failure of the Woodard Creek Culverts on Fairview Avenue to Constitute an Emergency and Amending the 2020 Capital Budget and Authorizing Expenditure of up to \$500,000 from the HART – Road Fund for the Woodard Creek Culvert Rehabilitation Project. City Manager/Public Works Director.

Memorandum 20-100 from Public Works Director as backup.

Mayor Castner requested a motion from Council after reading of the title into the record.

LORD/ADERHOLD MOVED TO ADOPT EMERGENCY ORDINANCE 20-40 BY READING OF TITLE ONLY

Discussion ensued on the process for adopting the ordinance and if the amendments were made, if those amendments would require a public hearing; narrowing the funding amount to closely reflect the requirements to correct the problem; issues surrounding recent flood events and possible future events; the proposed and preferred repair to daylight the Woodard Creek watershed and the available funding to construct and perform the daylighting project; hydrology issues to guarantee no flooding or catastrophic events are brought onto the property owners further downstream.

Questions were posed to Public Works Director Keiser and Deputy City Clerk Krause on process and refinements on the expected costs.

Mayor Castner commented on the work being done on Fairview Avenue and that this ordinance was an appropriation document and they did not want to delay until August to get the road fixed.

Public Works Director Keiser responded on the current repairs, describing the slip lining project and detailed the additional benefits of effecting approved plans and the impact that would have to the community; the existing unknowns that are needing refinement and her opinion that the project costs would be closer to \$300,000 or \$350,000 range.

Mayor Castner requested the Council get the Clerk's ruling on the substantial changes presented.

Mayor Castner requested the Clerk to provide input on the proposed amendments and then noted that they appeared more of a substitute than amended and questioned the process of an emergency ordinance to the regular budget appropriating ordinance.

Public Works Director Keiser interjected that to be clear the patch that they installed was to allow the road to be open, but both culverts are extremely rotted, they look like Swiss cheese. A big flood with debris, gravel, and lots of water could take out those culverts this fall if this is not repaired properly. She added that if Council approves the Slip Lining method they require 6 weeks so the contractor can order the materials and get it lined up it would be close and if they are lucky and the weather holds they could get it done before fall but they need to give the contractor a notice to proceed in the next couple of days. The daylighting option would be the best overall plan and in accordance with an adopted plan approved by City Council, it is unlikely that they could get it done this year and they would have to keep their fingers crossed but it would achieve two important goals from the Woodard Creek Watershed Management plan and the Comprehensive Plan that has been around for years.

Discussion ensued on the necessity of making a decision on extending this ordinance and discussion to another meeting and could amending the Ordinance 20-40(A) to reflect a closer project amount of \$300,000 be appropriate. It was determined that the project could be worked for that amount. That the design could be started and if necessary they would just have to submit another ordinance to appropriate the additional required funding. It was noted that they still would need to know from the Clerk if they can adopt the amended ordinance.

Public Works Director Keiser requested a moment to comment on the various planning documents, review of said documents and identifying projects that have been sitting that may have possible funding and value to the community that should be moved upon.

Further points were made on the opportunistic timing of the daylighting project along with the available funding and concerns on the amount shown in the ordinance as an over appropriation.

LORD/EVENSEN MOVED TO AMEND THE MOTION TO ORDINANCE 20-40(A) WITH THE PROPOSED AMENDMENTS AS SHOWN IN THE LAYDOWN PACKET WITH THE EXCEPTION OF THE AMOUNT CHANGED TO REFLECT \$350,000 IN THE APPROPRIATE LOCATIONS WITHIN THE ORDINANCE.

Discussion ensued on the document provided in the laydown packet containing the list of amendments proposed; concern expressed on the content of the ordinance reflecting only those whereas clauses that pertain to the daylighting of the creek; the intent of Council is to approve the larger project to daylight Woodard Creek.

VOTE. (Amendment). NON-OBJECTION. UNNIMOUS CONSENT.

Motion carried.

Mayor Castner then requested if there was any additional discussion.

Councilmember Evensen expressed his appreciation to the Councilmembers for approving this ordinance and the productive discussion.

VOTE. (Main) NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- e. Resolution 20-058, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply to the State of Alaska, Department of Environmental Conservation (ADEC) for a Loan from the Alaska Drinking Water Fund for the Project Entitled Homer Seawall Armor Rock Improvement. City Manager. Recommend adoption.

Mayor Castner requested a motion to adopt Resolution 20-058.

LORD/ADERHOLD MOVED TO ADOPT RESOLUTION 20-058 BY READING OF TITLE ONLY.

Discussion ensued on default of repayment of the loan by the residents and the impact to the city; this action is only allowing the city to apply for the loan and if the SAD fails then the city will not accept the loan.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **COMMENTS OF THE AUDIENCE**

Larry Slone, city resident, commented on offering Rob Dumouchel the position of City Manager being a good fit; Councilmember Venuti comments on the city having a wonderful radio station and stated that he agreed noting that the city has a few of them, he believes that KBBI does provide good community based information but took exception as he believes they also make extremely biased presentations oriented solely towards the liberals and blatantly pushing peoples buttons. He further commented on the regulations for wearing masks and that it will not go very well, a feel good approach that will not go well, he provided his reasoning that it will encourage people to gather indoors and encourage continued education to people on gathering indoors.

Kate Finn, city resident, commented that she agrees with the choice of hiring Rob Dumouchel for City Manager. She then reported that right before she signed on tonight the Washington Post reported the United States reached 50,000 of new diagnosed cases. She agreed that masks are worn incorrectly and something is better than nothing; a whole lot more information can be provided; she believed Homer if COVID aware; she does not know how much more information that can be provided. Ms. Finn did not have any ideas for enforcement, but firmly believed that it would take the burden from the individual businesses. She is continually blown away on the number of people who do not wear masks. She applauds the City Council for the direction they are taking.

Juli Tomich commented on the NRA party being held at Ulmer's and asked if anything can be done about that. She has seen no information on this and since it is not on public property she is not sure what can be done.

Mayor Castner commented that he appreciated where the Council ended up today and going through this process.

## **COMMENTS OF THE CITY ATTORNEY**

### **COMMENTS OF THE CITY CLERK**

Deputy City Clerk Krause thanked City Council for a good meeting.

### **COMMENTS OF THE CITY MANAGER**

### **COMMENTS OF THE MAYOR**

Mayor Castner reported that he was approached by Gary Porter to support his permit application to begin scheduled flights. He was sorry that no one in Council put this on the agenda. He explained it was to add scheduled flights in tandem with his unscheduled flights.

## **COMMENTS OF THE CITY COUNCIL**

Councilmember Aderhold commented on the lack of notice for the approval of including the action from the agenda in response to Mayor Castner's comment. It was a bit of the chicken and the egg



scenario. She would have supported the permit application if they had received the information sooner. She then commented on the request to wear masks noting that it is a reminder to her to stand back and keep distance. She believed that a mask mandate would show that they are a caring community and would hope that people will take this seriously and find masks that fit them appropriately. This is a silent thing and that they don't know that they are infected until they infect others. She has her fingers crossed that they will have a new City Manager hitting the road and headed their way very soon. There was some really great questions and responses and that they live in a great community.

Councilmember Lord echoed the sentiments of Councilmember Aderhold on the hiring process, and really enthusiastic about Rob and excited to welcoming him to town and wanted to express a big thanks to Rick for stepping up, who has another job, it has been hugely appreciated and to all the other staff who have other jobs. She would like to continue forward. She appreciates Jan and her efforts in reviewing the plans to see what was previously approved by Council. She will also make a mask plea, she sometimes feels silly but she is still wearing her mask even though the bulk of her deliveries are contactless. She also has children that she would like to see go back to school this fall. They need to work together to keep the numbers low. As Kate said something is better than nothing. We cover our mouths when we cough and having small children around it really does something. The less masks we have will result is less business and no schools. We want the businesses open and the kids in school.

Councilmember Evensen thanked the Councilmembers, Acting City Manager and Deputy City Clerk and Public Works Director noting the very productive meeting tonight. He is excited about the prospects for the city manager candidate to accept the job and apologized for his Barbara Walters-esque question regarding what type of tree. Have a great weekend.

Councilmember Hansen-Cavasos thanked the staff at city hall for double dutying, it is amazing that everyone stepped up and wished everyone enjoy the long weekend.

Councilmember Smith wished everyone a Happy 4<sup>th</sup>; then he recounted a recent visit on the Spit and the lack of social distancing at the fishing hole. He has spoken to business owners on the Spit and it is going to be busy this weekend. When he starts thinking about COVID 19 it is different for different people . There are people who dismiss the disease as something just passing through to those that may have underlying issues. He is not sure how to bridge that gap. They need to get along. He has heard an analogy that this is a tug of war and they are not going to beat this disease if they are pulling on both ends of the rope. Everyone needs to work together. They do not need to encourage undue stress. He is really tired of COVID 19 as he is sure others are too. He was really impressed with Rob and he hopes the negotiations go well and they can put him to work really soon.

Councilmember Venuti commented on people wearing masks and it being very fashion statement. She knows a woman who has a mask for every day. She thanked the Mayor for recognizing Better

Gugle and commented that she was a neighbor of hers on Kodiak. She views the staff all wearing masks while they are working. She commented that makes a statement and says a lot about them as a city. She appreciated the consensus on hiring Rob. She noted that it was Dominion Day if you were Canadian. There are things that can be done in lieu of going into crowds and if you go out, keep your distance. She cautioned people to drive safely this weekend and wished everyone a Happy 4<sup>th</sup>.

Mayor Castner announced the streaming of Hamilton on Disney plus starting Friday, July 3, 2020.

**ADJOURN**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 5:20 p.m. Next Regular Meeting is Monday, June 22, 2020 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held virtually in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

---

RENEE KRAUSE, MMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_

Session 20-23 a Special Meeting of the Homer City Council was called to order on July 14, 2020 by Mayor Ken Castner at 5:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: ADERHOLD, HANSEN-CAVASOS, LORD, SMITH,  
VENUTI

**ABSENT:** EVENSEN (excused)

**STAFF:** ACTING CITY MANAGER ABBOUD  
CITY CLERK JACOBSEN  
PERSONNEL DIRECTOR BROWNING  
FINANCE DIRECTOR WALTON

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

LORD/ADERHOLD MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA** (3 minute time limit)

Larry Slone, city resident, commented he thought the City Manager hiring process went well. He supports the \$5000 bonus to the Acting City Manager and questioned the \$15,000 recruitment bonus and the \$50,000 severance pay proposed for the new City Manager.

**PENDING BUSINESS**

**NEW BUSINESS**

- a. Ordinance 20-41, An Emergency Ordinance of the City Council of Homer, Alaska, Reallocating a Portion of the \$90,000 Allocated in Ordinance 20-25(S) for the Purpose of Hiring a CARES Act Program Coordinator. City Manager.

Memorandum 20-099 from Acting City Manager as backup.

LORD/ADERHOLD MOVED TO ADOPT ORDINANCE 20-41 BY READING OF TITLE ONLY.

Councilmember Lord shared her support for the ordinance and her understanding that we have additional capacity to help move forward all the CARES Act programming.

Councilmember Aderhold agreed and added the work she and Councilmember Lord have been working on to prepare a package for the remaining CARES Act Funds. Having someone on staff to work with us would have been amazing, so approving this will be good.

Councilmember Venuti also agreed and thinks it's a good decision with the new City Manager coming on board who will already have a steep learning curve it will help us stay organized.

Mayor Castner added that there are many shades of grey with this and it will be good to explore what other areas have done around the state and get some assistance in going on with the program.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- a. Resolution 20-063, A Resolution of the City Council of Homer, Alaska Approving the City Manager Contract with Robert J. Dumouchel II and a Memorandum of Understanding for the the Purpose of a Recruitment Bonus, and Authorizing the Mayor to Execute the Appropriate Documents. Mayor and Council.

LORD/VENUTI MOVED TO ADOPT RESOLUTION 20-063 BY READING OF TITLE ONLY.

Mayor Caster provided an overview of the negotiation process with Mr. Dumouchel including items he included in his original proposal that were negotiated into what's included in the contract in the packet.

ADERHOLD/LORD MOVED TO AMEND LINES 10 AND 23 TO ADD AFTER MAYOR "PERSONNEL DIRECTOR".

Councilmember Aderhold noted the Personnel Director listed as the signer of the MOU.

VOTE (amendment): UNANIMOUS CONSENT

Motion carried.

Councilmember Smith commented regarding the contract and suggested adding to section 4(A) after evaluation the verbiage, "if an increase in compensation is awarded it will be up to but not to exceed 2% in a given year." He prefers not to leave open and have a definitive cap on what the raise can be in a given year. They've gone round and round in previous talks and he wants to avoid it for them and any future Council.

Mayor Castner briefly explained Mr. Dumouchel had asked to be included in the COLA but was advised as Manager he would be negotiating it and it would be a conflict of interest. He and Personnel Director Browning felt having nothing there and later in the contract saying any raise will only be given following review. It didn't promise anything and he thinks by mentioning a percentage it further raises the expectation away from "if any". He added he's hesitant to tinker with the contract since it's been negotiated and agreed to by Mr. Dumouchel.

Councilmember Lord agrees leaving out any set percentage it removes any expectation to it being up to a certain amount. It's a decision Council will have to make at the review.

VOTE (main motion as amended) : NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Resolution 20-064, A Resolution of the City Council of Homer, Alaska Confirming the Appointment of Rick Abboud as Interim City Manager and Authorizing a One-Time Bonus in addition to his Acting City Manager Pay. Mayor.

Memorandum 20-100 from Personnel Director as backup

LORD/VENUTI MOVED TO ADOPT RESOLUTION 20-064 BY READING OF TITLE ONLY.

Mayor Castner recognized Acting City Manager Abboud's effort in taking on the responsibilities after Mr. Yoder's departure. He's been key in bringing some cohesion back to staff. He appreciates that and hope they pass this as it's eminently fair and the right thing to do.

Councilmember Lord supports the resolution and thanked Acting City Manager Abboud for stepping up and taking this job on when he already has another job. She thanked staff for working through the challenges of the last several months.

Councilmember Aderhold also supports the resolution and shared her appreciation for the way he's stepped up and helped us out. There was a void before, and much less of one now.

Councilmember Venuti concurred and hopes he'll be available to help Mr. Dumouchel when he comes on board.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **COMMENTS OF THE AUDIENCE**

Larry Slone, city resident, appreciated the explanation of negotiations with Mr. Dumouchel, it was informative and enlightening.

**ADJOURN**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 5:30 p.m. The next Regular Meeting is Monday, July 27, 2020 at 6:00 p.m. A Worksession will be held at 4:00 p.m. and Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

---

Melissa Jacobsen, MMC, City Clerk

Approved: \_\_\_\_\_



# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 20-101

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
FROM: RENEE KRAUSE, MMC, DEPUTY CITY CLERK  
DATE: JULY 22, 2020  
SUBJECT: NEW LIQUOR LICENSE APPLICATION FOR HOMER SPIT OYSTER BAR

---

The City Clerk's Office has been notified by the Alcohol and Marijuana Control Office of New Liquor License Application within the City of Homer for the following business:

### Liquor License Applications:

License Type: Restaurant/Eating Place-Public Convenience – Seasonal - NEW  
License #: 5910  
DBA Name: Homer Spit Oyster Bar  
Service Location: 4081 Freight Dock Road, Homer, AK 99603  
Licensee: Suvi Mirja Bayly  
Contact Person: Suvi Mirja Bayly, 907-855-5340

### RECOMMENDATION

Voice non-objection and approval for the new liquor license application.

Fiscal Note: Revenues



June 24, 2020

City of Homer

Kenai Peninsula Borough

VIA Email: [clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov) ; [jblankenship@kpb.us](mailto:jblankenship@kpb.us) ; [Dhenry@kpb.us](mailto:Dhenry@kpb.us) ; [JRodgers@kpb.us](mailto:JRodgers@kpb.us) ; [SNess@kpb.us](mailto:SNess@kpb.us) ; [joanne@borough.kenai.ak.us](mailto:joanne@borough.kenai.ak.us) ; [tshassetz@kpb.us](mailto:tshassetz@kpb.us)

<b>License Type:</b>	Restaurant/Eating Place-Public Convenience Seasonal	<b>License Number:</b>	5910
<b>Licensee:</b>	Suvi Mirja Bayly		
<b>Doing Business As:</b>	Homer Spit Oyster Bar		
<b>Premises Address:</b>	4081 Freight Dock Road		

- New Application**
 **Transfer of Location Application**
 **Transfer of Ownership Application**
 **Transfer of Controlling Interest Application**

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant’s proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Glen Klinkhart, Interim Director  
[amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov)





Alaska Alcoholic Beverage Control Board

# Form AB-00: New License Application

**What is this form?**

This new license application form is required for all individuals or entities seeking to apply for a new liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260 and 3 AAC 304.105.

**This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.**

## Section 1 – Establishment and Contact Information

Enter information for the business seeking to be licensed.

Licensee:	Suvi Mirja Bayly				
License Type:	Restaurant/Eating Place-Public Convenience seasonal	Statutory Reference:	AS 04.11.400(g)		
Doing Business As:	Homer Spit Oyster Bar				
Premises Address:	4081 Freight Dock Road				
City:	Homer	State:	AK	ZIP:	99603
Local Governing Body:	City of Homer				
Community Council:					

Mailing Address:	824 Ocean Drive Loop				
City:	Homer	State:	AK	ZIP:	99603

Designated Licensee:	Suvi Mirja Bayly				
Contact Phone:	907-885-5340	Business Phone:	907-885-5340		
Contact Email:	suvibayly@gmail.com				

Seasonal License?    Yes     No     If "Yes", write your six-month operating period: 04/01 - 09/30

OFFICE USE ONLY				
Complete Date:		License Years:		License #: <u>5910</u>
Board Meeting Date:		Transaction #:	<u>1271225</u>	
Issue Date:		BRE:		



## Alaska Alcoholic Beverage Control Board Form AB-00: New License Application

### Section 2 – Premises Information

Premises to be licensed is:

an existing facility       a new building       a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

### Section 3 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 4.

If more space is needed, please attach a separate sheet with the required information.

The following information must be completed for each licensee and each affiliate (spouse).

This individual is an:  applicant       affiliate

Name:	Suvi Mirja Bayly				
Address:	824 Ocean Drive Loop				
City:	Homer	State:	AK	ZIP:	99603

This individual is an:  applicant       affiliate

Name:					
Address:					
City:		State:		ZIP:	



Alaska Alcoholic Beverage Control Board  
**Form AB-00: New License Application**

**Section 4 – Entity Ownership Information**

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 5.

If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:				
Title(s):	Phone:			% Owned:
Address:				
City:	State:		ZIP:	

Entity Official:				
Title(s):	Phone:			% Owned:
Address:				
City:	State:		ZIP:	

Entity Official:				
Title(s):	Phone:			% Owned:
Address:				
City:	State:		ZIP:	

Entity Official:				
Title(s):	Phone:			% Owned:
Address:				
City:	State:		ZIP:	



**Alaska Alcoholic Beverage Control Board**  
**Form AB-00: New License Application**

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:		AK Formed Date:		Home State:	
Registered Agent:			Agent's Phone:		
Agent's Mailing Address:					
City:		State:		ZIP:	

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

**Section 5 - Other Licenses**

Ownership and financial interest in other alcoholic beverage businesses: Yes No

Does any representative or owner named in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

**Section 6 - Authorization**

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:



## Alaska Alcoholic Beverage Control Board Form AB-00: New License Application

### Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.



I certify that all proposed licensees have been listed with the Division of Corporations.



I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.



I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.



I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.



As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Suvi Bayly  
Signature of licensee

Suvi Mirja Bayly

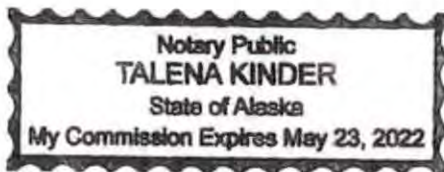
Printed name of licensee

Talena Kinder  
Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: May 23 2022

Subscribed and sworn to before me this 13<sup>th</sup> day of January, 2020<sup>th</sup>





## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

**The second page of this form is not required.** Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

**This form must be completed and submitted to AMCO's main office before any license application will be considered complete.**

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

### Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Suvi Mirja Bayly	License Number:	5910		
License Type:	Restaurant/Eating Place-Public Convenience Seasonal				
Doing Business As:	Homer Spit Oyster Bar				
Premises Address:	4081 Freight Dock Road				
City:	Homer	State:	AK	ZIP:	99603



## Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

### Section 2 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, consumption, and manufacturing. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.

Please view attached floor plan and image docs.

THE RED OUTLINE IS REQUIRED TO BE A SOLID RED LINE ALONG THE OUTER PERIMETER WITH NO BREAKS OR SEPARATIONS).

Please view City of Homer, Proposed Harbor Platform doc. This doc has an outline defining the outside perimeter of the proposed licensed premises. The outline defines that alcohol service from this business may not pass this boundary.

THE RED OUTLINE IS REQUIRED TO FOLLOW A PHYSICAL BARRIER (WALL, FENCE AND EVEN ACROSS DOORWAYS).

The boundary is a gate railing which encompasses the property line to also prevent people from walking off the platform/deck.

THERE SHOULD BE NO RED LINES WITHIN THE PERIMETER: There are no red lines within the perimeter

LABEL ALL AREAS FOR ALCOHOL STORAGE, SERVICE AND CONSUMPTION

All alcohol will be stored inside the building within refrigerators underneath the bar counter tops on the kitchen side of the plan. All kegs will be stored inside kegerators or the interior of the Oyster Bar, unless placed outside empty for pickup. Wine may also be stored on the wall shelving to alleviate refrigeration space for food/oyster and other items which need refrigeration All alcohol will be served inside the Oyster Bar and on the deck of the Oyster Bar.

I, Suvi Bayly, the owner of Homer Spit Oyster Bar is also the building/deck owner.

INCLUDE CROSS STREETS IN THE DIAGRAM :The cross streets are Freight Dock Road and Homer Spit Road. Please view the map documents.

SECURITY PLAN:

Homer Spit Oyster Bar will be utilizing the deck of the outdoor space. The outdoor space will be approximately 1840 sqft. The outdoor deck area will allow for outdoor seating so patrons can eat outside and still enjoy an alcoholic beverage of their choosing. The outdoor deck area has an ADA compliant 3'6" foot tall metal guard rail with a cedar cap surrounding the entire perimeter with metal posts every 4 feet.

The Security plan will include Alcohol signs throughout the exterior of the building as well as the interior of the building. The Alcohol permit and warning signs will be visible as soon as the customer enters the interior of the building.

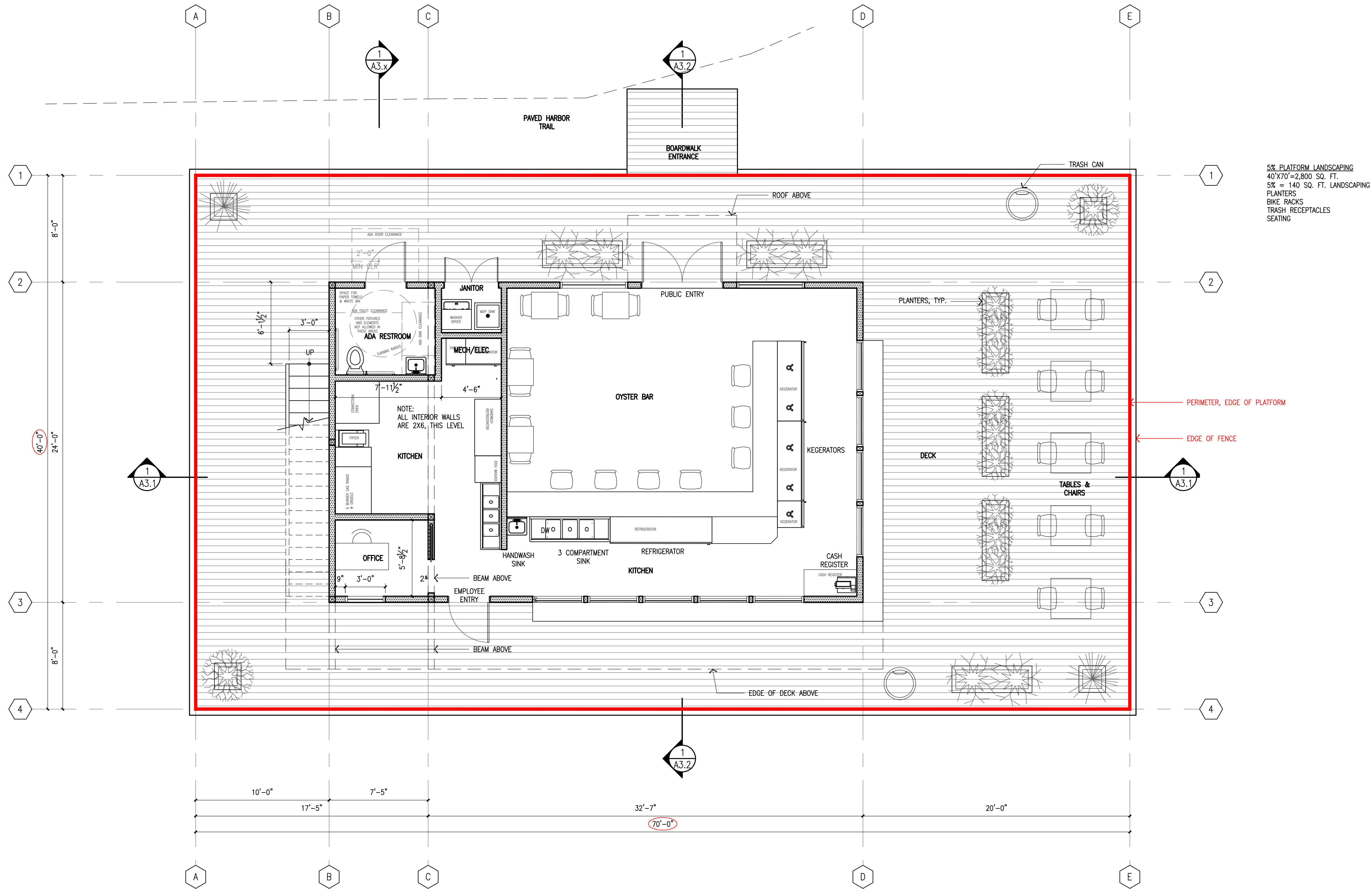
The outdoor signs will be posted on the exterior of the main entrance, so it is visible once entering the building. The remaining signs will be posted on the exterior of the building facing outward toward the deck for clear visibility.

The staff on duty will be constantly monitoring from the inside and outside of the building peoples alcohol consumption and making sure no one exits the premises with alcohol in hand. Staff will quickly clean up beverages left on the tables and frequently check the dining areas for unacceptable behavior such as an adult allowing a minor to consume alcohol. We will also monitor that no one is giving alcohol to a minor or anyone who is impaired.

Please view updated Building documents.



**Z ARCHITECTS**  
commercial • planning • interiors • residential



5% PLATFORM LANDSCAPING  
40'x70'=2,800 SQ. FT.  
5% = 140 SQ. FT. LANDSCAPING  
PLANTERS  
BIKE RACKS  
TRASH RECEPTACLES  
SEATING

**1 AB-02 DIAGRAM**  
SCALE: 1/4" = 1'-0"

**AMCO SUBMITTAL**  
6-4-20

**HOMER SPIT OYSTER BAR**  
HOMER SPIT SUB NO TWO AMENDED LOT G-8, HOMER, ALASKA

**AMCO FIRST FLOOR PLAN**

JOB NO. 20-02  
SUBMITTAL: 05/08/2020  
DRAWN BY: MAZ  
CHECKED BY: MAZ  
REVISIONS:

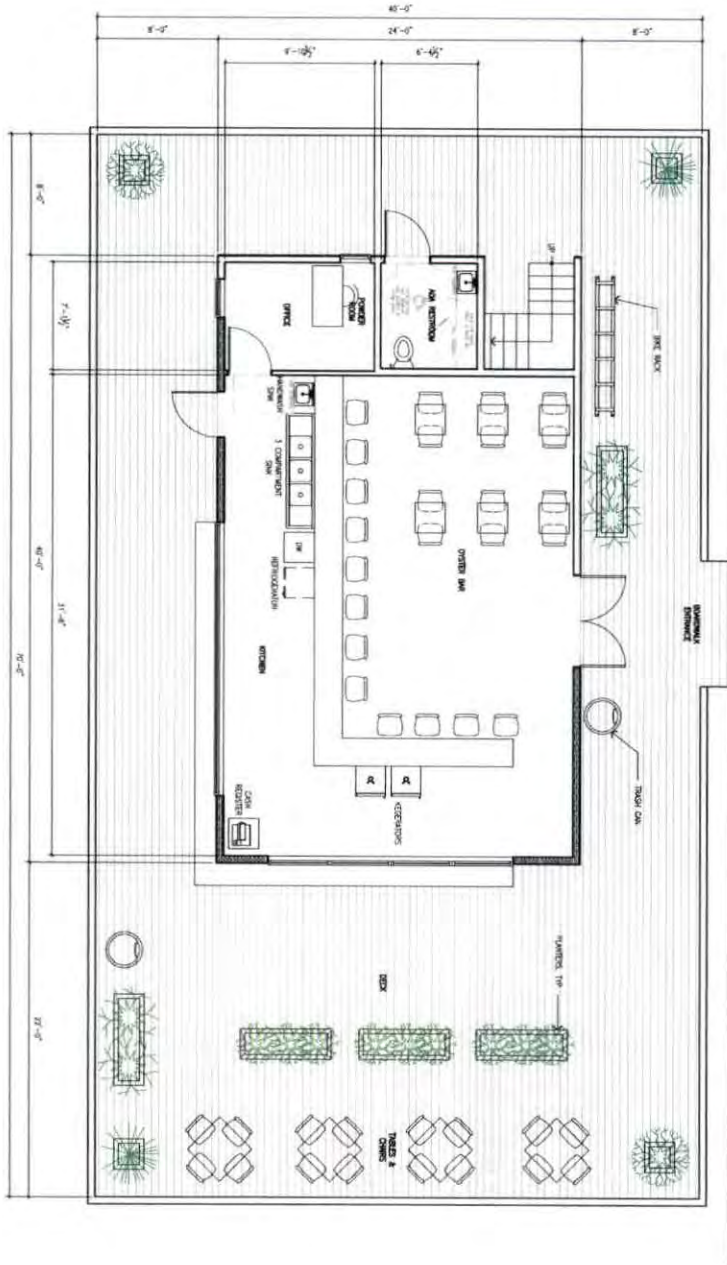
COPYRIGHT 2020

**A1.4**



APR - 3 2020

AMCO



1 FIRST FLOOR PLAN  
 SCALE: 1/4" = 1'-0"



CONDITIONAL USE PERMIT SET  
 03-11-20

NO ADJUTANT GENERAL'S  
 NO STATE ARCHITECTS  
 NO STATE ENGINEERS  
 NO STATE SURVEYORS  
 NO STATE PLANNERS  
 NO STATE REGISTERED  
 PROFESSIONALS

**Z ARCHITECTS**

**HOMER SPIT OYSTER BAR**  
 HOMER SPIT SUB NO TWO AMENDED LOT B-B, HOMER, ALASKA

**PLANS**

**A1.1**

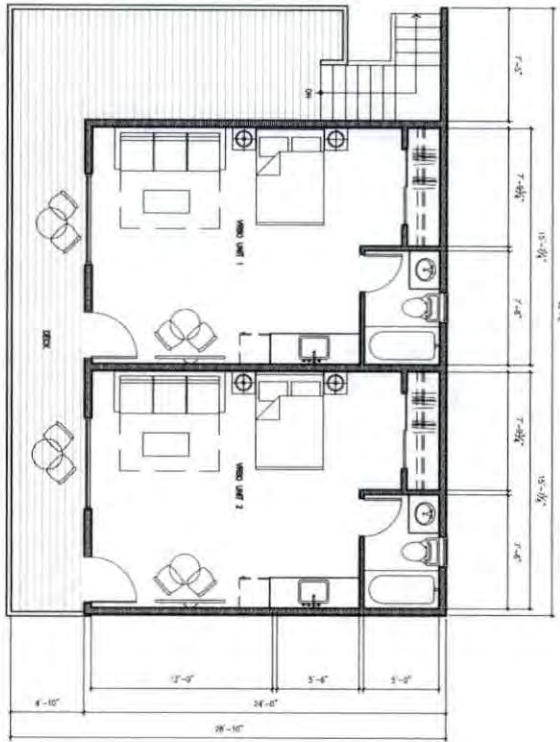
JOB NO. 2002  
 SUBMITTAL SHEET  
 DRAWING BY: [Name]  
 CHECKED BY: [Name]  
 DATE: [Date]

FOR CONSTRUCTION

49

APR - 3 2020

AMCO



1 SECOND FLOOR PLAN  
SCALE: 1/4" = 1'-0"



CONDITIONAL USE PERMIT SET  
03-11-20

11.2

- JOB NO. 2002
- SUBMITTAL MARK
- DRAWING REV. MARK
- NAME
- REVISIONS

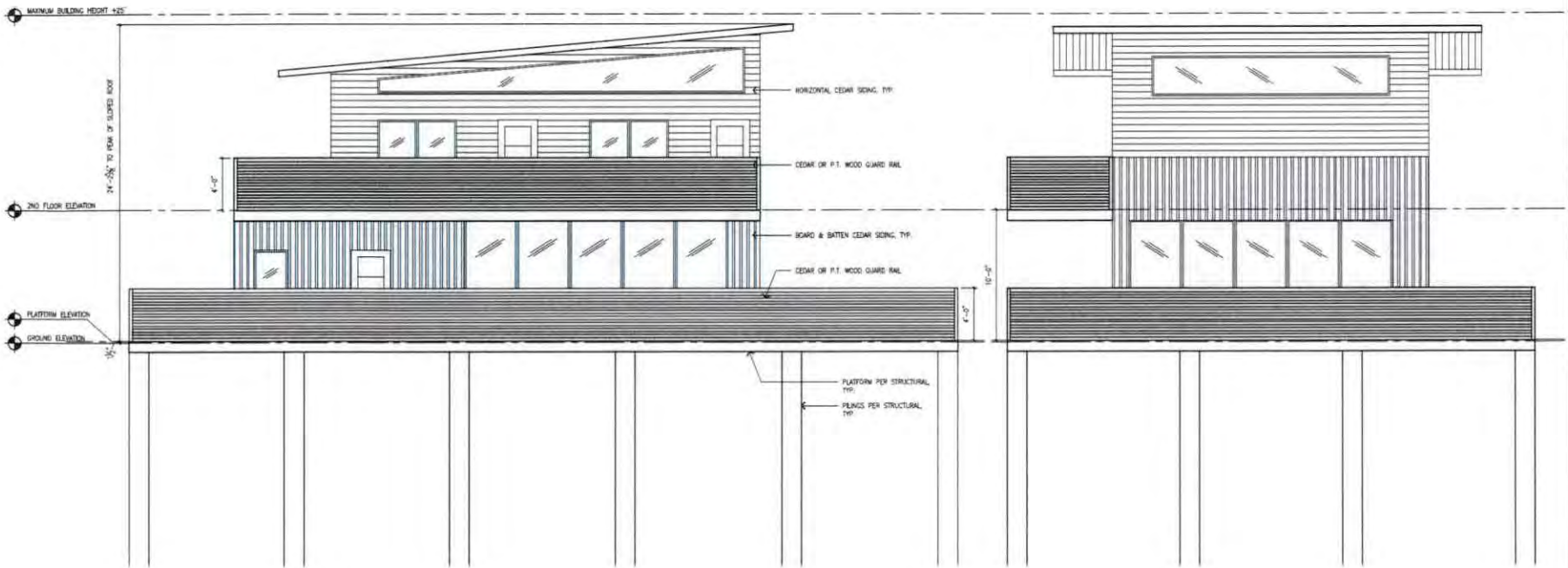
**HOMER SPIT OYSTER BAR**

HOMER SPIT BAR NO TWO AMENDED LOT G-B, HOMER, ALASKA

DESIGN

**PLANS**





1 SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

1 EAST ELEVATION  
SCALE: 1/4" = 1'-0"

NOTES:  
NO SURVEY PROVIDED, GROUND ELEVATION TO BE DETERMINED WHEN SURVEY IS RECEIVED  
FINISH FLOOR ELEVATION 9'-6" MAY ABOVE GROUND ELEVATION DUE TO LENGTH OF ENTRY RAMP  
MINIMUM BOARDWALK ELEVATION = 2' FEET AHDG 1988

CONDITIONAL USE PERMIT SET  
03-11-20



ZARCHITECTS  
ARCHITECTS • ENGINEERS • INTERIORS

DESIGN  
HOMER SPIT OYSTER BAR  
HOMER SPIT BLVD NO TWO AMENDED LOT 02B, HOMER, ALASKA

ELEVATIONS

JOB NO. 20-02  
SUBMITTAL: 03-03-20  
DRAWN BY: MAZ  
CHECKED BY: MAZ  
REVISIONS:

COPYRIGHT 2020

A2.1

APR - 3 2021  
AMCCO

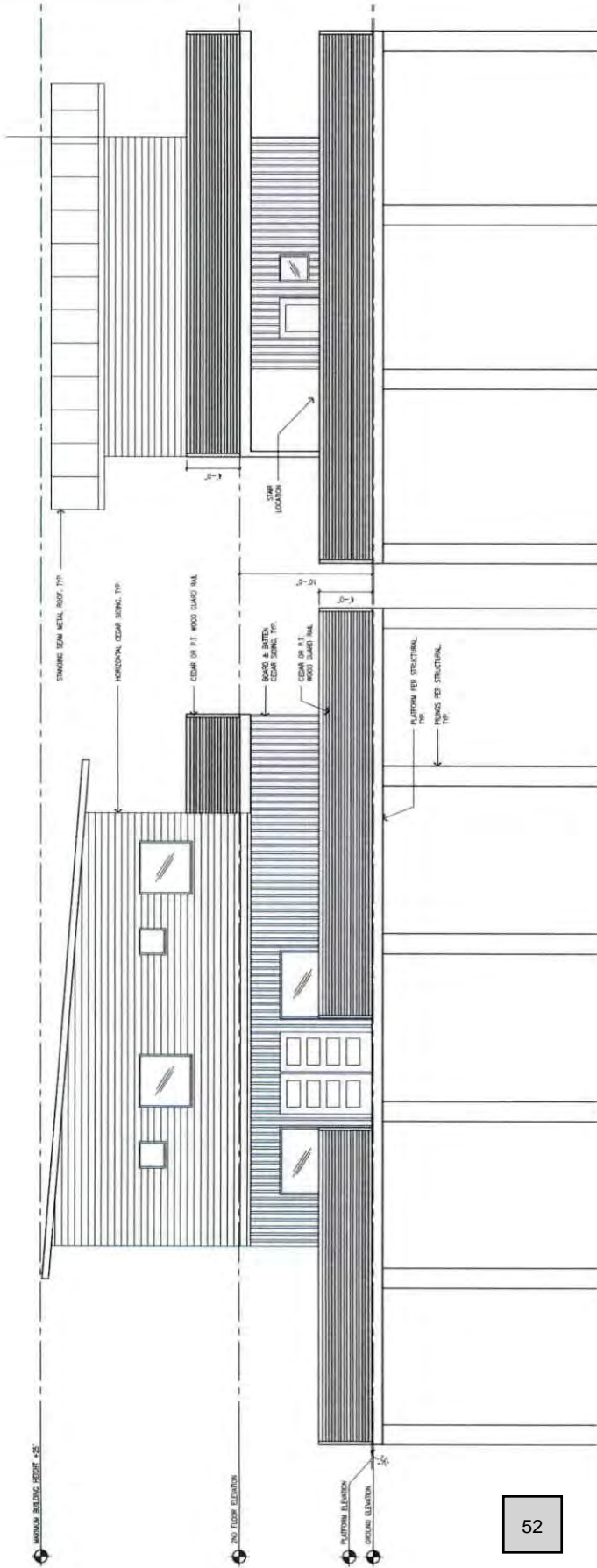


HOMER SPIT OYSTER BAR  
DESIGN

ELEVATIONS

JOB NO. 20002  
SUBMITTAL: MODEL  
DRAWN BY: MAZ  
REVISIONS:  
COPYRIGHT 2020

A2.2



1 WEST ELEVATION  
SCALE: 1/4" = 1'-0"

1 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

NOTES:  
NO SURVEY PROVIDED. GROUND ELEVATION TO BE DETERMINED WHEN SURVEY IS RECEIVED.  
FINISH FLOOR ELEVATION 15' MAIL ABOVE GROUND. CLEARANCE 6'-0" TO BOTTOM OF DUMP TRAP.  
MINIMUM BUILDING ELEVATION = 1' FEET MAIL

CONDITIONAL USE PERMIT SET  
03-11-20

AMCO

APR - 3 2020



## City of Homer, Proposed Harbor Platform

100 50 0 100 Feet

**1**

Coordinate System: NAD 1983 StatePlane Alaska 4 FIPS 5004 Feet  
 Projection: Transverse Mercator  
 Datum: North American 1983  
 False Easting: 1,640,416.6667  
 False Northing: 0.0000  
 Central Meridian: -150.0000  
 Scale Factor: 0.9999  
 Latitude Of Origin: 54.0000  
 Units: Foot US

**Dept of Public Works  
&  
Port and Harbor Dept  
03/03/2020**

**Disclaimer:**  
 It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.

AMCO



**Alaska Alcoholic Beverage Control Board**

**Form AB-03: Restaurant Designation Permit Application**

**What is this form?**

A restaurant designation permit application is required for a licensee desiring designation under 3 AAC 304.715 – 3 AAC 304.795 as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or AS 04.16.049. Designation will be granted only to a holder of a beverage dispensary, club, recreational site, golf course, or restaurant or eating place license, and only if the requirements of 3 AAC 304.305, 3 AAC 304.725, and 3 AAC 304.745, as applicable, are met. A menu or expected menu listing the meals, including entrees prepared onsite and offered to patrons, and copy of the DEC Food Service Permit (or corresponding DHHS documentation for licenses located in the Municipality of Anchorage) must accompany this form. Applicants should review AS 04.16.049 – AS 04.16.052 and 3 AAC 304.715 – 3 AAC 304.795. All fields of this form must be completed. The required \$50 permit fee may be made by credit card, check, or money order.

**Section 1 – Establishment Information**

Enter information for licensed establishment.

<b>Licensee:</b>	Suvi Mirja Bayly				
<b>License Type:</b>	Restaurant Eating Place-Public Convenience Seasonal	<b>License Number:</b>	5910		
<b>Doing Business As:</b>	Homer Spit Oyster Bar				
<b>Premises Address:</b>	4081 Freight Dock Road				
<b>City:</b>	Homer	<b>State:</b>	AK	<b>ZIP:</b>	99603
<b>Contact Name:</b>	Suvi Bayly	<b>Contact Phone:</b>	907-885-5340		

**Section 2 – Type of Designation Requested**

This application is for the request of designation as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.010(c) or AS 04.16.049, and for the request of the following designation(s) (check all that apply):

- Dining after standard closing hours: AS 04.16.010(c)
- Dining by persons 16 – 20 years of age: AS 04.16.049(a)(2)
- Dining by persons under the age of 16 years, accompanied by a person over the age of 21: AS 04.16.049(a)(3)
- Employment for persons 16 or 17 years of age: AS 04.16.049(c)  
 NOTE: Under AS 04.16.049(d), this permit is not required to employ a person 18 - 20 years of age.

OFFICE USE ONLY	
<b>Transaction #:</b>	<b>Initials:</b>



Alaska Alcoholic Beverage Control Board

**Form AB-03: Restaurant Designation Permit Application**

**Section 3 – Minor Access**

Review AS 04.16.049(a)(2); AS 04.16.049(a)(3); AS 04.16.049(c)

List where within the premises minors are anticipated to have access in the course of either dining or employment as designated in Section 2. (Example: Minors will only be allowed in the dining area. OR Minors will only be employed and present in the Kitchen.)

If a minor is hired, at this point a minor never has been hired, they will be hired solely as a dishwasher, busser or line cook.  
Minors who are customers will only be allowed in the dining area or outside on the deck and may not sit at the bar unless accompanied by a parental guardian.

Describe the policies, practices and procedures that will be in place to ensure that minors do not gain access to alcohol while dining or employed at your premises.

No minors will be hired as servers or bartenders  
A minor may be hired as a busser, dishwasher or line cook.  
All alcohol is stored in the bar area of the restaurant which a minor may not access, or my locked office.  
I do not hire people who are illiterate with current laws, ordinances and state mandated regulations.  
All bartenders are TAPP certified.

Is an owner, manager, or assistant manager who is 21 years of age or older always present on the premises during business hours? Yes  No

**Section 4 – DEC Food Service Permit**

Per 3 AAC 304.910 for an establishment to qualify as a Bona Fide Restaurant, a Food Service Permit or (for licenses within the Municipality of Anchorage) corresponding Department of Health and Human Services documentation is required.

Please follow this link to the DEC Food Safety Website: <http://dec.alaska.gov/eh/fss/food/> PLEASE VIEW OFFICIAL DEC APPROVAL LETTER  
Please follow this link to the Municipality Food Safety Website:  
<http://www.muni.org/Departments/health/Admin/environment/FSS/Pages/fssfood.aspx>

If you are unable to certify the below statement, please discuss the matter with the AMCO office: Initials  
I have attached a copy of the current food service permit for this premises OR the plan review approval.

\*Please note, if a plan review approval is submitted, a final permit will be required before finalization of any permit or license application.

55 CO REC V /4/2020



Alaska Alcoholic Beverage Control Board

**Form AB-03: Restaurant Designation Permit Application**

**Section 5 – Hours of Operation**

Review AS 04.16.010(c).

Enter all hours that your establishment intends to be open. Include variances in weekend/weekday hours, and indicate am/pm:

Everyday of the week: Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday  
Hours of operation: 11:00 AM - 10:00 PM

**Section 6 – Entertainment & Service**

Review AS 04.11.100(g)(2)

Are any forms of entertainment offered or available within the licensed business or within the proposed licensed premises?

Yes  No

If "Yes", describe the entertainment offered or available and the hours in which the entertainment may occur:

On occasion live music may perform.  
Anytime during our business hours: 3:00 PM - 11:00 PM

Food and beverage service offered or anticipated is:

table service     buffet service     counter service     other

If "other", describe the manner of food and beverage service offered or anticipated:

To-go





Alaska Alcoholic Beverage Control Board

**Form AB-03: Restaurant Designation Permit Application**

**Section 7 – Certifications and Approvals**

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

There are tables or counters at my establishment for consuming food in a dining area on the premises.



I have included with this form a menu, or an expected menu, listing the meals to be offered to patrons. This menu includes entrees that are regularly sold and prepared by the licensee at the licensed premises.



I certify that the license for which I am requesting designation is either a beverage dispensary, club, recreational site, golf course, or restaurant or eating place license.



I have included with this application a copy of the most recent AB-02 or AB-14 for the premises to be permitted. (AB-03 applications that accompany a new or transfer license application will not be required to submit an additional copy of their premises diagram.)



I declare under penalty of perjury that this form, including all attachments and accompanying schedules and statements, is true, correct, and complete.

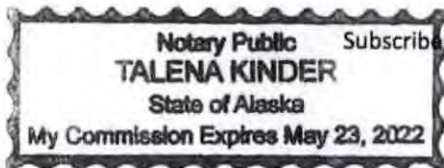
Suvi Bayly  
 Signature of licensee

Talena Kinder  
 Signature of Notary Public

Suvi Bayly  
 Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: May 23 2022



Subscribed and sworn to before me this 13<sup>th</sup> day of January, 2020.

Local Government Review (to be completed by an appropriate local government official):

Approved

Denied



Signature of local government official

Date

Printed name of local government official

Title



Alaska Alcoholic Beverage Control Board

**Form AB-03: Restaurant Designation Permit Application**

AMCO Enforcement Review: \_\_\_\_\_ Enforcement Recommendation: Approve Deny

\_\_\_\_\_  
Signature of AMCO Enforcement Supervisor

\_\_\_\_\_  
Printed name of AMCO Enforcement Supervisor

\_\_\_\_\_  
Date

Enforcement Recommendations:

AMCO Director Review: \_\_\_\_\_ Approved Denied

\_\_\_\_\_  
Signature of AMCO Director

\_\_\_\_\_  
Printed name of AMCO Director

\_\_\_\_\_  
Date

Limitations:

*AMCO*  
*APR - 3 2020*

# HOMER SPIT OYSTER BAR

GASTROPUB, EST 2017



FRESH OYSTERS FROM  
THE BAY TO YOU

## DRINKS

Sake shot / 3.5  
Sake shooter / 5  
Sake Suvi / 5  
Sake glass / 7  
Wine / 9-15  
Beer bottle / 5  
Beer tap / 6  
Prosecco / 9-12  
Champagne / 9-15  
Specialty drinks

## OYSTERS

### OYSTERS RAW

Shooter / 3.75  
2's a pair / 7.5  
3's a crowd / 11.25  
Half is more / 22.5  
Cheaper by the dozen / market rate

### OYSTERS BAKED

Whipped garlic butter  
with Italian prosciutto or  
Herbes de Homer  
3 / 15  
6 / 30

## STARTERS & SNACKS

### OYSTER DIP

Oyster baked over creme fraiche served  
with toasted ciabatta & extra virgin olive oil / 12

### DEILED EGGS

Luscious Three Creme / 9, Wild Herbes / 12, Caviar / 14

### LEBANESE FIG JAM FLATBREAD

Baked flatbread married with Lebanese Fig Jam, EVOO, Manchego  
cheese, & Ricotta wrapped in Copa & fresh local herbes / 16

### CHEESE & CHARCUTERIE PLATE

3 Artisan cheeses or 3 Artisan Cheeses with 3 Cured meats,  
accompanied with Artisan crackers and Fig Jam / 18 or 24

## SIDES

### CRUDITES

Coleslaw / 6  
Pickled olives / 6  
Roasted nuts / 6  
Potato salad / 6  
Mixed greens / 9

## GRILLED CHEESE

### SINGLE

Cheddar / 10

### DOUBLE

Havarti, Mozzarella / 12

### TRIPLE

Havarti, Mozzarella, Brie / 14

## DAILY SOUP

Miso Oyster / 10  
Oyster Ramen / 12  
Oyster Bisque / 14  
Daily Special

## MIGNONETTE: 3 4 5

Classic / 1.75	Finnish dill / 1.75
Super Sriachia / 1.75	Sweet Chili / 1.75
Zesty garlic / 1.75	Ponzu / 1.75
Herbes de Homer / 1.75	Special / 1.75

AMCO

APR - 3 2020



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

## Department of Environmental Conservation

DIVISION OF ENVIRONMENTAL HEALTH  
FOOD SAFETY & SANITATION PROGRAM

43335 Kalifornsky Beach Rd  
Soldotna, Alaska, 99669  
Main: 907.262.3408  
fax: 907.262.2294  
[www.dec.alaska.gov/eh/fss](http://www.dec.alaska.gov/eh/fss)  
[heidi.isernhagen@alaska.gov](mailto:heidi.isernhagen@alaska.gov)

April 28, 2020

Homer Spit Oyster Bar  
Attn: Suvi Bayly,  
824 Ocean Drive Loop,  
Homer, AK 99603

Re: Plan Review Approval for Homer Spit Oyster Bar

Facility: 8378 Permit ID: 10975

Dear Ms. Bayly:

Thank you for submitting your Food Establishment Application and Plan Review Application for Homer Spit Oyster Bar located at 4311 Freight Dock Road in Homer, Alaska.

Once you have submitted payment for your 2020 Annual Fee, your application is considered complete and you are approved to begin operating. **Payment of your Annual Fee must be received by the Department prior to operating.** After payment is received, you should expect to receive a copy of your 2020 Food Establishment Permit in the mail shortly. An inspection from our Department will not be required in order for you to start operating.

Here is a link that has resources that may be helpful for you and your facility, which address common food safety risk factors: [http://dec.alaska.gov/eh/fss/Food/RF\\_Resources.html](http://dec.alaska.gov/eh/fss/Food/RF_Resources.html).

Please notify our office if there are any significant changes to the facility, style of service, location of service, ownership, or menu changes.

If you have any questions please do not hesitate to contact one of our Environmental Health Officers in our Soldotna office: EHO Melanie Hollon at (907) 262-3413 / [melanie.hollon@alaska.gov](mailto:melanie.hollon@alaska.gov) or EHO Heidi Isernhagen at (907) 262-3416 / [heidi.isernhagen@alaska.gov](mailto:heidi.isernhagen@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Heidi Isernhagen".

Heidi Isernhagen  
Environmental Health Officer



# Application for Food Establishment Permit

Alaska Department of Environmental Conservation  
Division of Environmental Health  
Food Safety and Sanitation Program



Permit ID: \_\_\_\_\_

## Section 1- GENERAL INFORMATION (All applicants complete entire section – please print).

Purpose (check one)  New  Information Change  Extensive Remodel  Change of owner/operator  Reactivate

Owner/Business Information	Name of Entity or Owner Responsible for Food Service Homer Spit Oyster Bar		AK Business License #		
	Business/Corporate Mailing Address 824 Ocean Drive Loop		City Homer	State AK	Zip 99603
	Business/Corporate Phone 907-885-5340		Email suvibayly@gmail.com		
	Owner(s) or Corporate Officer(s) & Title(s) or Responsible Party Suvi Mirja Bayly			Fax	
	<b>Type of Entity</b> <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other:				

Establishment Information	Establishment Name Restaurant/Food		Physical Location		Nearest Community	
	Establishment Mailing Address 824 Ocean Drive Loop		City Homer	State AK	Zip 99603	
	Establishment Phone 907-885-5340		Fax	Contact Person Suvi Bayly		
	Establishment Physical Address Freight Dock Road		City Homer	State AK	Zip 99603	

SEATING: (Food Service Only)  N/A  25 or less  26-100  > 101

**TYPE OF OPERATION** Please describe the type of facility you plan to open below (i.e. restaurant, bar, grocery store, etc.)

Restaurant/Food/Eating Place

## SECTION 2 – NEW OR EXTENSIVELY REMODELED FACILITIES

a. A plan review will be required if your facility has never been permitted by the Alaska's Food Safety and Sanitation Program; has not had an active permit in the last five years; will be extensively remodeled; or is a new construction. If any of these apply, a Plan Review Application is required to process your application. Have you attached the [Plan Review Application?](#)  Yes  No

## SECTION 3 – COMPLETE FOR ALL FOOD ESTABLISHMENTS (Check all that apply)

### FOOD SERVICE ESTABLISHMENTS

a. A copy of your menu will be required. Have you attached a copy of the proposed menu?  Yes  No

b. Attach appropriate label, placard, or menu notation for the [consumer advisories](#) if you serve:  
 Wild Mushrooms  Unpasteurized juices  Farmed halibut, salmon, or sablefish  
 Raw/undercooked animal foods such as beef, shell eggs, lamb, pork, poultry, seafood, and shellfish.

c. Methods of food preparation (check the one that most closely describes the establishment):  
 Assembly of Ready to Eat Foods  Cook and Serve  
 Hot or cold Service for 2 hours or more is done  
 Complex (Preparation 1 day or more in advance, cooling and reheating is done).

d. Style of Service:  Counter Service  Self Service (i.e. buffet line, salad bar)  Table Service  
 Other:

e. Do you plan to operate as a [caterer](#)?  Yes  No  
If **yes**, list all the equipment used to protect food from contamination and maintain product temperature during:  
Transportation: \_\_\_\_\_ Hot or Cold Holding: \_\_\_\_\_

f.	Will your food establishment be a <a href="#">kiosk</a> or <a href="#">mobile unit</a> ?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Are employee toilets available within 200 feet? <i>If you have an agreement with another business to use their restrooms, please attach written verification.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Portable water tanks, plumbing, and hoses are NSF or FDA approved components?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	If you have a kiosk, is it located outside of a building?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Will you have a service provide water or remove wastewater? <i>If yes, provide a letter of agreement from water hauler or wastewater hauler outlining services provided and frequency.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
g.	Will another permitted food establishment ( <a href="#">commissary</a> ) provide support to your facility? If yes, attach a copy of the <a href="#">Commissary Agreement</a> .	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**FOOD PROCESSORS**

a.	A copy of a label for each type of product you will produce is required. Have you attached food labels of each product to be produced?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.	Describe who you will be distributing your product to (i.e. grocery stores, etc):		
c.	Will you be doing any of the following processes? Check all that apply.		
	<input type="checkbox"/> Reduced Oxygen Packaging <input type="checkbox"/> Smoking <input type="checkbox"/> Other: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 30px; vertical-align: middle;"></span> <input type="checkbox"/> Low Acid Canned Foods <input type="checkbox"/> Curing <input type="checkbox"/> Shelf Stable Acidified Foods <input type="checkbox"/> Dehydrating		
	<i>Be sure to check with your local Environmental Health Officer for any applicable forms and FDA requirements.</i>		

d.	Do you have a <a href="#">HACCP Plan</a> ?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
	<i>Required for high hazard food processors such as smoking, curing, acidifying, dehydrating, thermally processing low acid foods, reduced oxygen packaging, etc.</i>			
e.	You are required to have a product coding system and a <a href="#">recall plan</a> . Have you attached a copy of the coding system and recall procedures?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

**MOBILE RETAIL VENDOR SELLING SEAFOOD**

a.	A list of products that you will be selling is required. Have you attached a copy of the list of products?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.	Provide names of suppliers where you will be purchasing your product: Food Services of America, Country Foods, 10th & M, Jakolof Bay Oyster Co, Glacier Point Oysters		
c.	Will <b>all</b> of your product be prepackaged?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d.	Will another permitted food establishment ( <a href="#">commissary</a> ) provide support to your facility? If yes, attach a copy of the <a href="#">Commissary Agreement</a> .	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**MACHINES VENDING POTENTIALLY HAZARDOUS FOODS**

a.	Have you attached the label that will be affixed to the front of each machine with name, physical address, and phone number of the permitted food establishment servicing the machine?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
----	--	------------------------------	--

**SECTION 4 – Food Managers Certification/Alaska Safe Food Worker Card**

a.	Have you attached a copy of a <a href="#">Food Manager's Certification</a> ?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
	<i>The operator of a food establishment that serves and prepares unwrapped or unpackaged food, except for a bar, tavern, or limited food service, must have at least one Certified Food Protection Manager who is involved in the daily operations of the establishment.</i>			
b.	Does everyone who works or will work at the food establishment have a <a href="#">Food Worker Card</a> ?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
	<i>An operator of a food establishment shall keep on file a copy of the Food Worker Card issued by the department for each employed food worker and make the copy available to the Department upon request.</i>			

**I declare, under penalty of unsworn falsification, that this application (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is true, correct, and complete. I agree to pay all fees before operating.**

Applicant's Signature	Date 02/19/2020
Applicant's Printed Name Suvi Mirja Bayly	Title Owner



# Plan Review Application

Alaska Department of Environmental Conservation  
Division of Environmental Health  
Food Safety and Sanitation Program



Permit ID: \_\_\_\_\_

## Section A- General Information (All applicants complete entire section – please print).

Purpose (check one)  New Construction  Remodel of Existing Structure  Reactivation

General Information	Establishment Name: Homer Spit Oyster Bar	Date: 02/19/2020
	Plan Review Contact Name: Suvi Bayly	
	Phone Number: 907-885-5340	Email: suvibayly@gmail.com
	Address: 824 Ocean Drive Loop	
	Operating Days/Hours: Everyday: 11 am-10 pm	Proposed Opening Date: May 15, 2020

If you are proposing to build a new food establishment or extensive remodeling of an existing food establishment in Alaska (except in the Municipality of Anchorage), you must submit a **completed Plan Review Packet 30 days prior to construction**. Additional information regarding calculations and drawings can be found in the Plan Review Guide.

**Please Note: Failure to provide all the required information may delay the plan review process and permit issuance.**

### REQUIRED DOCUMENTATION LIST (Include the following in your packet)

- Food Establishment Application
- Fees
- Plot Plan
- Floor Plan
- Plumbing Schematic
- Complete list of equipment (including manufacturer's specifications)

### SECTION B – REQUIRED DOCUMENTATION

- a. **Potable Water Supply.** Have plans been submitted to the [Drinking Water Program](#) as required by 18 AAC 80?  
 Yes\*  No  N/A (Municipal Water Supply) **Specify in comments.**  
 Comments: The business will be connected to city water through the city of Homer  
**\*Attach a confirmation email or letter from the Drinking Water Program stating that the system has been approved.**
- b. **Wastewater Disposal System.** Have plans been submitted to the [Wastewater Program](#) as specified by 18 AAC 72?  
 Yes\*  No  N/A (Municipal System) **Specify in comments.**  
 Comments: The business will be connected to city sewer through the city of Homer.  
**\*Attach a confirmation email or letter from the Wastewater Program stating that the system has been approved.**
- c. **Solid Waste Disposal.** Please describe how you plan to dispose of your solid waste:  
 All trash, garbage will be disposed in the proper trash receptacles.
- d. **Plot Plan.** Have you included a detailed to scale drawing of the plot plan including:  Yes  No
- All buildings
  - Outside walk-in cooler(s)/freezer(s)
  - Access for deliveries
  - Refuse storage site
  - Outside storage areas
  - Sewage disposal system
  - Potable water supply
  - Oil/Fuel tanks
  - Identify nearby roads, streets, other landmarks, and/or give GPS coordinates

Permit ID(s) \_\_\_\_\_

Establishment Name(s) \_\_\_\_\_

e. **Floor Plan.** A floor plan with the listed components must be submitted as part of the application packet. Have you included a floor plan?  Yes  No  
 Layout and purpose of each room  Type and location of lighting  
 Location of fixed equipment and plumbing features  Type and location of ventilation, both building and local systems  
 Size, construction, and design of fixed equipment  
 Location of restrooms, including the number of toilets and handwash sinks.

f. **Plumbing Schematic.** A plumbing schematic with the listed components must be submitted as part of the application packet. Have you included a detailed drawing of the plumbing schematic?  Yes  No  
 Plumbing schematic showing each hot, cold, and wastewater line.  
 Plumbing connection to the wastewater line (direct vs. indirect)  
 Hot water capacity  
 Have you contacted the State Plumbing Inspector?  Yes  No

G **Fire Marshall.** Have you contacted the State Fire Marshall?  Yes  No  
 Please describe your ventilation/hood system:

**SECTION C – ADDITIONAL INFORMATION**

a. **Storage.** How often will you receive food deliveries? Do you have adequate storage to support your operation? Consult the Plan Review Guide for information about storage capacity.  
 Once or twice a week

b. **Dressing Rooms and Locker Rooms.** Describe how employee clothing, belongings, etc will be stored:  
 In the main office where employees clock in and clock out.

c. **Poisonous/Toxic Materials.** Describe location and means to store poisonous or toxic materials:  
 Toxic cleaning supplies will be stored in a cabinet underneath the hand sink.

d. **Floors/Walls/Ceilings.** Describe how the floors, walls, ceilings, and shelving will be finished (tile, paint, etc):  
 Painted walls, painted ceilings, sealed shelving and stainless steel shelving.

e. **Warewashing:** Describe how dishes, utensil, and equipment will be washed:  
 In a 3 bowl commercial kitchen sink, as well as a commercial dishwasher.

f. **Linens.** Describe how soiled and clean clothing/linens will be stored and where they will be cleaned:  
 Soiled linens will be stored in a dirty laundry bag and clean linens will be folded and stored in large plastic air tight storage containers on shelves.

**SECTION D**

*I declare, under penalty of unsworn falsification, that this application (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is true, correct, and complete. I agree to pay all fees before operating.*

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Applicant's Printed Name Suvi Mirja Bayly Title Owner





# City of Homer

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

Police Department

4060 Heath Street  
Homer, Alaska 99603

[police@cityofhomer-ak.gov](mailto:police@cityofhomer-ak.gov)

(p) 907-235-3150

(f) 907-235-3151/ 907-226-3009

## Memorandum

TO: RENEK KRAUSE, MMC, DEPUTY CITY CLERK

FROM: MARK ROBL, POLICE CHIEF

CC: LISA LINEGAR, COMMUNICATIONS SUPERVISOR

DATE: JULY 21, 2020

SUBJECT: RESTAURANT NEW APPLICATION FOR THE HOMER SPIT OYSTER BAR

---

The Homer Police Department has no objection to new application for a Restaurant Designation Permit in the City of Homer for the following:

License Type: Restaurant/Eating Place/Public Convenience - Seasonal  
License#: 5910  
DBA Name: Homer Spit Oyster Bar  
Service Location: 4081 Freight Dock Road, Homer, AK 99603  
Licensee: Suvi Mirja Bayly  
Contact: Suvi Mirja Bayly, 907-885-5340



# Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC  
Borough Clerk

June 30, 2020

**Sent via email:** clerk@ci.homer.ak.us

Homer City Hall  
City of Homer Clerk

RE: Non-Objection of Application

Licensee/Applicant	:	Suvi Mirja Bayly
Business Name	:	Homer Spit Oyster Bar
License Type	:	Restaurant/Eating Places - Seasonal
License Location	:	4081 Freight Dock Road, Homer, AK 99603, City of Homer
License No.	:	5910
Application Type	:	New Liquor License Restaurant Designation Permit

Dear Ms. Jacobsen,

This serves to advise that the Kenai Peninsula Borough has reviewed the above referenced application and has no objection.

Should you have any questions, or need additional information, please do not hesitate to let us know.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/ts

Encl.

cc: suvibayly@gmail.com; clerk@ci.homer.ak.us; dcooper@kpb.us; SNess@kpb.us



# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 20-102

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: RENEE KRAUSE, MMC, DEPUTY CITY CLERK

DATE: JULY 22, 2020

SUBJECT: RETAIL MARIJUANA STORE RENEWAL APPLICATION FOR UNCLE HERB'S

---

The City Clerk's Office has been notified by the Alcohol and Marijuana Control Office of a Retail Marijuana Renewal License Application within the City of Homer for the following business:

License Type: Retail Marijuana Store  
License #: 12866  
DBA Name: Uncle Herb's  
Service Location: 1213 Ocean Drive, Unit 2, Homer, AK 99603  
Licensee: Eden Management Group, LLC  
Designated Licensee: Lloyd Stiassny  
Mailing Address: P.O. Box 90171 Anchorage, AK 99509

### RECOMMENDATION

Voice non-objection and approval for the retail marijuana store renewal license application.

Fiscal Note: Revenues



July 7, 2020

City of Homer

Attn: Melissa Jacobsen, City Clerk

VIA Email: [clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

CC: [jblankenship@kpb.us](mailto:jblankenship@kpb.us)

[micheleturner@kpb.us](mailto:micheleturner@kpb.us)

[tshassetz@kpb.us](mailto:tshassetz@kpb.us)

[sness@kpb.us](mailto:sness@kpb.us)

[dhenry@kpb.us](mailto:dhenry@kpb.us)

<b>License Number:</b>	12866
<b>License Type:</b>	Retail Marijuana Store
<b>Licensee:</b>	Eden Management Group, LLC
<b>Doing Business As:</b>	UNCLE HERB'S
<b>Physical Address:</b>	1213 Ocean Drive Unit 2 Homer, AK 99603
<b>Designated Licensee:</b>	Lloyd Stiassny
<b>Phone Number:</b>	907-230-6436
<b>Email Address:</b>	lloyd@edenalaska.com

License Renewal Application

Endorsement Renewal Application

AMCO has received a complete renewal application and/or endorsement renewal application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.035(c)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.060 states that the board will uphold a local government protest and deny an application for a marijuana establishment license unless the board finds that a protest by a local government is arbitrary, capricious, and unreasonable. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license renewal, but require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director issues the license.

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely protest or objection is filed for this application, or if any notices of violation have been issued for this

license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email [amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Klinkhart". The signature is stylized and cursive.

Glen Klinkhart, Interim Director

# Alcohol & Marijuana Control Office

**License Number:** 12866

**License Status:** Active-Operating

**License Type:** Retail Marijuana Store

**Doing Business As:** UNCLE HERB'S

**Business License Number:** 1038791

**Designated Licensee:** Lloyd Stiasny

**Email Address:** lloyd@edenalaska.com

**Local Government:** Homer

**Local Government 2:**

**Community Council:**

**Latitude, Longitude:** 59.381894, -151.303569

**Physical Address:** 1213 Ocean Drive  
Unit 2  
Homer, AK 99603  
UNITED STATES

## Licensee #1

**Type:** Entity

**Alaska Entity Number:** 10039405

**Alaska Entity Name:** Eden Management Group, LLC

**Phone Number:** 907-230-6436

**Email Address:** lloyd@edenalaska.com

**Mailing Address:** PO Box 90171  
Anchorage, AK 99509  
UNITED STATES

## Entity Official #1

**Type:** Individual

**Name:** Lloyd Stiasny

[REDACTED]

[REDACTED]

**Phone Number:** 907-230-6436

**Email Address:** lloyd@edenalaska.com

**Mailing Address:** PO Box 90171  
Anchorage, AK 99509  
UNITED STATES

**Note:** No affiliates entered for this license.

Department of Commerce, Community, and Economic  
Development

## CORPORATIONS, BUSINESS & PROFESSIONAL LICENSING

[State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database](#)

[Download / Corporations / Entity Details](#)

# ENTITY DETAILS

## Name(s)

Type	Name
Legal Name	Eden Management Group, LLC

**Entity Type:** Limited Liability Company

**Entity #:** 10039405

**Status:** Good Standing

**AK Formed Date:** 6/20/2016

**Duration/Expiration:** Perpetual

**Home State:** ALASKA

**Next Biennial Report Due:** 1/2/2022

**Entity Mailing Address:** PO BOX 90171, ANCHORAGE, AK 99509

**Entity Physical Address:** 6511 ARCTIC SPUR ROAD, ANCHORAGE, AK 99518

## Registered Agent

**Agent Name:** Jana Weltzin

**Registered Mailing Address:** 901 PHOTO AVE, ANCHORAGE, AK 99503

**Registered Physical Address:** 901 PHOTO AVE, ANCHORAGE, AK 99503

## Officials

Show Former

AK Entity #	Name	Titles	Owned
	Lloyd Stiasny	Manager, Member	100.00

## Filed Documents

Date Filed	Type	Filing	Certificate
6/20/2016	Creation Filing	<a href="#">Click to View</a>	<a href="#">Click to View</a>
6/20/2016	Initial Report	<a href="#">Click to View</a>	
12/13/2017	Biennial Report	<a href="#">Click to View</a>	
6/04/2019	Agent Change	<a href="#">Click to View</a>	
12/19/2019	Biennial Report	<a href="#">Click to View</a>	
1/08/2020	Amendment	<a href="#">Click to View</a>	<a href="#">Click to View</a>

COPYRIGHT © STATE OF ALASKA · DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT ·



**State of Alaska**  
**Department of Commerce, Community, and Economic Development**  
**Corporations, Business, and Professional Licensing**

## **Certificate of Organization**

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

**Eden Management Group, LLC**



IN TESTIMONY WHEREOF, I execute the certificate  
and affix the Great Seal of the State of Alaska  
effective June 20, 2016.



Chris Hladick  
Commissioner



THE STATE  
of **ALASKA**

Department of Commerce, Community, and Economic Development  
Division of Corporations, Business, and Professional Licensing  
PO Box 110806, Juneau, AK 99811-0806  
(907) 465-2550 • Email: [corporations@alaska.gov](mailto:corporations@alaska.gov)  
Website: [Corporations.Alaska.gov](http://Corporations.Alaska.gov)

FOR DIVISION USE ONLY

**Articles of Organization**  
Domestic Limited Liability Company

Web-6/20/2016 11:34:21 AM

**1 - Entity Name**

**Legal Name:** Eden Management Group, LLC

**2 - Purpose**

To cultivate, process, retail crops and for any other lawful purpose

**3 - NAICS Code**

111998 - ALL OTHER MISCELLANEOUS CROP FARMING

**4 - Registered Agent**

**Name:** Jana Weltzin

**Mailing Address:** 3003 Minnesota Dr., Suite 201, Anchorage, AK 99503

**Physical Address:** 3003 Minnesota Dr., Suite 201, Anchorage, AK 99503

**5 - Entity Addresses**

**Mailing Address:** PO Box 90171, Anchorage, AK 99509

**Physical Address:** 6511 Arctic Spur Road, Anchorage, AK 99518

**6 - Management**

The limited liability company is managed by a manager.

## 7 - Officials

Name	Address	% Owned	Titles
Lloyd Stiasny			Organizer

### Name of person completing this online application

I certify under penalty of perjury under the Uniform Electronic Transaction Act and the laws of the State of Alaska that the information provided in this application is true and correct, and further certify that by submitting this electronic filing I am contractually authorized by the Official(s) listed above to act on behalf of this entity.

Name: Jana D. Weltzin



THE STATE  
 of ALASKA

Department of Commerce, Community, and Economic Development  
 Division of Corporations, Business, and Professional Licensing  
 PO Box 110806, Juneau, AK 99811-0806  
 (907) 465-2550 • Email: corporations@alaska.gov  
 Website: corporations.alaska.gov

FOR DIVISION USE ONLY

**Domestic Limited Liability Company**

**2020 Biennial Report**

For the period ending December 31, 2019

Web-12/19/2019 4:46:16 PM

**Due Date:** This report along with its fees are due by January 2, 2020

**Fees:** If postmarked before February 2, 2020, the fee is \$100.00.  
 If postmarked on or after February 2, 2020 then this report is delinquent and the fee is \$137.50.

**Entity Name:** Eden Management Group, LLC

**Entity Number:** 10039405

**Home Country:** UNITED STATES

**Home State/Prov.:** ALASKA

**Physical Address:** 6511 ARCTIC SPUR ROAD,  
 ANCHORAGE, AK 99518

**Mailing Address:** PO BOX 90171, ANCHORAGE, AK 99509

**Registered Agent** information cannot be changed on this form. Per Alaska Statutes, to update or change the Registered Agent information this entity must submit the Statement of Change form for this entity type along with its filing fee.

**Name:** Jana Weltzin

**Physical Address:** 901 PHOTO AVE, ANCHORAGE, AK  
 99503

**Mailing Address:** 901 PHOTO AVE, ANCHORAGE, AK  
 99503

**Officials:** The following is a complete list of officials who will be on record as a result of this filing.

- **Provide all officials and required information. Use only the titles provided.**
- **Mandatory Members:** this entity must have at least one (1) Member. A Member must own a %. In addition, this entity must provide all Members who own 5% or more of the entity. A Member may be an individual or another entity.
- **Manager:** If the entity is manager managed (per its articles or amendment) then there must be at least (1) Manager provided. A Manager may be a Member if the Manager also owns a % of the entity.

Full Legal Name	Complete Mailing Address	% Owned	Manager	Member
Lloyd Stiassny	PO BOX 90171, ANCHORAGE, AK 99509	100.00	X	X

If necessary, attach a list of additional officers on a separate 8.5 X 11 sheet of paper.

**Purpose:** To cultivate, process, retail crops and for any other lawful purpose

**NAICS Code:** 111998 - ALL OTHER MISCELLANEOUS CROP FARMING

**New NAICS Code (optional):**

This form is for use by the named entity only. Only persons who are authorized by the above Official(s) of the named entity may make changes to it. If you proceed to make changes to this form or any information on it, you will be certifying under penalty of perjury that you are authorized to make those changes, and that everything on the form is true and correct. In addition, persons who file documents with the commissioner that are known to the person to be false in material respects are guilty of a class A misdemeanor. Continuation means

you have read this and understand it.

**Name:** Jana Weltzin

State of Alaska  
Department of Commerce, Community, and Economic Development  
Corporations, Business, and Professional Licensing

## Certificate of Amendment

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

**Eden Management Group, LLC**



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **January 8, 2020**.

A handwritten signature in cursive script, appearing to read "Julie Anderson".

Julie Anderson  
Commissioner



State of Alaska  
Division of Corporat  
**CORPORATIONS &**  
PO Box 110806  
Juneau, AK 99811-0806  
Phone: (907) 465-2550  
Fax: (907) 465-2974  
Website: www.commerce.alaska.gov/occ



ig

DO NOT STAMP ABOVE THIS BOX

Office Use Only **CORP**

RECEIVED  
Anchorage  
JAN 08 2020

CBPL

*[Handwritten signature]*

**ARTICLES OF AMENDMENT** RECEIVED  
Domestic Limited Liability Company Juneau  
AS 10.50.100 JAN 13 2020

\$25.00 Filing Fee (non-refundable)

CBPL

Pursuant to Alaska Statutes 10.50.100, the undersigned corporation adopts the following amended Articles of Organization.

ITEM 1: Name of the Entity:

Alaska Entity #:

Eden Management Group, LLC	10039405
----------------------------	----------

ITEM 2:

Date the original Articles of Organization were filed:	06/20/2016
--	------------

ITEM 3: List each article number being amended, and the amended article in full. Any article being changed is considered an amendment; this includes deletions, edits, corrections, or renumbering of the articles. Verify with previous Articles of Organization and amendments already filed.

Change of NACIS Code from 111998 to 452990 - ALL OTHER GENERAL MERCHANDISE STORES

Attach a separate sheet if needed.

ITEM 4: The Articles of Amendment must be signed by a member, manager, or Attorney-in-Fact.

	Lloyd Stiasny	Manager/Member	1/8/2020
Signature	Printed name	Title	Date

If signing on behalf of a member or manager which is an entity, then identify signer's relationship and signing authority with the member entity. For example: John Smith, President of XYZ Inc. the sole member of ABC LLC.

Mail the Articles of Amendment and the non-refundable \$25.00 filing fee in U.S. dollars to:  
State of Alaska, Corporations Section, PO Box 110806, Juneau, AK 99811-0806

**STANDARD PROCESSING TIME** for complete and correct applications submitted to this office is approximately 10-15 business days. All applications are reviewed in the date order they are received.



Pursuant with the Alaska Revised Limited Liability Company Act  
Title 10 Chapter 10.50  
**LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
FOR**

Eden Management Group, LLC

*Name Of LLC*

**AN ALASKA LIMITED LIABILITY COMPANY**

THIS OPERATING AGREEMENT ("Agreement") is entered into this 20<sup>th</sup> day of  
June \_\_\_\_\_, 2016, by and between the following person(s):

Lloyd H. Stiassny

*First Middle Last*

*First Middle Last*

*First Middle Last*

*First Middle Last*

(Hereinafter Referred to as the "Parties" or "Members")

All Members in the above-described Limited Liability Company agree as follows;

**FORMATION OF LIMITED LIABILITY COMPANY**

- I. **FORMATION OF LLC.** The Parties have formed a Limited Liability Company named Eden Management Group, LLC

*Name Of LLC*

(Hereinafter referred to as the "LLC") in the State of Alaska  
*State*

The LLC shall be operated by the terms of this Agreement and the applicable laws of the State of Alaska

*State*

relating to the formation, taxation and operation of a LLC. The Members agree that the LLC shall be taxed as a partnership. The partnership shall be inoperative if there are any provisions of this agreement that may cause the LLC not to be taxed as a partnership.



II. **BUSINESS.** The primary business of the LLC shall be:

Management and Administration of Horticulture Facility

*Primary Business of LLC*

The LLC shall be legally allowed to conduct or promote any lawful business or purpose within the State of Alaska

*State*

or any other jurisdiction where the LLC may be conducting business activities.

III. **ARTICLES OF ORGANIZATION.** The LLC acting through one of its

Members named Lloyd H. Stiassny

*First*

*Middle*

*Last*

filed Articles of Organization, ("Articles") in the records of the

Alaska

*State*

Secretary of State on 06/20/2016

*Date*

and thus, creating the LLC.

IV. **PLACE OF BUSINESS.** The official place of business of the LLC shall be

6511 Arctic Spur Road

*Street Address*

City of Anchorage

*City*

State of Alaska

*State*

Zip Code 99518

*Zip Code*

V. **REGISTERED OFFICE.** The official registered office of the LLC shall be 3003 Minnesota Dr.

*Street Address*

City of Anchorage

*City*

State of Alaska

*State*

Zip Code 99503

*Zip Code*

. If at anytime the registered office should change, all members and necessary government authorities shall be notified.

VI. **REGISTERED AGENT.** The official registered agent of the LLC shall be

Jana Weltzin

*First*

*Middle*

*Last*

If at anytime the registered agent should change, all members and necessary government authorities shall be notified.

VII. **FISCAL YEAR.** The LLC's fiscal and tax year shall end 12/31/16.  
*Date*

VIII. **DURATION.** The LLC will commence business as of the date of filing and will continue in perpetuity.

IX. **INITIAL MEMBERS.** The initial Members of the LLC, their initial capital contributions, and their percentage interest in the LLC are as follows:

<b>Members</b>	<b>Percentage Interest in LLC</b>	<b>Capital Contribution (If any)</b>
Lloyd H. Stiasny	100%	

X. **ADDITIONAL MEMBERS.** Upon the consent of a majority of the Members and in compliance with the provisions of this agreement, new members may be admitted.

XI. **MANAGEMENT.** The Members have elected to manage the LLC as follows (check as appropriate):

The management of the LLC shall be vested in the Members without an appointed manager. The Members shall elect officers who shall manage the company. The President and Secretary may act for and on behalf of the LLC and shall have the power and authority to bind the LLC in all transactions and business dealings of any kind as otherwise provided in this Agreement.

The Members hereby delegate the management of the LLC to Managers(s), subject to the limitations set out in this agreement.

There shall be one (1) initial Managers.  
# of Managers

The initial Manager(s) is/are:

Lloyd H. Stiassny

*First*

*Middle*

*Last*

*First*

*Middle*

*Last*

*First*

*Middle*

*Last*

*First*

*Middle*

*Last*

A Manager shall hold their position until the Members elect a successor.

The Members shall elect and may remove the Manager(s) by majority vote.

The authority shall be held by the Members to take all necessary and proper actions in order to conduct the business of the LLC.

Any Manager can take any appropriate action on behalf of the LLC, including, but not limited to signing checks, executing leases, and signing loan documents except for decisions concerning distributions.

With or without the notice of a meeting, the action of the Manager shall be based on a majority vote of the Managers when determining the timing and total amount of distribution to the Members.

The compensation to the Manager(s) shall be in the discretion of the majority of the Members of the LLC.

XII. **OFFICERS AND RELATING PROVISIONS.** If the Members decide to manage the LLC, rather than appointing a Manager, the Members shall appoint officers for the LLC and the following provisions shall apply:

(a) **OFFICERS.** The officers of the LLC shall consist of a president, a treasurer and a secretary, or others that may be elected and appointed by the Members. A Member may hold more than one or all offices. The officers shall supervise the operation of the LLC under the direction and management of the Members, as further described below.

- (b) **TERM OF OFFICE/ELECTION.** The Members shall elect the officers of the LLC annually by a majority vote. Vacancies may be filled or new offices created and filled at any meeting of the Members. All officers shall hold their office positions unless until their death, removal of office, or resignation. Election or appointment of an officer or agent shall not of itself create a contract right.
- (c) **REMOVAL.** The Members may decide to remove any officer or agent by a majority vote whenever they decide that the best interest of the company would be served thereby. If a officer or agent is removed, it shall be without prejudice to the contract rights.
- (d) **PRESIDENT.** The President shall be the chief executive officer of the LLC and shall be present at all meetings of the Members. The president shall have all powers to perform such duties that are outlined in this Agreement.
- (e) **THE TREASURER.** The Treasurer shall be the chief financial officer of the LLC. The Treasurer is responsible for all funds and securities of the LLC. The Treasurer shall preside at the meeting of the Members when the President is absent. The treasurer must receive and give receipts for moneys due and payable to the LLC from any money source whatsoever, and deposit all such moneys in the name of the LLC in any such money institution, which shall be selected by the Members of the LLC. The Treasurer shall perform all other duties that may be assigned to the office of treasurer by the President or by the Members of the LLC.
- (f) **SECRETARY.** The Secretary shall keep a time log of the Members meetings in a file provided for that purpose and also see that all notices are duly given in accordance with the provisions of this Agreement or as required by law. The Secretary shall have custody of the LLC records, addresses of Members, Member's resolutions, and other documents to the LLC as true and correct. The Secretary shall preside at the meetings of the Members in the absence of the President and Treasurer and also perform all other duties that may be assigned to the office of secretary by the President or by the Members of the LLC.
- (g) **VACANCIES.** A vacancy is any office because of death, resignation, removal, and disqualification or otherwise may be filled by the Members for the unexpired portion of the term.

XIII. **MEMBER ONLY POWERS.** Notwithstanding any other provision of this Agreement, only a majority of the Members may: (a) sell or encumber (but not lease) any real estate owned by the LLC, or (b)

incur debt, expend funds, or otherwise obligate the LLC if the debt, expenditure, or other obligation exceeds \$10,000.

- XIV. **INTEREST OF MEMBERS.** Each Member shall own a percentage interest on the LLC. The Member's percentage interest shall be based on the amount of consideration that the member has contributed to the LLC and that percentage interest shall control the Member's share of the profit, losses, and distributions of the LLC.
- XV. **CONTRIBUTIONS.** The initial contributions and initial percentage interest of the Members are as set out in this Agreement.
- XVI. **ADDITIONAL CONTRIBUTIONS.** In the case when the Members are called upon by the majority of the Members of the LLC to make additional cash contributions, the additional cash contribution shall be based on the Member's then existing percentage interest. If a Member is unable to meet a cash call, the other Members can contribute the unmet call on a pro rata basis based on the Members' percentage interest at that time, and the percentage interest of each Member will be adjusted accordingly.
- XVII. **PERCENTAGE INTEREST/RECORD OF CONTRIBUTIONS.** This Agreement, any amendment(s) to this Agreement, and all Resolutions of the Members of the LLC shall constitute the record of the Members of the LLC and of their respective interest therein.
- XVIII. **DISTRIBUTIONS.** Distribution of cash and other assets of the LLC (other than in dissolution of the LLC) shall be made in the total amounts and at the times determined by a majority of the Members. Any such distributions shall be allocated among the Members on the basis of the Members' percentage interest in the LLC.
- XIX. **PROFITS AND LOSSES.** On the basis of the Members' percentage interest in the LLC, the profits and losses and all other tax attributes of the LLC shall be allocated among the Members.
- XX. **CHANGE IN INTEREST.** IF during any year there is a change in a Member's percentage interest, the Member's share of the profits and losses and distributions in that year shall be determined under a method which takes into account the varying interest during that year.
- XXI. **VOTING BY MEMBERS.** In relation with each Member's percentage interest, Members shall be entitled to vote on all matters that provide for a vote of the Members.

- XXII. **MAJORITY DEFINED.** The term “Majority” of the Members shall mean a majority of the ownership interest of the LLC as determined by the records of the LLC on the date of the action when used throughout this agreement.
- XXIII. **MAJORITY REQUIRED.** The majority of the Members, based upon their percentage ownership, except as otherwise provided and delegated to the Officers or Managers, shall decide all decisions made.
- XXIV. **MEETINGS.** Meetings of the Members may be called by any member owning 10% or more of the LLC, or, if Managers were selected, by the Manager of the LLC, or if Officers were elected, by any officer.
- XXV. **WRITTEN CONSENT/MEETINGS.** Members or Officers do not have to hold a meeting in order to accomplish an action but evidence of the action shall be recorded and signed by the majority of the Members. Action without a meeting may be evidence by a written consent signed by a majority of the Members, or the President and Secretary.
- XXVI. **MEMBERS HAVE NO EXCLUSIVE DUTY TO LLC.** Members may have other business interest and may participate in other investments in addition to those relating to the LLC. The Members shall not be required to participate in the LLC as their sole and exclusive business. No Member shall be held liability to the LLC or any other Member by participating in outside businesses, investments, or activities.
- XXVII. **DUTIES OF MEMBERS: LIMITATION OF LIABILITY/GOOD FAITH.** All owners of the LLC shall perform their duties in good faith and perform with such care to be in the best interest of the LLC. All Members shall be held responsible if a Member or Officer finds them guilty of fraud, gross negligence, deceit, willful misconduct, or a wrongful taking. No Member or Officer, by reason of being or having been a Member or Officer, shall be liable to the LLC or to any other member or Officer for any loss or damage sustained by the LLC.
- XXVIII. **PROTECTION OF MEMBERS AND OFFICERS.**
- (a) As used herein, the term “Protected Party” refers to the Members and officers of the Company.
- (b) To the extent that, at law or in equity, a Protected Party has duties (including fiduciary duties) and liabilities relating thereto to the LLC or to any other Protected Party, a Protected Party acting under this Agreement shall not be liable to the LLC or to any other Protected Party for good faith reliance on:

- (i) The provisions of this Agreement;
  - (ii) The records of the LLC; and/or
  - (iii) Such information, opinions, reports or statements presented to the LLC by any person as to matters the Protected Party reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the LLC.
- (c) The provisions of this agreement, to the extent that they restrict the duties and liabilities of a Protected Party to the LLC or to any other Protected Party otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Protected Party.

**XXIX. INSURANCE AND IDEMNIFICATION.**

- (a) Right to Indemnification.
  - (i) Any person who is or was a member or officer of the LLC and who is or may be a party to any civil action because of his/her participation in or with the LLC, and who acted in good faith and in a manner which he/she reasonably believed to be in, or not opposed to, the best interest of the LLC may be indemnified and held harmless by the LLC.
  - (ii) Any person who is or was a member or officer of the LLC and who is or may be a party to any criminal action because of his/her participation in or with the LLC, and who acted in good faith and had reasonable cause to believe that the act or omission was lawful, may be indemnified and held harmless by the LLC.
- (b) Non-Exclusivity of Rights. Members and Officers of the LLC shall adopt and enter into indemnification agreements for Members and officers. The right to indemnification and payment of fees and expenses conferred in this section shall not be exclusive of any right which any person may have or hereafter acquire under any statute, provision of this agreement, contract, agreement, vote of members or otherwise.
- (c) Advancement of Expenses. All expenses including legal fees incurred by an indemnified person in defending any proceeding shall be paid in advance of the proceedings

conclusion. Should the indemnified Member or Officer ultimately be determined to not be entitled to indemnification, that member or officer agrees to immediately repay to LLC all funds expended by the LLC on behalf of the member or Officer.

- (d) Effect of Amendment. No amendment, repeal or modification of this Article shall adversely affect any rights hereunder with respect to any action or omission occurring prior to the date when such amendment, repeal or modification became effective.
- (e) Insurance. With a majority vote, the Members may decide to purchase and maintain insurance for the LLC, for its Members and officers, and/or on the behalf of any third party or parties whom the members might determined should be entitled to such insurance coverage.

XXX. **TERMINATION OF MEMBERSHIP.** A Member's interest in the LLC shall cease upon the incidence of one or more of the following events:

- (a) A Member dies
- (b) A Member decides to give notice of withdrawal to the LLC thirty days (30) in advance of the withdrawal date. There is no breach of Agreement when a Member decides to withdraw in this fashion.
- (c) A Member assigns all of his/her interest to a qualified third party.
- (d) There is an entry of an order by a court of competent jurisdiction adjudicating the Member incompetent to manage his/her person or his/her estate.
- (e) In the case of an estate that is a Member, the distribution by the fiduciary of the estate's entire interest in the LLC.
- (f) If within one hundred twenty (120) days after the commencement of any action against a Member seeking reorganization, readjustment, composition, readjustment, liquidation, arrangement, dissolution, or similar relief under any statute, law, or regulation, the action has not been dismissed and/or has not been consented to by a majority of the members.
- (g) If within ninety days (90) after the appointment, without a Member's consent or acquiescence, of a trustee, receiver, or liquidator of the Member or of all or any substantial part of the Member's properties, said appointment is not vacated or within ninety days (90)



after the expiration of any stay, the appointment is not vacated and/or has not been consented to by a majority of the members.

(h) A Member, without the consent of a majority of the Members: (1) makes an assignment for the benefit of creditors; (2) files a voluntary petition in bankruptcy; (3) is adjudicated a bankrupt or insolvent; (4) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation; (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of the nature described in this paragraph; (6) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member or of all or any substantial part of his properties; or (7) if any creditor permitted by law to do so should commence foreclosure or take any other action to seize or sell any Member's interest in the LLC.

(i) Any of the events provided in applicable code provisions that are not inconsistent with the dissociation events identified above.

XXXI. **ENCUMBRANCE.** With majority consent from the Members, a Member can encumber his LLC interest by a security interest or other form of collateral.

XXXII. **LLC INTEREST.** A Member has no interest in property owned by the LLC. The LLC interest is personal property.

XXXIII. **SALE OF INTEREST.** A Member can sell his LLC interest only as follows:

(a) If a Member decides to sell any part of their interest he/she must first offer their interest to the LLC. The LLC shall have the option to buy the seller's interest at the then existing Set Price as stated in the Agreement. The LLC shall then have to option for 30 days upon receiving the receipt of its intention to buy all, a portion, or none of the offered interest with a majority vote. Closing on the sale shall occur within 60 days (60) from the date that the LLC gives written notice of its intention to buy. The purchase price shall be paid in cash at the closing unless the total purchase price exceeds \$ N/A in which the purchase price shall be paid in N/A (\_\_\_\_\_) equal quarterly installments beginning at the time of closing. The installment amounts shall be computed by applying the following interest factor to the principle amount: interest compounded quarterly at the Quarterly Federal Short-Term Rate existing at closing

under the Applicable Federal Rates used for purposes of Internal Revenue Code § 1 274(d), or any successor provision.

(b) If the LLC decides not to buy the offered interest of the selling Member, the other Members shall have the right to buy the offered interest at a set price on a pro-rata basis based on the Members' percentage interests at that time. If a Member decides not to buy up to his/her proportional part, the other Members can buy the remaining interest on the same pro rata basis. Members shall have fifteen days (15) from the date the LLC gives its written notice to the selling Member to give the selling Member notice in writing of their intention to buy all, some, or none of the offered interest. The closing shall occur within sixty days (60) from the date that the Members give written notice of their intention to buy. The purchase price from each purchasing member shall be paid in cash at closing.

(c) If the LLC or Members choose not to buy the offered interest, the selling Member has the right to assign the interest to a non-member.

(d) The selling Member must come to a close within ninety days (90) of the date that he/she gave notice to the LLC. If the interest of the selling Member does not close within that time, he/she must start the selling process over.

(e) A non-member purchaser of a member's interest cannot exercise any rights of a member unless a majority of the non-selling Members consent to him becoming a member. The non-member purchaser will be entitled, however, to share in such profits and losses, to receive such distributions, allocations of income, loss, profit, deduction, credit or similar items to which the selling member would be entitled, to the extent of the interest assigned, and will be subject to calls for contributions under the terms of this Agreement. The purchaser shall agree to be subject to all the terms of this Agreement as if he were a Member by purchasing the selling member's interest.

**XXXIV. DISSOCIATION.** If a Member of the LLC becomes dissociated, the remaining Members shall have the option to purchase the dissociated member's interest at the Set Price in the same fashion as stated in Article 9. The sale will be carried out as if the dissociated Member had notified the LLC of his/her desire to sell all of his/her LLC interest. The date the LLC received the notice as provided in Article 28 triggering the options shall be deemed to be the date that the LLC receives actual notice of the dissociation event.

**XXXV. EFFECT OF DISSOCIATION.** When a Member becomes dissociated from the LLC they shall not be entitled to receive fair value of their LLC interest solely by virtue of dissociation. If the dissociated Member

still owns interest in the LLC, they shall be entitled to continue to receive such profits and losses. A dissociated Member shall receive similar items to which he would if he/she were a Member but shall not be considered a Member nor have any rights of a Member.

XXXVI. **TERMINATION OF LLC.** Only upon the consent of the majority of the Members can the LLC and its affairs be dissolved.

XXXVII. **FINAL DISTRIBUTIONS.** Upon the ending of the LLC, the assets must be distributed as follows: (a) to the LLC creditors; (b) to Members in satisfaction of liabilities for distributions; and (c) to Members first for the return of their contributions and secondly respecting their LLC interest, in the proportions in which the Members share in profits and losses.

XXXVIII. **RECORDS AND INSPECTION.** The LLC shall maintain at its place of business the Articles of Organization, any amendments thereto, this Agreement, and all other LLC records required to be kept by the Act, and the same shall be subject to inspection and copying at the reasonable request, at the expense, of any Member.

XXXIX. **RECORDS AND INSPECTION.** The LLC shall maintain at its place of business the Articles of Organization, any amendments thereto, this Agreement, and all other LLC records required to be kept by the Act, and the same shall be subject to inspection and copying at the reasonable request, at the expense, of any Member.

XL. **OBTAINING ADDITIONAL INFORMATION.** Each Member of the LLC has the right to reasonably demand information related to the Member's interest as a Member in the LLC including: (a) Business information and the financial condition of the LLC; (b) If available, obtaining copies of the LLC's federal, state, and local income tax returns for each year. (c) Obtaining information in regards to the affairs of the LLC as is just and reasonable.

XLI. **APPLICABLE LAW.** Within the means of the law, this Agreement shall be constructed in accordance with and governed by the laws of the State of Alaska.

XLII. **AMENDMENT.** At any time a Member may wish to propose a new amendment but the other Members can waive it. The Proposing Member shall submit to the Members any such proposed amendment together with an opinion of counsel as to the legality of such amendment and the recommendation of the Member as to its adoption. Once the majority of the Member approves the amendment it shall be in effect. This Agreement may not be amended nor may any

rights hereunder be waived except by an instrument in writing signed by the party sought to be charged with such amendment or waiver, except as otherwise provided in this Agreement.

- XLIII. **COUNTERPARTS.** The instrument may be executed in any number of counterparts each of which shall be considered an original.
- XLIV. **PRONOUNS.** The use of a pronoun shall be deemed to include singular, plural, individuals, feminine, masculine, partnerships or corporation where applicable when referencing to a Member or a Manager.
- XLV. **FURTHER ACTION.** Upon the request by the LLC, each Member has the duty and shall agree to perform all appropriate and necessary assignments within the provisions of this Agreement.
- XLVI. **FACSIMILES.** For purposes of this Agreement, any copy, facsimile, telecommunication or other reliable reproduction of a writing, transmission or signature may be substituted or used in lieu of the original writing, transmission or signature for any and all purposes for which the original writing, transmission or signature could be used, provided that such copy, facsimile telecommunication or other reproduction shall have been confirmed received by the sending Party.
- XLVII. **SPECIFIC PERFORMANCE:** All Members agree that it would be greatly damaging if any of the provisions of this Agreement were not performed to meet their specific performance and that monetary damages would not provide an adequate remedy in such event. If the provisions become breached, the non-breaching Members are entitled to take action in any court of the United States or any state thereof having subject matter to the jurisdiction.
- XLVIII. **METHOD OF NOTICE.** All written notices shall be sent to the address of the LLC at its place of business or to the Member who is set forth on the signature page of this Agreement. All notices shall be effective when received either by hand or receipt of delivery.
- XLIX. **COMPUTATION OF TIME.** In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

- L. **ENTIRE AGREEMENT** The undersigned hereby agree, acknowledge, and certify that the foregoing operating agreement is adopted and approved by each member. Each Member agrees to be bound by all of the terms and conditions of this agreement and the formation certificate or articles.

**SIGNATURE OF MEMBERS**

**MEMBER**

  
Signature

Print Name of Member: Lloyd H. Stiasny

Address: PO Box 90171

City, State, Zip: Anchorage, AK, 99509

Phone: (907) 230-6436

**MEMBER**

\_\_\_\_\_  
Signature

Print Name of Member: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Phone: \_\_\_\_\_

**MEMBER**

\_\_\_\_\_  
Signature

Print Name of Member: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Phone: \_\_\_\_\_

**MEMBER**

\_\_\_\_\_  
Signature

Print Name of Member: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Phone: \_\_\_\_\_



Alaska Marijuana Control Board

**Form MJ-20: Renewal Application Certifications**

**What is this form?**

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.

**Section 1 – Establishment Information**

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Eden Management Group, LLC	License Number:	12866		
License Type:	Retail Marijuana Store				
Doing Business As:	Uncle Herb's				
Premises Address:	1213 Ocean Drive, Unit 2				
City:	Homer	State:	Alaska	ZIP:	99603

**Section 2 – Individual Information**

Enter information for the individual licensee who is completing this form.

Name:	Lloyd Stiasny
Title:	Manager, Member

**Section 3 – Violations & Charges**

Read each line below, and then sign your initials in the box to the right of any applicable statements:

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

Initials

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2019 and June 30, 2020.

Sign your initials to the following statement **only if you are unable to certify one or more of the above statements:**

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(h).



# Form MJ-20: Renewal Application Certifications

## Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

*AS*

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

*AS*

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

*AS*

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

*AS*

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

*AS*

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

*AS*

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

*AS*

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

*Lloyd Stiasny*

Signature of licensee

Lloyd Stiasny

Printed name of licensee



*Aimee Rocush*

Notary Public in and for the State of Alaska

My commission expires: *8/29/2023*

Subscribed and sworn to before me this *20<sup>th</sup>* day of *May*, 20*20*.



## COMMERCIAL LEASE AGREEMENT

This *Commercial Lease Agreement* (hereinafter the “Agreement”) is entered into between Alpine Alaska Investments, LLC (hereinafter the “Lessor”) and Eden Management Group, LLC (hereinafter the “Lessee”).

### ARTICLE I

- 1.1 **Term.** The term of this lease shall be for Five (5) years, renewable at the option of the parties to this Agreement. The term shall begin as of the date of execution of this Agreement.
- 1.2 **Option to Renew.** If Lessee is not in default hereunder, Lessee, at its option, may obtain one (1) renewal “Extension Term” of this Agreement for a further term of three (3) years and upon the terms and conditions herein stated. Lessee shall exercise this option to renew by giving Lessor written notice of intention to renew not less than 60 days prior to the expiration of the original term.
- 1.3 **Written Agreement.** Should the term of this lease pursuant to this Agreement be renewed on any other basis than a year-to-year basis as provided in Paragraph 1.2, the renewed lease shall be in writing and appended to this Agreement.
- 1.4 **First Right of Refusal.** Lessee shall have an ongoing, and exclusive right of first refusal (herein after referred to as “Right of First Refusal”) to lease or purchase the Premises. The Right of First Refusal shall be exercisable by Lessee only if: [i] Lessee is not then in default of its obligations under this Lease and the term of the Lease (including any Extension Term) has not expired; and (ii) no event of default by Lessee under this Lease then exists and is continuing beyond the expiration of any notice and cure periods applicable thereto under the Lease, as of the date of submission of the Offer.
- 1.5 **Offer to lease from third party.** Prior to unconditionally accepting a bona fide offer (the “Offer”) from a prospective tenant to lease or purchase all or any part of the Premise at the end of the lease term. Lessor shall give Lessee written notice of same setting forth all of the material terms and conditions of such Offer (the “Offer Notice”). Lessee shall have Thirty (30) business days after receipt of the Offer Notice to exercise the Right of First Refusal by written notice to Lessor of its intent to exercise and Seven (7) additional days to provide proof of funds after Lessor receives Notice of Lessor’s intent to exercise Right of First Refusal from Lessee. If Lessor exercises the Right of First Refusal, Lessee shall be required to lease or purchase all of the Premise that is the subject of the Offer on the same terms as set forth in the offer. If Lessee fails to notify Lessor of its election within the aforesaid Thirty (30) business day period, Lessee shall be deemed to have waived the Right of First Refusal with respect to the Offer.

## ARTICLE II

2.1 **Property.** The property to be leased by Lessor to Lessee is owned by Lessor and more particularly described as 1213 Ocean Dr., Suite #2 Homer, AK 99603. (hereinafter referred to as “Premises” or “Property”). Lessor shall lease all real property and improvements contained thereon to Lessee at this location.

## ARTICLE III

3.1 **Payments.** Rent shall be abated, due to the startup nature of Lessee’s business venture, until Lessee’s business is licensed by the State of Alaska and local government and has commenced revenue generating operations. All amounts due and payable under this Agreement from Lessee to Lessor shall be comprised of \$2250 per month, which shall be good and valuable consideration for and in exchange for the responsibilities and obligations under this lease and may be modified or more specifically delineated in an amendment to this Lease, as agreed to in writing by the parties.

3.2 **Payments Due.** All payments due from Lessee to Lessor shall be made no later than the fifth day of the month. Thereafter, payments received after the 5<sup>th</sup> day of the month shall be deemed late and subject to a Five (5) percent late fee, which may be waived at Lessor’s option.

## ARTICLE IV

4.1 **Covenants.** Lessor hereby covenants to Lessee that the property to be leased under this Agreement is in reasonably good condition and suited for the purpose for which it was built. Lessee shall not be prohibited by Lessor from peaceably using and enjoying the property.

4.2 **Repairs.** Lessee accepts the property under this Agreement as-is and hereby assumes responsibility for all costs associated with maintenance and repairs to the property, with the exception of structural damage and necessary repairs which shall be Lessor’s obligation to maintain. Lessor shall be responsible for remediation of any environmental, soil, or other site conditions. Lessee shall not be responsible for any soil, environmental, or other site conditions that were pre-existed Lessee’s occupancy of the Property.

## ARTICLE V

5.1 **Termination.** Should Lessee or Lessor desire to terminate the lease under this Agreement prior to the expiration of the lease term, for any reason, then the terminating party must give no less than 3 months’ notice, in writing, to the non-terminating party. Nothing in this section 5.1 releases either party from the obligations and responsibilities under this Agreement if termination is prior to end of lease term.

5.2 **Notice.** Notice, whether required by Paragraph 5.1 or for any other reason, shall be given in writing addressed to the parties’ respective addresses listed in the signature block of this Agreement. Notice given via electronic mail shall be sufficient under this Agreement.

5.3 **Early Termination.** In the event Lessee, despite commercially reasonable efforts and at no fault of its own, is unable to obtain the necessary Alaska state license and municipal special land use permit approvals needed to implement their business plan [or there are changes in Alaska state or municipal law that make the business of Tenant illegal or a change in federal enforcement policy], Lessee may, at Lessee's election, be released from the terms of the Lease. In such event Lessor shall retain, as liquidated damages all payments and deposits paid by or on behalf of Lessee. Lessor and Lessee acknowledge that Lessor's damages in such an event are difficult to precisely measure, but that said sum is a reasonable approximation of those damages. This release and liquidated damages provision is not applicable in any circumstances other than those expressly set forth in this paragraph.

## ARTICLE VI

6.1 **Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of Alaska.

6.2 **Amendments.** This Agreement may be amended when determined necessary and through written agreement between Lessor and Lessee.


6.3 **Severability.** If any provision of this Agreement is determined invalid, illegal or unenforceable, the remaining provisions shall be fully enforceable and binding.

6.4 **Assignment.** This Agreement shall not be assignable by Lessee nor shall Lessee be allowed to sublease to any person or entity, absent written consent from Lessor and so long as any assignment or sublease is otherwise in compliance with all applicable laws and regulations.


6.5 **Dispute.** Should any dispute arise under this Agreement, the parties hereby affirm that they will engage in good faith and informal discussions to resolve any such dispute. Should any good faith and informal discussions fail to resolve any dispute, then any party to this Agreement shall have the right to seek resolution in a court of law possessing jurisdiction over the parties and subject matter of this agreement. Any award of attorneys fees to the prevailing party shall be in accordance with any applicable law, rule or regulation.

Signed

**Alpine Alaska Investments, LLC - Lessor**

By:  Date: 5-15-2017  
Daniel Layland, Member Manager, Address: 1213 Ocean Drive, Homer, AK 99603

**Eden Management Group, LLC - Lessee**

 Date: 5-15-2017  
Lloyd Stiasny, Owner, Address: PO Box 90171, Anchorage, AK 99509

**AMENDMENT TO LEASE**

THIS AMENDMENT is entered into between Landlord and Tenant effective as of the 19 day of May 2017 under that certain Lease Agreement originally dated May 15, 2017, related to the property commonly known as 1213 Ocean Drive, Homer, Alaska 99603.

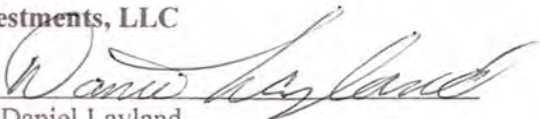
NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS ACKNOWLEDGED BY BOTH LANDLORD AND TENANT, THE PARTIES HEREBY AGREE THAT THE LEASE IS AMENDED AS FOLLOWS.

- 1. Access and Inspection.** During any entry by Landlord or its agents on the premises, Landlord's agents or employees shall be over the age of 21 and shall comply with Tenant's visitor policy, show government issued ID, wear a visitor badge, remain in eye sight of a designated Tenant agent, comply with and sign into the log in sheet and sign out when leaving the premises, as is required by the Alaska Marijuana Control Board Regulations. At no time shall Landlord have more than five persons enter the premises.
- 2.** Landlord shall not take into its possession any marijuana or marijuana product and shall contact the State of Alaska AMCO prior to any access to the license premises if Tenant cannot be reached, abandons the property, or similar event.

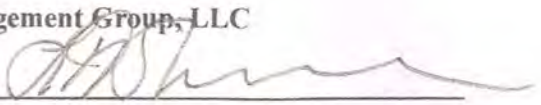
Except to the extent that the terms and conditions of this Lease Amendment are to the contrary, all other terms and conditions of the original Lease Agreement and any amendments thereto remain in full force and effect.

DATED effective as of the year and date above set forth.

**LANDLORD:**  
**Alpine Investments, LLC**

By:   
Daniel Layland

**TENANT:**  
**Eden Management Group, LLC**

By:   
Lloyd Stiassny



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

## Memorandum

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
FROM: RICK ABBOUD, AICP, MPA, ACTING CITY MANAGER  
DATE: JULY 8, 2020  
SUBJECT: UNCLE HERB'S RETAIL MARIJUANA STORE LICENSE RENEWAL

---

I have reviewed the site and operation of the retail marijuana facility, License 12866, located at 1213 Ocean Dr. #2. I find that Uncle Herbs in compliance with Homer City Zoning Codes. I have no objection to the license renewal based zoning related issues.



# City of Homer

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

Police Department

4060 Heath Street  
Homer, Alaska 99603

[police@cityofhomer-ak.gov](mailto:police@cityofhomer-ak.gov)

(p) 907-235-3150

(f) 907-235-3151/ 907-226-3009

## Memorandum

TO: RENE KRAUSE, MMC, DEPUTY CITY CLERK

CC: LISA LINEGAR, COMMUNICATIONS SUPERVISOR

FROM: MARK ROBL, POLICE CHIEF

DATE: JULY 16, 2020

SUBJECT: RETAIL MARIJUANA STORE LICENSE RENEWAL FOR UNCLE HERB'S – No Objection

---

The Homer Police Department has no objection to the renewal application for a retail marijuana license in the City of Homer for the following:

Type: Retail Marijuana Store  
Lic #: 12866  
DBA Name: Uncle Herb's  
Service Location: 1213 Ocean Drive, Unit 2, Homer, AK 99603  
Licensee: Eden Management Group, LLC  
Designated Licensee: Lloyd Stiasny  
Mailing Address: P.O. Box 90171 Anchorage, AK 99509



# Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC  
Borough Clerk

July 22, 2020

**Sent via email: clerk@ci.homer.ak.us**

City of Homer Clerk  
Homer City Hall

RE: Renewal Application for Retail Marijuana Store

Business Name : Uncle Herb's  
License Location : Homer/1213 Ocean Drive, Unit 2, Homer, AK 99603  
License No. : 12866

Dear Ms. Jacobsen,

This serves to advise that the Kenai Peninsula Borough (KPB) has reviewed the above referenced application and has no objection to the issuance of the license.

Should you have any questions, or need additional information, please don't hesitate to let us know.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/ts

Encl.

cc: lloyd@edenalaska.com

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-42**

An Ordinance of the City Council of Homer, Alaska Amending the Official Road Maintenance Map of the City of Homer by adding 2515 Lineal Feet (.48 miles) of Urban Road on Ternview Place, Kilokak Lane, and Virginia Lyn Way.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting July 27, 2020 Introduction
  - a. Memorandum 20-101 from Public Works Inspector as backup



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-42**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
8 AMENDING THE OFFICIAL ROAD MAINTENANCE MAP OF THE CITY  
9 OF HOMER BY ADDING 2515 LINEAL FEET (.48 MILES) OF URBAN  
10 ROAD ON TERNVIEW PLACE, KILOKAK LANE, AND VIRGINIA LYN  
11 WAY.  
12

13 WHEREAS, The City of Homer has determined that it is necessary to provide minimum  
14 standards to regulate design and construction of public streets, roads, and highways within  
15 the City of Homer; and  
16

17 WHEREAS, Ordinance 85-14, HCC 11.04.055, adopted July 2, 1985 provides appropriate  
18 street design and construction standards as well as an official maintenance map to record  
19 streets officially accepted for maintenance; and  
20

21 WHEREAS, HCC 11.04.055 provides that the City shall not accept maintenance  
22 responsibility for any road or street which is not constructed or reconstructed to the adopted  
23 standards unless the road is shown on the Official Road Maintenance Map. As amended via  
24 Ordinance 02-23(S), adopted June 10, 2002, of the City of Homer; and  
25

26 WHEREAS, An additional 2515 lineal feet, or .48 miles have been duly inspected,  
27 reviewed, approved by the Department of Public Works and recommended for acceptance by  
28 the City of Homer as Urban Road.  
29

30 NOW THEREFORE, The City of Homer Ordains:  
31

32 Section 1: Section 11.04.055 Official Road Maintenance Map adopted is hereby  
33 amended per provisions of sections (a) through (e) to include the following additional streets  
34 as Urban Road by the City of Homer and recorded as amendment #41 on the New Official Road  
35 Maintenance Map adopted: the following mileage calculation is to the nearest hundredth.  
36

<u>AmendSubdivision</u>	<u>Roadway Name</u>	<u>Lineal Feet</u>	<u>Mile</u>	<u>Class</u>
Commercial Park	Ternview Place	635	.12	Urban
Commercial Park	Kilokak Lane	1320	.25	Urban
Virginia Lyn	Virginia Lyn Way	560	.11	Urban

41  
42 Section 2: This is a non code ordinance and of a permanent nature.

43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS 10<sup>th</sup> DAY OF AUGUST,  
2020

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Rick Abboud, Interim City Manager

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## City of Homer

Jean Hughes, Inspector

Public Works  
3575 Heath Street  
Homer, AK 99603

[Jhughes@ci.homer.ak.us](mailto:Jhughes@ci.homer.ak.us)

(p) 907-235-3170

(f) 907-235-3145

MEMORANDUM 20-103

To: Melissa Jacobsen, City Clerk

Through: Jan Keiser, PW Director *JK*

From: Jean Hughes, PW Inspector *JH*

Date: June 16, 2020

Subject: Street Improvements – Official Road Maintenance Map  
Commercial Park Sub – Ternview Place and Kilokak Lane  
Virginia Lyn Sub – Virginia Lyn Way

As part of Construction Agreements, road improvements were constructed for the Commercial Park Unit 1 Subdivision, Phase II, and for a portion of Virginia Lyn Way of Virginia Lyn Subdivision. These road improvements were finished in 2019 and this department has inspected and approved the construction.

The three streets are:

### Commercial Park Subdivision

1. Ternview Place - 635 lineal feet
2. Kilokak Lane - 1320 lineal feet

### Virginia Lyn Subdivision

1. Virginia Lyn Way – 560 lineal feet

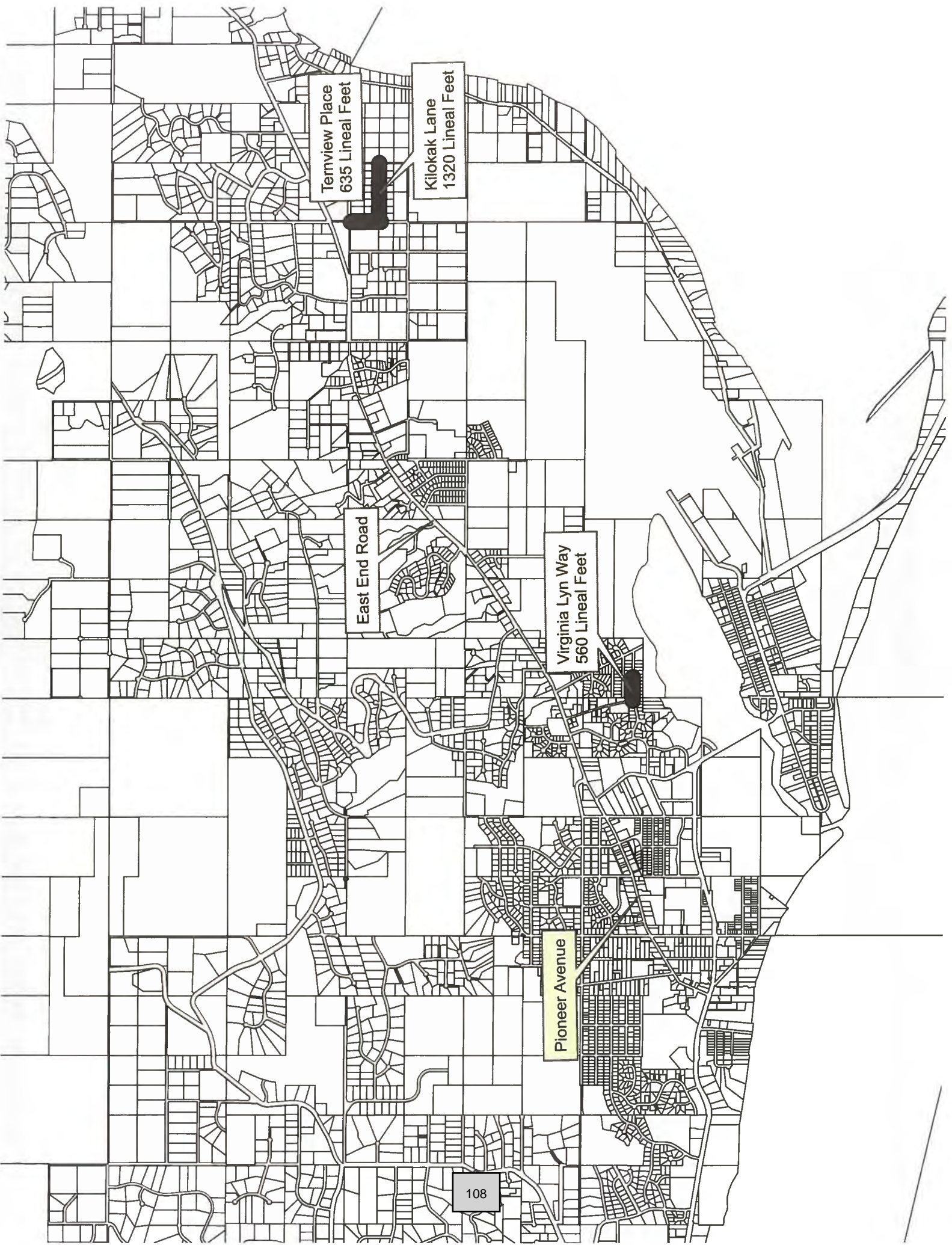
This is a total of 2515 lineal feet (.48 miles)

In accordance with Ordinance 85-13, Section 11.20.090, and Section 11.20.100, this Department requests that the City Council formally accept the street improvements for operation and maintenance. Upon the Council's approval, please add the additional .48 miles of road to the Official City Road Maintenance Map for year-round maintenance.

See attached map for location.

Fiscal Note – Annual maintenance costs for these improvements is estimated to be \$9300.

C: Jan Keiser, PW Director  
Rick Abboud, Acting City Manager



Ternview Place  
635 Lineal Feet

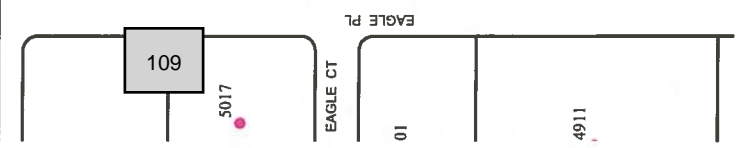
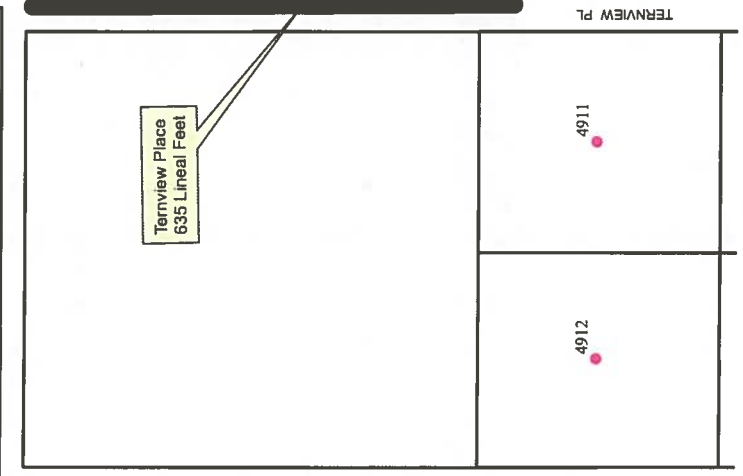
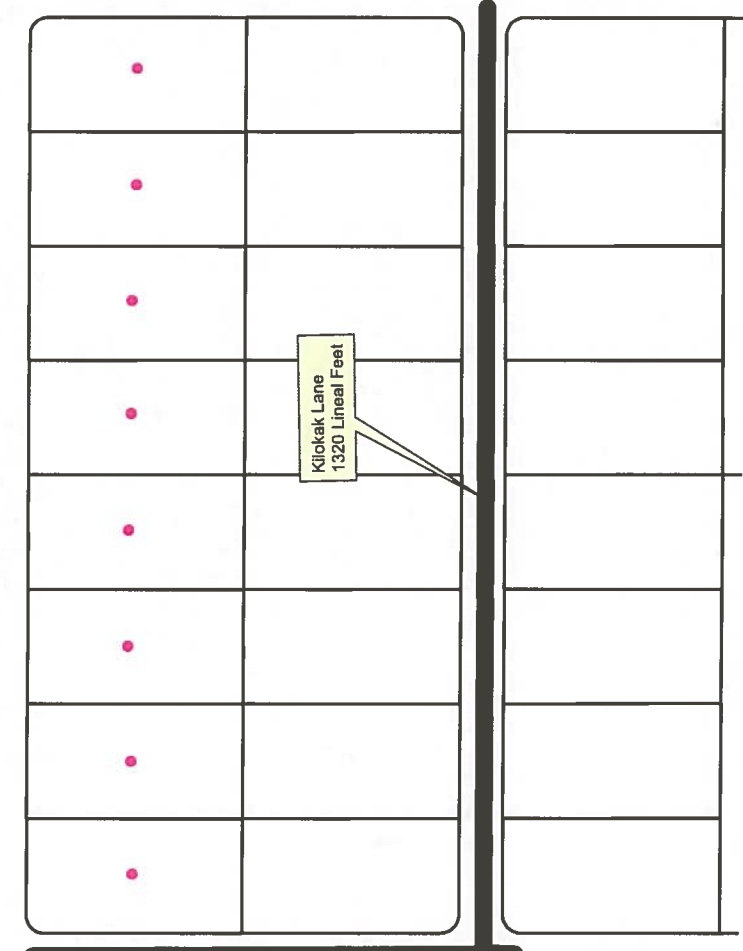
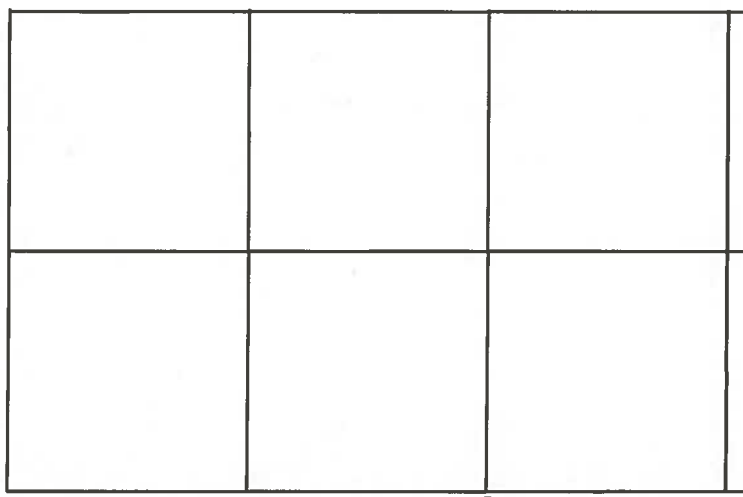
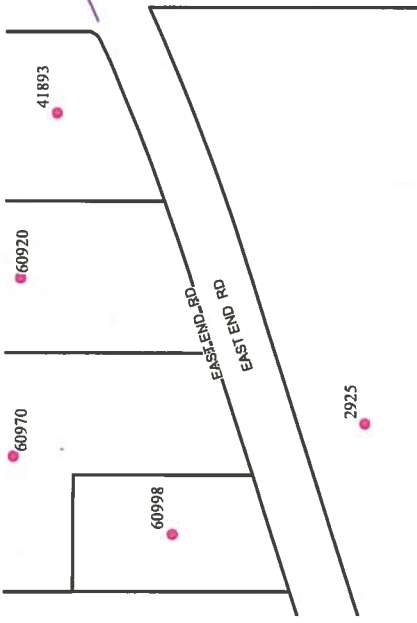
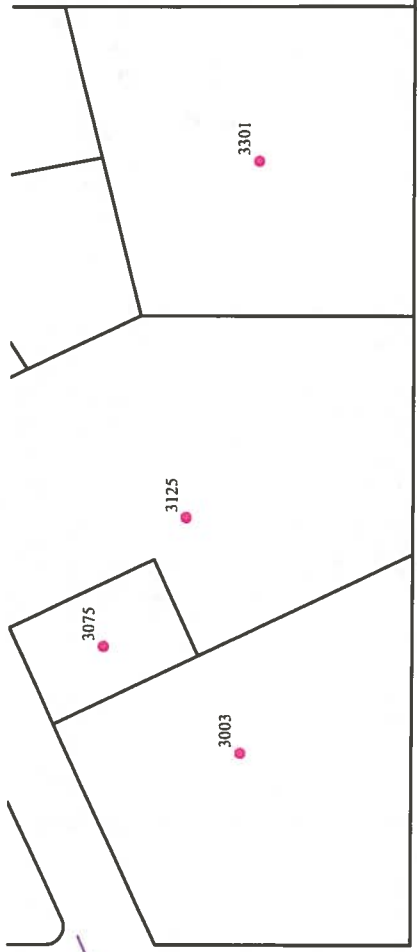
Kiloak Lane  
1320 Lineal Feet

East End Road

Virginia Lyn Way  
560 Lineal Feet

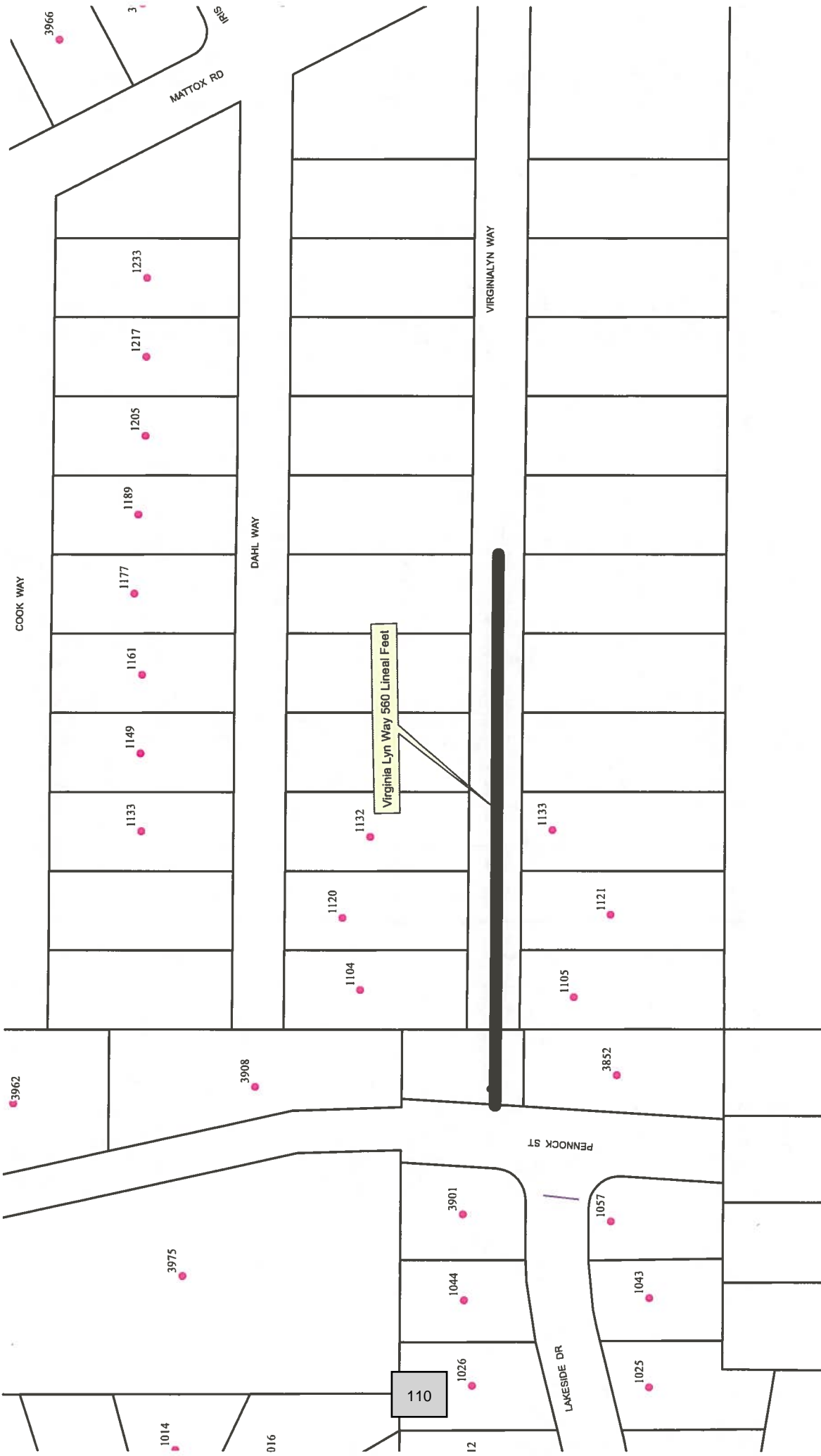
Pioneer Avenue

3385



TERNVIEW PL

EAGLE PL



3966  
3  
MATTOX RD  
RIS

COOK WAY

DAHL WAY

VIRGINIALYN WAY

PENNOCK ST

LAKESIDE DR

Virginia Lyn Way 560 Lineal Feet

3962

1014

3975

3908

016

110

12

1026

1044

3901

1104

1120

1132

1133

1149

1161

1177

1189

1205

1217

1233

1105

1121

1133

3852

1057

1043

1025

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-43**

An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Section 11.08.090 Driveways, Road Approaches-Property of City, Relating to Driveway Construction Permits.

Sponsor: City Manager/ Public Works Director

1. City Council Regular Meeting July 27, 2020 Introduction
  - a. Memorandum 20-104 from Public Works Director as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-43**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING HOMER CITY CODE SECTION 11.08.090 DRIVEWAYS,  
9 ROAD APPROACHES-PROPERTY OF CITY, RELATING TO DRIVEWAY  
10 CONSTRUCTION PERMITS.

11  
12 WHEREAS, Homer City Code Chapter 11.08 governs the design, construction and  
13 maintenance of private driveways that exit onto dedicated City rights-of-way; and

14  
15 WHEREAS, This regulation requires that property owners who desire access to a City  
16 right-of-way obtain a permit and comply with City standards, stating, in HCC 11.08.040(b)  
17 “...[C]ontrol of the location, construction and maintenance of driveways is under the supervision  
18 of the City at all times and that in granting such permit the City waives none of its powers or rights  
19 to direct the removal, relocation and/or property maintenance in the future of any driveway...”;  
20 and

21  
22 WHEREAS, One such standard, HCC 11.08.050(a)(4), is that the driveway may not  
23 “impair the drainage within the street right of way...or materially alter drainage of the adjacent  
24 areas...”, which usually means a culvert must be installed where the private driveway  
25 intersects with the public road; and

26  
27 WHEREAS, HCC 11.08.090 specifies that “...driveways...constructed under permit within  
28 any road rights-of-way shall be the property of the City, but all cost and liability in connection  
29 [with the original installation] therewith, [and] in connection with the maintenance thereof, shall  
30 be at the sole expense of the owner of the property served...” HCC 11.08.090, which creates some  
31 ambiguity; and

32  
33 WHEREAS, As a practical matter, there are times when the City assists in the  
34 maintenance of private driveway culverts, in the interests of the overall drainage system; and

35  
36 WHEREAS, Some Homer citizens have experienced financial hardships due to the Covid-  
37 19 emergency; and

38  
39 WHEREAS, Citizens in the City of Homer contribute tax dollars to the City’s HART Fund;  
40 and



42 WHEREAS, The City Council recently created a Small Works Drainage Improvement  
43 Program, funded by the HART-Roads Fund, to address small drainage systems.

44  
45 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

46  
47 Section 1. The Homer City Code, Section 11.08.090 Driveways, road approaches-  
48 Property of City, be amended to read as follows:

49  
50 ~~All driveways or road approaches constructed under permit within any road rights of~~  
51 ~~way shall be the property of the City, but all cost and liability in connection therewith,~~  
52 ~~in connection with the maintenance thereof, shall be at the sole expense of the owner~~  
53 ~~of the property served thereby.~~

54  
55 **a. All cost and liability in connection with the construction or maintenance of any**  
56 **private driveway or road approach constructed within any road right-of-way**  
57 **shall be at the sole expense of the owner of the property served thereby, unless**  
58 **the City, at its sole discretion, determines a culvert in a private driveway or**  
59 **road approach impairs the broader road/drainage system, in which case the**  
60 **City may replace the culvert, at City expense, or take other remedial measures**  
61 **so long as said culvert was installed in accordance with this Chapter.**

62  
63 **b. In the event such culvert was not installed in accordance with this Chapter, the**  
64 **City may make remedial measures and charge the costs of the remedial**  
65 **measures to the property owner.**

66  
67 Section 2. Costs associated with repair of private driveway culverts will be funded by  
68 the Small Works Drainage Improvement Program.

69  
70 Section 3. This ordinance is of general and permanent nature and shall be included in  
71 the City Code.

72  
73  
74 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

75  
76 CITY OF HOMER  
77  
78 \_\_\_\_\_  
79 KEN CASTNER, MAYOR

80 ATTEST:  
81  
82 \_\_\_\_\_  
83 MELISSA JACOBSEN, MMC, CITY CLERK

84 YES:

85 NO:

86 ABSTAIN:

87 ABSENT:

88

89

90 First Reading:

91 Public Hearing:

92 Second Reading:

93 Effective Date:

94

95 Reviewed and approved as to form:

96

97 \_\_\_\_\_

98 Rick Abboud, Interim City Manager

99

\_\_\_\_\_

Michael Gatti, City Attorney

100 Date: \_\_\_\_\_

Date: \_\_\_\_\_



## **Memorandum 20-104**

TO: City Council  
THROUGH: Rick Abboud, Acting, City Manager  
FROM: Jan Keiser, PE, JD, Director of Public Works  
DATE: July 9, 2020  
SUBJECT: Policy Regarding Private Driveway Culverts

---

**Issue:** Many aging private driveway culverts in the City are compromised due to corrosion, frost jacking or other natural causes. The City needs a consistent policy that authorizes City staff to replace the culverts at City expense.

**Background:** Homer City Code Chapter 11.08 governs the design, construction and maintenance of private driveways that exit onto dedicated City rights-of-way. This regulation requires that property owners who desire access to a City right-of-way obtain a permit and comply with City standards. *"...[C]ontrol of the location, construction and maintenance of driveways is under the supervision of the City at all times and that in granting such permit the City waives none of its powers or rights to direct the removal, relocation and/or property maintenance in the future of any driveway..."* HCC 11.08.040(b).

One such standard is that the driveway may not *"impair the drainage within the street right of way...or materially alter drainage of the adjacent areas..."* HCC 11.08.050(a)(4). This usually means a culvert must be installed where the private driveway intersects with the public road. City Code specifies that *"...driveways...constructed under permit within any road rights-of-way shall be the property of the City, but all cost and liability in connection [with the original installation] therewith, [and] in connection with the maintenance thereof, shall be at the sole expense of the owner of the property served..."* HCC 11.08.090. This language is ambiguous. On one hand it says the driveways/culverts in the ROW are City property but on the other hand, it says maintenance is the property owner's responsibility.

As a practical matter, there are times when the City assists in the maintenance of private driveways, in the interests of the overall system. For example, in the winter, we steam-thaw frozen private driveway culverts open to keep the drainage system flowing, throughout the broader neighborhood. In the summer, in the course of our regular ditch maintenance program, we encounter culverts that have been compromised by corrosion, frost jacking, and other factors. These culverts can be out of alignment, broken apart, or crushed in. Either way, they are obstructions in the City's overall drainage system.

When we encounter a privately-owned culvert that needs to be replaced, we usually ask the property owners to make arrangements with Spenard Builders Supply to pay for the cost of a replacement culvert. Then, we use City crews to pick up and install the new culvert as part of our normal ditch maintenance work. In some cases, we are able to dig out the private culvert and re-install it at the proper alignment. In a few cases, the City has provided the replacement culvert.

We propose to amend City Code so it gives the City authority to participate in private driveway maintenance where it is necessary for a broader benefit. Here's an example to illustrate the potential cost impact of this. Assume a private driveway culvert is a 20 foot long piece of 18-inch diameter corrugated, galvanized steel pipe, which costs approximately \$65 per foot, or \$1,300. We encounter, in the course of normal ditch maintenance work over a typical year, between 2-10 private driveway culverts that need to be repaired or replaced. If the City provided the culverts for ten driveways, the expense for the culvert materials would be \$13,000. We propose to pay for these culverts from the Small Works Drainage Improvement Program, the City Council recently created from the HART-Roads Fund.

This is one way the City can provide (1) financial relief to property owners during these difficult times and (1) demonstrate tangible benefits for the tax contributions property owners make to the HART funds.

**Action Needed:** That the City Council amend HCC 11.08.090 to read:

*All cost and liability in connection with the construction or maintenance of any private driveway or road approach constructed within any road right-of-way shall be at the sole expense of the owner of the property served thereby, unless the City, at its sole discretion, determines a private driveway or road approach impairs the broader road/drainage system, in which case the City may undertake remedial efforts, at City expense.*

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-44**

An Ordinance of the City Council of Homer, Alaska Amending the 2020-2021 Operating Budget to Appropriate Funds in the Amount of \$47, 080 in the 2020 and \$99,670 in 2021 for a total of \$146,750 from General Fund Fund Balance to Fund Additional Finance Department Personnel.

Sponsor: Lord/Aderhold

1. City Council Regular Meeting July 27, 2020 Introduction

**CITY OF HOMER  
HOMER, ALASKA**

Lord/Aderhold

**ORDINANCE 20-44**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING THE 2020-2021 OPERATING BUDGET TO  
APPROPRIATE FUNDS IN THE AMOUNT OF \$47,080 IN 2020 AND  
\$99,670 IN 2021 FOR A TOTAL OF \$146,750 FROM GENERAL FUND  
FUND BALANCE TO FUND ADDITIONAL FINANCE DEPARTMENT  
PERSONNEL.

WHEREAS, The City of Homer Finance Department provides financial services to the City's administration, City Council, citizens, employees, and vendors and agencies outside of the organization; and

WHEREAS, Their services include accounts receivables, accounts payable, payroll, financial management/analysis, budget reporting, and grant management; and

WHEREAS, After the City implemented their Emergency Operations Center in response to the COVID-19 pandemic, the demands on the department have increased and will continue as the pandemic continues and into the future as agencies begin auditing expenditures to the City; and

WHEREAS, Funding an additional permanent full-time position for the Finance Department will allow the department to modify the current Accounting Supervisor position to Controller and create the new position of General Ledger Accountant; and

WHEREAS, The Controller position will provide for a dedicated staff person responsible for keeping financial statements current throughout the year and for managing audit needs throughout year; and

WHEREAS, The new position of General Ledger Accountant will oversee all Accounts Payable/Accounts Receivable functions and develop procedures to improve communications on capital projects; and

WHEREAS, The two positions, Controller and General Ledger Accountant, will split the supervisory roles as a way to better manage finance staff, develop efficiencies and improve workflows.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:



85 ATTEST:

86

87 \_\_\_\_\_

88 MELISSA JACOBSEN, MMC, CITY CLERK

89

90 YES:

91 NO:

92 ABSTAIN:

93 ABSENT:

94

95 Introduction:

96 Public Hearing:

97 Second Reading:

98 Effective Date:

99

100

101 Reviewed and approved as to form:

102

103

104 \_\_\_\_\_

105 Rick Abboud, Interim City Manager

106

107 Date: \_\_\_\_\_

108

\_\_\_\_\_  
Michael Gatti, Attorney

Date: \_\_\_\_\_



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-48**

An Ordinance of the City Council of Homer, Alaska Amending the 2020-2021 Operating Budget and Authorizing Expenditure of an Additional \$29,100 for Porta Potties and Hand Wash Stations, Designating \$24,300 of this as a COVID-Related Expense and Authorizing a Sole Source Contract.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting July 27, 2020 Introduction
  - a. Memorandum 20-105 from Public Works Director as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-48**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE 2020 OPERATING BUDGET AND AUTHORIZING  
9 EXPENDITURE OF \$29,100 FROM THE GENERAL FUND FUND  
10 BALANCE TO FUND ADDITIONAL PORTA POTTIES AND HAND  
11 WASH STATIONS AND AUTHORIZING A SOLE SOURCE CONTRACT.  
12

13 WHEREAS, The City of Homer provides and services multiple comfort stations for the  
14 public to use when they need to relieve themselves while frequenting the City's parks and other  
15 amenities, including: plumbed restrooms, porta potties and pit privies; and  
16

17 WHEREAS, Some of the facilities are either in disrepair or insufficient to service the  
18 public need; and  
19

20 WHEREAS, The Covid-19 emergency has created an increased need for, and awareness  
21 of, measures necessary to protect the public health and welfare, including measures to  
22 promote cleanliness and sanitation; and  
23

24 WHEREAS, The current 2020 budget for the Parks-Cemetery, Professional Services,  
25 includes \$27,500 for ten porta potties; and  
26

27 WHEREAS, The current cost estimate for the number and frequency of servicing of the  
28 twenty-one porta potties, which are expected to be needed, as well as hand wash stations, at  
29 some of the porta potties, exceeds the current budget by \$29,100; and  
30

31 WHEREAS, Of that amount, \$24,300 may be an eligible COVID-19 related expense; and  
32

33 WHEREAS, there is only one company in Homer, which furnishes and services porta  
34 potties and hand wash stations, Moore & Moore Services, Inc.  
35

36 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
37

38 Section 1. The City Manager is authorized to execute a sole source contract to Moore  
39 & Moore Services, Inc., in an amount not to exceed \$56,100, which includes the equipment  
40 expenses originally planned as well as expenses associated with the hand wash stations and  
41 increased number of porta potties needed for the 2020 season.  
42

43            Section 2. The Homer City Council hereby amends the FY 2020 Operating Budget to  
44 appropriate \$29,100 from the General Fund Fund Balance for porta potties and hand wash  
45 stations.

46  
47            Funding Source:

<u>Account No.</u>	<u>Amount</u>	<u>Description</u>
100-0099-4990	Operating Transfers (Other)	\$29,100

51  
52            Expenditure:

<u>Account No.</u>	<u>Amount</u>	<u>Description</u>
100-0175-5210	Parks	\$29,100

53  
54            Section 3. Upon further determination if it is found that the \$24,300 portion is an eligible  
55 COVID-19 related expense, a request to apply these costs to the Cares Act funding received by  
56 the City will be made to City Council.

57  
58            Section 4.            This is a budget amendment ordinance, is not permanent in nature, and  
59 shall not be codified.

60  
61            ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

62  
63  
64  
65  
66            CITY OF HOMER

67  
68  
69            \_\_\_\_\_  
70            KEN CASTNER, MAYOR

71  
72            ATTEST:  
73            \_\_\_\_\_  
74            MELISSA JACOBSEN, MMC, CITY CLERK

75  
76            YES:  
77            NO:  
78            ABSTAIN:  
79            ABSENT:

80  
81  
82            First Reading:  
83            Public Hearing:

84 Second Reading:

85 Effective Date:

86

87 Reviewed and approved as to form:

88

89 \_\_\_\_\_

90 Rick Abboud, Interim City Manager

91

92 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_



## **Memorandum 20-105**

TO: City Council  
THROUGH: Rick Abboud, Acting, City Manager  
FROM: Jan Keiser, PE, JD, Director of Public Works  
DATE: July 6, 2020  
SUBJECT: Proposal for Sole Source Contract for Porta Potty Services

---

**Issue:** The City uses porta potties in areas where plumbed restrooms are not available. There is one vendor in the City of Homer that provides and services porta potties, Moore & Moore Services, Inc. We have dispatched more portable units within City parks and campgrounds to increase opportunities for social distancing, provide hand washing capability, and address maintenance issues. We need an increased appropriation to cover the extra expenses as well as authorization to issue a sole source contract to Moore & Moore Services, Inc.

**Background:** We've relied on porta potties in the past to service areas where plumbed restrooms are not available. In 2019, we had 10 porta potties, distributed around City parks and other public spaces. Moore & Moore dispatched these units, as-needed, when called upon by City staff and then, serviced them on either a one-two times/week schedule.

For a variety of reasons, we currently have 20 porta potties dispatched around the City, some of which are serviced at least three times a week. Further, some of the porta potties are accompanied by portable water-operated hand wash stations, which the City has not used before. We have taken these measures to improve the City's response to public health and welfare in City parks.

One reason we have taken extra measures is that we are seeing heavier use in some of our open spaces this year than we did last year. Generally, the day use, which we don't keep records on but observe anecdotally, has significantly increased from 2019 to 2020, particularly at Mariner Park and Bishop's Beach. While our camping attendance records for June 2020 show the number of campers is about 25% less than it was for June 2019, our camping numbers for the first week of July have already caught up with the rate for 2019. We expect this to continue through the rest of July and into August.

Another reason we geared up is to provide opportunities for hand washing. We tried to provide hand sanitizer, but it kept getting used up or stolen. We could not supply enough of it. The hand wash stations give people a way to wash their hands where there is no plumbing.

Another reason we like the plastic porta potties is that they are easier to keep sanitary than the wood-sided pit privies. We've received numerous complaints about the City's pit privies at the Baycrest

Overlook Site, the Karen Hornaday Campground and Bishop's Beach. First, one of the toilet seats at Bishop's Beach is broken, leaving a sharp edge at the seat level. You can't simply replace the seat, you have to replace the entire riser that sits above the vault. We have permanently closed that privy.

Second, it is very difficult to keep the pit privies clean, and smelling like anything except what they are, outhouses, so we closed them and dispatched porta potties as replacements until we can create a better solution. The usage exceeded our expectations over the July 4<sup>th</sup> weekend so we need to either add more units or increase the pump out frequency, either of which increases the cost. We would like to add the portable hand wash stations to those locations as well, so people have way to wash their hands.

Further, the plumbed restrooms at the Fish Hook Restroom are out of service because there is a broken toilet in one of the stalls. Unfortunately, that one broken toilet necessitates putting the entire restroom out of order because of the way the restroom is plumbed. We have ordered another toilet and hope to have the restroom back in service as soon as we receive it and can get it installed. In the meantime, we dispatched three porta potties to that site. This was not enough to accommodate the July 4<sup>th</sup> traffic. We need to either add more units or increase the frequency of pump out; either way, the cost will increase.

The 2020 budget included \$27,000 for porta potties, to be furnished and serviced by the sole-source vendor, Moore & Moore Services, Inc. Throughout the entire 2020 season, we expect to need \$56,100, which will cover the equipment we had originally planned, as well as the extra porta potties and the hand wash stations. This creates a shortfall of \$29,000. We believe \$24,300 of this extra cost, is a Covid-19-related expense.

**Action Recommended:** That the City Council pass the proposed ordinance authorizing (1) an increase to the budget line item 100-0175-5210, Parks – Cemetery, Professional Services, to cover extra, mostly Covid-related, expenses for porta potties and hand wash stations for 2020 and (2) a sole source contract to Moore & Moore Services, Inc., in an amount not to exceed \$56,100.

**CITY OF HOMER  
HOMER, ALASKA**

Venuti

**RESOLUTION 20-065**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING THE HOMER FEE SCHEDULE UNDER LIBRARY FEES TO  
ELIMINATE LATE FEES AND INCREASE THE LOST OR DAMAGED  
ITEM PROCESSING FEE.

WHEREAS, Public libraries across the nation have chosen to abolish library fines; and

WHEREAS, Eliminating fines has shown to offer a number of benefits to the library and the community including increased circulation, reduced inequality between rich and poor, equalized rates between print and digital resources, improved literacy, reduced staff workload, and improved public relations; and

WHEREAS, Increasing the processing fee for replacement materials from \$7 to \$10 will help offset a portion of the revenue decrease from eliminating late fees.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends the Homer Fee Schedule under Library Fees to eliminate late fees and increase the lost or damaged item processing fee.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 27<sup>th</sup> day of July, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: Revenue amounts not defined in 2020-21 budget.



## **LIBRARY**

Facility Use – Fees for after-hours private use (including building supervision):	
Conference Room	\$50.00 per hour
Reading Lounge	\$50.00 per hour
Children’s Room	\$50.00 per hour
Entire Facility (excluding staff work space)	\$300.00 fee plus \$50.00 per hour staff supervisor \$300.00 damage/cleaning deposit
Library Cards	
Replacement Card	\$5.00 per issue
Temporary Card	\$25.00
Overdue Items — 14 day circulation (except digital devices)	\$0.15 per day
7 Day and 1 Day Circulation	\$1.00 per day
Digital Devices	\$1.00 per day
Interlibrary Loans	\$1.00 per day
2 <sup>nd</sup> Overdue Notice	\$1.00 per notice
Bill Notice	\$2.00 per notice
Admin. Fee for Bills Sent to Collection Agency	\$25.00
Maximum Overdue Charge per Item Charge	\$10.00
Photo Copy	
Letter Size and Legal Size Per Side	\$0.15 each
11” x 17” Per Side	\$0.25 each
Color Copies – Letter Size and Legal Size per Side	\$0.50 each
Color Copies – 11” X 17” per Side	\$2.00 each
Interlibrary Loan Fee <sup>1</sup>	
Standard Size Books	\$3.00
Photo Copy	\$0.15 per page
Microfilm/Videos/CD’s/Audios	\$4.00
Replacement/Repair of Items <sup>2</sup>	
Lost or Damaged Items	Replacement cost plus <del>\$7.00</del> <b>\$10.00</b> processing fee per item
Lost or Damaged Cases, Hang-Up Bags, Etc.	Replacement cost or \$2.00, whichever is greater
Lost Map or Inserts	\$10.00 per item



Lost Out-of-Print Items	\$50.00 for Alaskana, or replacement cost if higher
Damaged Item	
Per Page	\$2.00 per page
Book Jacket	\$3.00
Cover Damaged Beyond Repair	Full bindery cost or full replacement cost plus \$7.00 processing charge
Improper Return of Digital Devices	\$25.00 if not returned to Front Desk staff

<sup>1</sup> Additional charges may be assessed.

<sup>2</sup> To receive a refund on a lost item, patrons must return the item within sixty days of lost status. Refunds of payment for items deemed valuable to the collection and returned after the 60-day period may be made at the discretion of the Director. No refunds will be given for digital devices.

---

Library Fees have been set by the following legislative enactments:

Ord 05-08	Reso 97-87	Reso 12-006	Reso 18-077A)
	Reso 98-86	Reso 13-076	
	Reso 99-19(A)	Reso 14-114	
	Reso 03-87	Reso 15-097(S)(A)	
	Reso 04-98(S)(A)	Reso 16-109	



## **Memorandum 20-106**

TO: Homer City Council

THROUGH: Acting City Manager Rick Abboud

FROM: David Berry, Library Director

DATE: July 10, 2020

SUBJECT: Fine-Free Library Service

---

Over the last several years, hundreds of public libraries across the nation have chosen to abolish library fines. Eliminating fines offers a number of benefits to the library and the community:

- Increased circulation
- Reduced inequality between rich and poor
- Equalized rates between print and digital resources
- Improved literacy
- Reduced staff workload
- Improved public relations

Staff at Homer Public Library have discussed this subject a number of times, and are unanimous in recommending that HPL should follow the lead of other systems, including public libraries in Anchorage, Chicago, Denver, Salt Lake City, San Francisco and St. Paul. At a time when many patrons are struggling financially, eliminating fines is a cheap and easy way to boost morale, promote learning and strengthen the community.

At the Library Advisory Board meeting on July 7, 2020, staff presented four alternative models for fine-free or fine-reduced service:

- Option A simply eliminates all library fines. This offers the greatest benefit to the community at the greatest expense, with an annual cost in the range of \$15,500.
- Option B eliminates all fines but partially offsets the cost by raising fees for photocopying, printing and processing of replacement materials. Estimated annual cost is around \$7,500.
- Option C eliminates fines only for children's and young adult materials. Estimated annual cost is around \$7,500.
- Option D offers a one-time amnesty on existing fines without changing the overall structure. This is the cheapest option, but benefits only a subset of all patrons, and only for a limited time.

After discussion, the LAB unanimously voted to endorse **Option A with an increase in the processing fee for replacement materials.** Raising the processing fee helps recover costs and encourages patrons to exercise personal responsibility for protecting and returning their materials.

The modified version of Option A is attached as **Option E.**

### **RECOMMENDATION**

Following the LAB's recommendation, adopt Option E as the library's official fine-and-fee-policy going forward.

### Revised Fines Policy—Option E

(Existing policy, but no overdue fines. Processing fee raised to \$10.)

<b>Facility use after hours, including building supervision</b>	
Conference Room	\$50.00/hour
Reading Lounge	\$50.00/hour
Children’s Room	\$50.00/hour
Entire facility, excluding staff work space	\$50.00/hour plus \$300.00 use fee and \$300.00 damage deposit
<b>Library cards</b>	
Replacement Card	\$5.00
Temporary Card	\$25.00
<b>Photocopy/Print</b>	
B&W Letter/Legal size	\$0.15/side
B&W 11”x17”	\$0.25/side
Color Letter/Legal size	\$0.50/side
Color 11”x17”	\$2.00/side
<b>Interlibrary loan (Lending institution may charge additional fees)</b>	
Standard-size book	\$3.00
Photocopy	\$0.15/page
Microfilm/Video/Audio/CD	\$4.00
<b>Replacement of lost or damaged items*</b>	
Most Items	Replacement cost plus \$10.00 processing
Cases/Hang-up bags, etc.	Replacement cost or \$2.00, whichever is greater
Map or Insert	\$10.00/item
Out-of-print Items	\$50.00 (Alaskana), \$40.00 (Nonfiction), \$35.00 (Fiction)
<b>Damaged items</b>	
Pages	\$2.00/page
Jacket or cover	\$3.00

Item damaged beyond repair	Replacement cost or full bindery cost, plus \$10.00 processing fee
----------------------------	--

<b>Other</b>	
Digital device returned improperly	\$25.00
Followup return notice	\$1.00/notice
Bill notice	\$2.00/notice
Admin fee for bills sent to collections agency	\$25.00

\*Please note: to receive a refund on a lost item, patrons must return the item within 60 days of lost status. Refunds of payment for items deemed valuable to the collection and returned after the 60-day period may be made at the discretion of the Director. No refunds will be given for digital devices.

**CITY OF HOMER  
HOMER, ALASKA**

Aderhold/Lord

**RESOLUTION 20-066**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA  
AUTHORIZING THE CITY TO APPLY FOR THE MUNICIPAL ARTS &  
CULTURE MATCHING GRANT PROGRAM, A PARTNERSHIP  
BETWEEN MUNICIPAL GOVERNMENTS AND RASMUSON  
FOUNDATION.

WHEREAS, The Municipal Arts & Culture Matching Grant Program is a partnership  
between the Rasmuson Foundation and Alaska Municipalities in cooperation with the Alaska  
Municipal League (AML); and

WHEREAS, Government mandates in response to the COVID-19 pandemic have caused  
cancellation of performances, festivals and traditional fundraising activities that local arts and  
culture organizations depend on for revenue; and

WHEREAS, Loss of personal income has resulted in less revenue from memberships and  
donations; and

WHEREAS, The Municipal Arts & Culture Matching Grant Program is designed to fund  
arts and culture organizations whose local revenue sources are disrupted by the COVID-19  
pandemic and municipal allocations of Direct Municipal Relief (a category of CARES Act funds)  
to local arts and culture organizations are matched by the Rasmuson Foundation; and

WHEREAS, There are limited funds available statewide for this Matching Grant Program,  
and it is in the best interest of the community to act quickly in applying for matching funds for  
organizations within the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, authorizes  
the City Manager to apply for the Municipal Arts & Culture Matching Grant Program on behalf  
of applicable arts and culture organizations that meet the criteria for funding within the City of  
Homer.

PASSED AND ADOPTED by the Homer City Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

43

44 ATTEST:

45

46 \_\_\_\_\_

47 MELISSA JACOBSEN, MMC, CITY CLERK

48

49 Fiscal Note: N/A

## Municipal Arts & Culture Matching Grant Program

A partnership between Municipal Governments and Rasmuson Foundation

**Program Description.** The *Municipal Arts and Culture Matching Grant Program* is a partnership between Rasmuson Foundation and Alaska municipalities in cooperation with the Alaska Municipal League. It is designed to fund arts and culture organizations whose local revenue sources are disrupted by the COVID-19 pandemic. Municipal allocations of Direct Municipal Relief (a category of CARES Act funds) to local arts and culture organizations are matched by Rasmuson Foundation.

**Program Need.** Government mandates in response to the COVID-19 pandemic have caused cancellation of performances, festivals and traditional fundraising activities that local arts and culture organizations depend on for revenue. Additionally, loss of personal income has resulted in less revenue from memberships and donations. Through allocation of CARES Act funds, municipal governments can help sustain arts and culture infrastructure.

**Eligibility.** The matching grant program is intended to support arts and cultural organizations whose revenue sources have been negatively impacted by the COVID-19 pandemic. Municipalities may set their own criteria for allocation of Direct Municipal Relief funds, however, to receive *Municipal Arts & Culture Matching funds*, beneficiaries should be able to demonstrate real and projected revenue decline due to COVID-19 mandates. It is the responsibility of the municipality to ensure compliance with US Treasury guidelines for use of CARES Act funds.

Additionally, beneficiaries must:

- have been a viable nonprofit entity within the municipality on March 1, 2020; and
- have a mission to advance, support, educate or celebrate arts and culture.

Examples of qualifying entities include arts and culture camps, arts councils, dance organizations, theatre and performing arts organizations; symphonies, choral groups and other music entities; language and literary arts organizations; museums and arts-focused festivals and workshops.

**Municipal Guidelines.** Rasmuson Foundation will match a municipality's allocation of CARES Act funds to arts and culture organizations. The match ratio is 1:1 up to \$20,000 to any entity and 1:2 for allocated municipal funds in excess of \$20,000 to that entity.

Example: Municipality allocates \$40,000 of Direct Municipal Relief funds to the local theatre organization. Rasmuson Foundation will match \$20,000 @ 1:1 and remaining \$20,000 @ 1:2 (\$20,000 + \$10,000 = \$30,000). The theatre organization will receive a \$70,000 *Municipal Arts and Culture Matching Grant* (\$40,000 municipal + \$30,000 Rasmuson Foundation).

Rasmuson Foundation limits the match to \$50,000 per municipality and \$250,000 statewide.

The municipal allocation of CARES Act funds may not replace or supplant historical or budgeted municipal support.



## Municipal Arts & Culture Matching Grant Program

A partnership between Municipal Governments and Rasmuson Foundation

**How to Apply.** A municipality may administer the *Municipal Arts and Culture Matching Grant Program* directly or delegate it to a local organization tasked with administering municipal CARES Act funds. After making its allocation determinations, an authorized representative of the municipality applies to Rasmuson Foundation using the designated form. Rasmuson Foundation distributes funds to the municipality. The municipality then distributes the total grant award (CARES Act funds + Rasmuson funds) to arts and culture organizations within their community.

**Use of Funds.** *Municipal Arts and Culture Matching Grant* funds may be used for any legitimate operating or program expense incurred by the organization from March 1 through December 15, 2020 in accordance with CARES Act funding guidelines. Entities that have received funds through another CARES Act program such as PPP or EIDL are eligible for funding through the Direct Municipal Relief providing the use of funds does not duplicate or supplant those other funds.

**Reporting.** The municipality may require benefitted entities to report the use or expenditure of *Municipal Arts & Culture Matching* funds in accordance with CARES Act funding guidelines. The municipality shall verify to Rasmuson Foundation distribution program funds to organizations within 30 days of receipt of Rasmuson funds.

# Municipal Arts & Culture Matching Grant Program Application

The *Municipal Arts & Culture Matching Grant Program* is a partnership between Rasmuson Foundation and municipalities designed to increase municipal allocation of Alaska’s CARES Act “Direct Municipal Relief” funds to arts and culture organizations. Rasmuson Foundation will match municipal allocation of municipal relief funds. Assuring grantee eligibility and compliance with federal guidelines released by the US Treasury on April 22, 2020 are the responsibility of the municipality. See Program Description for more information.

**HOW TO APPLY:** Municipalities apply for Rasmuson Foundation matching funds on this form and email to grants@rasmuson.org. Type “Municipal Arts & Culture” in the Subject line.

Applicant Municipality: \_\_\_\_\_

Address to send check (or preferred method of payment): \_\_\_\_\_  
 \_\_\_\_\_

Municipal Representative: \_\_\_\_\_ Title: \_\_\_\_\_  
 phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Certification:** I certify that the applicant municipality has made an allocation of municipal direct relief (CARES Act) funds to the beneficiaries listed below, and that I am authorized to submit to Rasmuson Foundation this application for funds to match the allocations, and that upon receipt of Rasmuson Foundation Funds, the total award will be distributed to the named beneficiaries.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

A	B	C	D	E
Name of Beneficiary	Municipal Allocation	Rasmuson Match 1:1*	Rasmuson Match 1:2*	Total Award
List additional beneficiaries on separate page and insert total here:				
<b>TOTALS</b>				

\* Column C: Match 1:1 up to and including \$20,000 of municipal allocation per beneficiary; Column D: Match 1:2 for allocations in excess of \$20,000 to that beneficiary. Columns C + D may not exceed \$50,000. See Program Description.

For use by Rasmuson Foundation:

Total Matching Funds Approved: \_\_\_\_\_

Program Officer Signature \_\_\_\_\_ 138 Date \_\_\_\_\_

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Venuti/  
4 Hansen -Cavasos

5 **RESOLUTION 20-067**

6  
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA  
8 APPROVING AND ACCEPTING THE DONATION FROM SHELL  
9 PERRETTA OF WETHERSFIELD, CONNECTICUT, FOR A PARK  
10 BENCH TO BE PLACED ON THE HOMER SPIT IN MEMORY AND  
11 FULFILLMENT OF HER MOTHER’S LAST WISHES.  
12

13 WHEREAS, Shell Perretta of Wethersfield, Connecticut, would like to donate a park  
14 bench in memory and respect of her late mother who loved and lived in Homer for 22 years;  
15 and  
16

17 WHEREAS, A bench will be a beneficial improvement to the Homer Spit and provide a  
18 place where visitors can relax and enjoy the visual amenities of the harbor; and  
19

20 WHEREAS, The Parks, Art, Recreation & Culture Advisory Commission reviewed the  
21 application and proposed donation at their regular meeting on June 18, 2020 and  
22 recommended the City Council approve and accept the donation and placement on the Homer  
23 Spit at the discretion of Parks Maintenance Staff.  
24

25 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves  
26 and accepts the donation of a park bench from Shell Perretta to be placed on the Homer Spit  
27 in memory and fulfillment of her mother’s last wishes.  
28

29 PASSED AND ADOPTED by the Homer City Council on this 27<sup>th</sup> day of July, 2020.  
30

31 CITY OF HOMER  
32

33 \_\_\_\_\_  
34 KEN CASTNER, MAYOR  
35

36 ATTEST:  
37

38 \_\_\_\_\_  
39 MELISSA JACOBSEN, MMC, CITY CLERK  
40

41 Fiscal Note: N/A



# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 20-107

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: PARKS, ART, RECREATION AND CULTURE ADVISORY COMMISSION

THRU: RENEE KRAUSE, MMC, DEPUTY CITY CLERK

DATE: JUNE 19, 2020

SUBJECT: DONATION OF FUNDS TO PURCHASE A MEMORIAL BENCH

---

Parks Maintenance Coordinator Steffy noticed the Commission on the donation of funds to purchase a park bench for placement on the Homer Spit at the February regular meeting. This item was scheduled before the Commission for the March 18, 2020 regular meeting but due to COVID 19 Commission meetings were suspended.

The Parks Art Recreation & Culture Advisory Commission held a regular meeting via Zoom Webinar on June 18, 2020 and the Donation Application, scheduled under the Consent Agenda was approved unanimously to forward a recommendation to accept the donation of funds to purchase a memorial bench for placement on the Homer Spit at the discretion of the Public Works Parks personnel.



# CITY OF HOMER GIFT/DONATION PROPOSAL APPLICATION

PLEASE TYPE OR PRINT CLEARLY AND MAKE YOUR RESPONSES COMPLETE AND THROUGH.

DATE 3/12/2020  
 CONTACT PERSON Shell Perretta TITLE N/A  
 ORGANIZATION IF APPLICABLE N/A  
 ADDRESS 33 Mill St. Unit 1-D CITY Wethersfield STATE CT ZIP 06109  
 PHONE 860-500-7945 FAX \_\_\_\_\_ CELL 860-748-5386  
 EMAIL shell040672@yahoo.com

TELL US WHY YOU WISH TO DONATE THIS TO THE CITY OF HOMER?  
donation was my late mothers last wishes.

The park bench

PLEASE COMPLETE THE APPROPRIATE SECTIONS RELATED TO YOUR DONATION.

TITLE OF ARTWORK N/A  
 ARTIST(S) NAME N/A  
 YEAR COMPLETED N/A DIMENSIONS N/A  
 MATERIALS USED TO CREATE ARTWORK N/A

PHYSICAL DESCRIPTION OF THE PROPOSED DONATION-  
Park Bench on Homer Spit

NARRATIVE DESCRIPTION OF THE PROPOSED DONATION- TELL US THE STORY BEHIND THE PIECE OR SIGNIFICANCE -  
N/A

IS THE PROPOSED PIECE ONE OF A KIND? N/A IS THE PIECE PART OF A SERIES, LIMITED OR OTHERWISE? N/A  
IF SO, AN EDITION OF HOW MANY? \_\_\_\_\_ IS THE PIECE COMPLETED? \_\_\_\_\_ IF NOT WHEN IS THE  
EXPECTED COMPLETION DATE? \_\_\_\_\_  
WHAT IS THE CURRENT CONDITION OF THE PIECE? \_\_\_\_\_

**PROPOSED SITE OR LOCATION**

DO YOU HAVE A SITE(S) IN MIND FOR THE PLACEMENT OF THE PIECE? IF SO WHERE? \_\_\_\_\_  
Homer Spit

IS THIS A CITY OWNED PROPERTY IF NOT WHO OWNS THE PROPERTY? \_\_\_\_\_  
City Owned

WHAT IS THE RATIONALE FOR SELECTING THIS/THESE LOCATION(S)? \_\_\_\_\_  
Matt Steffy picked location

ARE YOU AWARE OF ANY PERMITS OR PERMISSIONS THAT MAY BE REQUIRED? \_\_\_\_\_  
No

**TECHNICAL SPECIFICATIONS**

DESCRIBE HOW THE PIECE IS CONSTRUCTED OR MADE. PLEASE INCLUDE ANY DOCUMENTATION AT THE END OF  
THIS APPLICATION. Polymer

HOW IS THE PIECE TO BE PROPERLY INSTALLED? Matt Steffy has plan to install.

DOES THE PIECE REQUIRE ELECTRICITY, PLUMBING OR OTHER UTILITY HOOKUPS? No

WHO WILL BE INSTALLING THE PIECE? Matt Steffy

WHAT IS THE EXPECTED LIFETIME AND STAYING POWER OF THE MATERIALS USED IN CREATING THE PIECE? \_\_\_\_\_

Lifetime

WHAT MAINTENANCE IS REQUIRED AND HOW OFTEN? None

PLEASE IDENTIFY ANY SPECIFIC MAINTENANCE PROCEDURES AND OR EQUIPMENT AND THE ASSOCIATED COSTS: \_\_\_\_\_

N/A

WHAT PRECAUTIONS HAVE BEEN TAKEN TO GUARD AGAINST VANDALISM IF ANY? N/A

WHAT STEPS HAVE BEEN TAKEN TO ASSURE THIS PIECE WILL NOT PRESENT A SAFETY HAZARD? \_\_\_\_\_

Matt Steffy has a plan

**BUDGET**

PROJECT MANAGEMENT FEES	\$ <u>0</u>	INSURANCE	\$ <u>0</u>
ARTIST'S FEES	\$ <u>0</u>	UTILITY HOOKUP	\$ <u>0</u>
PURCHASE PRICE PERMITS	\$ <u>0</u>	DELIVERY	\$ <u>0</u>
STRUCTURAL	\$ <u>0</u>	INSTALLATION	\$ <u>0</u>
ENGINEERING SITE	\$ <u>0</u>	SIGNAGE	\$ <u>0</u>
PREPARATION OTHER	\$ <u>0</u>	RECOGNITION	\$ <u>0</u>
COSTS NOT LISTED	\$ <u>0</u>	DESCRIPTION	_____

DATE PIECE WAS LAST APPRAISED? N/A

WHAT IS THE VALUE OF THE PIECE OR ESTIMATED MARKET VALUE IF NO APPRAISAL WAS DONE? N/A

**TIMELINE**

WHAT IS THE TIMELINE FOR THE COMPLETION OR INSTALLATION OF THE PIECE? IDENTIFY THE DIFFERENT STAGES AND DATE GOALS TO PREPARE THE PIECE FOR DONATION \_\_\_\_\_

---

**RESTRICTIONS**

ARE THERE ANY KNOWN COVENANTS, REQUIREMENTS OR RESTRICTIONS THAT COME WITH THE PIECE? No

WHAT EXPAECTATIONS DO YOU HAVE FOR THE CITY OF HOMER IN ACCEPTING THIS ARTWORK? \_\_\_\_\_

Have it installed by July so I can see it when I visit from CT in July.

---

**COMMUNITY INVOLVEMENT**

WAS THERE ANY COMMUNITY OR USER INVOLVEMENT IN SELECTING THE RECOMMENDED LOCATION? \_\_\_\_\_

Matt Steffy

PLEASE INCLUDE ANY LETTER(S) OF SUPPORT FOR THE PROJECT OR PROPOSED DONATION.

N/A

APPLICANT MUST SUBMIT THE FOLLOWING SUPPORTING DOCUMENTATION WITH THIS APPLICATION.

N/A AN RESUME OR BIO FROM THE ARTIST WHO CREATED OR WILL CREATE THE ARTWORK.

N/A FIVE TO TEN IMAGES OF PAST WORK FROM THE ARTIST. THESE CAN BE PHOTOGRAPHS.

N/A THREE TO FIVE CLEAR IMAGES OF THE PROPOSED ARTWORK

N/A SCALE DRAWING/MODEL OF THE PROPOSED ARTWORK

N/A IF YOU HAVE A SITE(S) IN MIND PLEASE INCLUDE PHOTO AND DESCRIPTION OF THE SITE(S) AND A SCALED

DRAWING OF THE PROPOSED ARTWORK IN THE RECOMMENDED LOCATION.

N/A A COPY OF A FORMAL APPRAISAL IF AVAILABLE

N/A TECHNICAL SPECIFICATIONS, MAINTENANCE MANUAL OR DRAWINGS/RECOMMENDATION FROM STRUCTURAL ENGINEER.

APPLICATIONS ARE TO BE SUBMITTED TO:

THE CITY OF HOMER

CITY CLERKS OFFICE

491 E. PIONEER AVENUE

HOMER, AK 99603

OR YOU MAY SUBMIT VIA FAX AT 907-235-3143 TO SUBMIT VIA EMAIL PLEASE SEND TO [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us)

IF YOU HAVE ANY QUESTIONS PLEASE FEEL FREE TO CONTACT THE CLERK'S OFFICE AT 235-3130.



**CITY OF HOMER  
HOMER, ALASKA**

Mayor

**RESOLUTION 20-068**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
STATING THE CRITICAL IMPORTANCE, AND SUPPORTING THE  
RECERTIFICATION, OF THE COOK INLET REGIONAL CITIZENS  
ADVISORY COUNCIL (COOK INLET RCAC)

WHEREAS, Following the unfortunate wreck of the *EXXON VALDEZ*, Congress passed the  
Oil Pollution Act of 1990 (OPA 90); and

WHEREAS, Along with many new safety requirements imposed upon the oil  
transportation industry, OPA 90 established the creation of advisory councils in Prince William  
Sound and Cook Inlet; and

WHEREAS, The Councils are populated with representatives from local governments  
and interest groups; and

WHEREAS, The City of Homer has continuously maintained active representation on  
each Council; and

WHEREAS, The councils have provided a degree of oversight by working in partnership  
with the oil industry, the United States Coast Guard and the State of Alaska Department of  
Environmental Conservation; and

WHEREAS, The Councils have developed a large body of studies and reviews that have  
positive effects in achieving a higher level of monitoring, safety in navigation, and spill  
prevention and response.

NOW, THEREFORE, BE IT RESOLVED that the City of Homer appreciates the 30 years of  
work done by the Cook Inlet RCAC, and supports its recertification by the United States Coast  
Guard.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 27<sup>th</sup> day of July, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

43 ATTEST:

44

45 \_\_\_\_\_

46 MELISSA JACOBSEN, MMC, CITY CLERK

47

48 Fiscal Note: N/A

**CITY OF HOMER  
HOMER, ALASKA**

Mayor

**RESOLUTION 20-069**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA  
EXTENDING THE CITY OF HOMER DISASTER EMERGENCY  
DECLARATION TO OCTOBER 27, 2020, DUE TO THE CURRENT AND  
EXPECTED IMPACTS OF THE COVID-19 NOVEL CORONAVIRUS  
PANDEMIC

WHEREAS, Mayor Castner issued a Declaration of a Local Emergency on March 18, 2020, due to the current and expected impacts of the COVID-19 pandemic in the City of Homer; and

WHEREAS, The declaration activated the city's emergency response plan and requested disaster assistance from the State of Alaska by making available resources as needed for the ongoing response and recovery from the current and potential impacts, to provide individual assistance for affected businesses and individuals, and technical expertise and guidance to help the city in its response and recovery from this event; and

WHEREAS, On March 23, 2020 the declaration was ratified and extended for a period of 90 days by Resolution 20-029 and expires June 21, 2020; and

WHEREAS, On June 8, 2020 the declaration was extended until July 28, 2020 by Resolution 20-055; and

WHEREAS, As the response and recovery efforts continue and are expected to require the ongoing use of city resources it is appropriate to extend the declaration; and

WHEREAS, The City Council finds that further extending this declaration is in the best interest of the public.

NOW, THEREFORE, BE IT RESOLVED that the City's Disaster Emergency Declaration issued by the Mayor on March 18, 2020, is hereby extended to October 27, 2020 in order to allow for a continued response.

PASSED AND ADOPTED by the Homer City Council on this 27<sup>th</sup> day of July, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

43

44 ATTEST:

45

46 \_\_\_\_\_

47 MELISSA JACOBSEN, MMC, CITY CLERK

48

49 Fiscal Note: N/A

## Alaska Marine Highway Reshaping Work Group

---

Admiral Tom Barrett, Chair  
[dot.amh-reshaping@alaska.gov](mailto:dot.amh-reshaping@alaska.gov)

July 22, 2020

Dear Community Leader:

As you know on January 12, 2020, Governor Dunleavy established the Alaska Marine Highway Reshaping Work Group charged with making recommendations on the future system structure, finances, and service levels for the Alaska Marine Highway System (AMHS). Governor Dunleavy asked me to chair this work group. A website link reflecting our activity and work is at: <http://dot.alaska.gov/comm/amh-reshaping-workgroup/>.

Our work group appreciates the broad value the marine highway system brings to coastal Alaska. Given what we have learned about the system so far and the fiscal situation Alaska confronts, our belief is the current system is not sustainable for the long term. One matter we would like to better understand is what constitutes essential community ferry needs, as well as criteria we could use to inform recommendations about future service levels. Therefore, I respectfully invite your direct feedback.

We know reliability will be one key to AMHS' long term success. Thinking in terms of a reliable system, I would like to ask what baseline of ferry service you believe is essential to support community, economic, and social well-being that cannot be met by other means (such as commercial air, and/or barge services). Does that need for ferry service significantly change between winter and summer? What frequency of service would address the essential service you need? For example, can your needs be met with an every two-week schedule? How frequently does your school use the ferry system? Is it movement of people, vehicles, or freight that is most important to your community? Can your essential needs for freight transport be met without transporting vehicles? Or, could a combination of alternating passenger and vehicle service address your requirements? And, of course, any other perspective or ideas you wish to share about what could be done to structure a more reliable system.

I know many of you and members of your community worked with Northern Economics and other study groups including the SE Conference and the Marine Transportation Advisory Board to identify community needs in the Reshaping Study and other reports. Consequently, this may seem somewhat repetitive. Nonetheless, given what we perceive as a need for substantial changes if we are to have a more reliable and efficient system, we believe the reshaping working group would benefit from direct feedback from you. We want to offer the opportunity for you to provide that as we put together recommendations that can realistically improve the system while remaining fiscally prudent.

Please submit any written comments you wish to offer to [dot.amh-reshaping@alaska.gov](mailto:dot.amh-reshaping@alaska.gov) by August 10, 2020. If you wish to set up a time to meet, via teleconference or webex, with the working group please contact Tera Ollila by email at [tera.ollila@alaska.gov](mailto:tera.ollila@alaska.gov).

Thank you in advance for taking the time to submit your thoughts.

Sincerely,

*Tom Barrett*

## LIBRARY ADVISORY BOARD

### REPORT TO HOMER CITY COUNCIL

July 22, 2020

The Library Advisory Board held a Special Meeting on Tuesday, July 7, to consider a proposal from Library Director David Berry to eliminate late fees for overdue library materials. This is an issue of great interest in the library community in the recent years with many library systems, including Anchorage, Denver, Chicago and many more municipalities going fine-free with very positive results.

We had a thorough and thoughtful discussion and unanimously voted in support of Director Berry's proposal that is in the packet for the July 27 City Council meeting. We believe that the Homer community will experience the same benefits other systems have -- including increased circulation, reduced inequities, and freeing up staff for more relevant work. At the same time, we recommended that the library increase the charges once a library item has been judged lost to \$10 plus cost of replacement, formerly \$7 plus cost.

The LAB does an annual review of library policies in its February meeting. We will look at other library fees at that time.

At the same meeting, the LAB elected Marcia Kuszmaul as LAB Chair for the next year and will elect a vice chair at its next regularly scheduled meeting August 4. We continue to have one city-resident vacancy on the board and a vacancy for Student Representative. We welcome the interest and participation of any community member who values the quality of our community life.

Of note at the library:

- Homebound deliveries resumed on July 13. Library materials can be delivered to patrons who cannot leave home for health reasons.
- The City is on track to install expanded wi-fi equipment in August. This will extend the library's wi-fi signal to cover the parking lot, plaza area and front entryway.
- Library staff have completed several online training courses in providing library services to different types of patrons. Matt Smith focused on healthcare inquiries, while Teresa Sundmark completed training in cataloging and Kevin Co took a class in providing library service to handicapped patrons.

Respectfully submitted,

Marcia Kuszmaul, Chair  
Library Advisory Board

To: Mayor Castner and Homer City Council  
From: Franco Venuti, Chair of Homer Planning Commission  
Date: July 16, 2020  
Subject: Planning Commission Report for City Council Meeting

The City of Homer Planning Commission last met virtually in a special meeting via Zoom at 6:30 p.m. on July 15th. One member of the commission was not in attendance, all other members of the Commission, as well as the Deputy City Planner and Deputy City Clerk participated. The commission held three Public Hearings.

The first hearing was regarding a proposed Ordinance to amend the Homer City Zoning Map to rezone 4061 Pennock Street from Urban Residential Zoning District to Residential Office Zoning District. This Proposed Ordinance was approved by unanimous consent.

The second hearing was regarding a Conditional Use Permit to use an existing building for production of wines and meads at 3657 & 3637 Main Street. This CUP was approved by unanimous consent.

The third hearing was regarding a Conditional Use Permit to build four single family dwellings at 750 Nedosik Road. This CUP was approved by unanimous consent.

The Commission also considered a Preliminary Plat for Newton Subdivision 2020 Replat Preliminary Plat. This Preliminary Plat was approved by unanimous consent.

The Commission also considered a Preliminary Plat for a Revised Jack Gist Subdivision No. 3 Preliminary Plat. This Preliminary Plat was approved by unanimous consent.

The Commission also considered a Preliminary Plat for Foothills Subdivision Sunset View Estates 2020 Addition Preliminary Plat. This Preliminary Plat was approved by unanimous consent.

The Commission also reconsidered a motion to forward a draft ordinance creating the Medical Zoning District to City Council. The commission discussed this issue at length and concluded that it would continue to work on this ordinance before forwarding to the City Council.

Our next Planning Commission meeting will be held virtually by Zoom on August 5, 2020 at 6:30 p.m.

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-28**

Ordinance 20-28 An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.060(c) Signs on Private Property, Tables 1, 2, and 3.

Sponsor: Planning Commission

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-081 from Acting City Manager as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-081 from Acting City Manager as backup



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3  
4 Planning Commission

5 **ORDINANCE 20-28**  
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING HOMER CITY CODE 21.60.060(C) SIGNS ON PRIVATE  
9 PROPERTY TABLES 1, TABLE 2 AND 3.  
10

11 WHEREAS, The Economic Development Advisory Commission (EDC) conducted a  
12 Business Retention and Expansion Study and found that signage was a concern to local  
13 businesses; and  
14

15 WHEREAS, The EDC researched sign issues and recommended code amendments to the  
16 Homer Planning Commission (HPC); and  
17

18 WHEREAS, The 2018 Comprehensive Plan, Chapter 3, Goal 4, Objective B 2 states, “Use  
19 strategies to ensure the character of strip commercial development will make a positive  
20 contribution to the overall character of the community. Strategies include: controls on the size  
21 and appearance of signs, requirements for the landscaping of parking areas, and basic  
22 guidelines regarding building appearance”; and  
23

24 WHEREAS, The HPC considered the sign code amendments and recommended changes  
25 to the sign code, addressing buildings with more than one side with a main entrance, multi-  
26 story buildings, buildings with interior tenants, parking lot identification signs, and a master  
27 sign plan process.  
28

29 NOW THEREFORE, THE CITY OF HOMER ORDAINS:  
30

31 Section 1. Homer City Code 21.60.060(c) Signs on private property, Tables 1, 2, and 3 are  
32 amended:  
33

34 **21.60.060 Signs on private property.**

35 a. Signs shall be allowed on private property in the City only in accordance with Table 1. If the  
36 letter “A” appears for a sign type in a column, such sign type is allowed without prior permit  
37 approval in the zoning district represented by that column. If the letter “P” appears for a sign  
38 type in a column, such sign type is allowed only with prior permit approval in the zoning district  
39 represented by that column. Special conditions may apply in some cases. If the letter “N”  
40 appears for a sign type in a column, such sign type is not allowed in the zoning district  
41 represented by that column under any circumstances. If the letters “PH” appear for a sign type

42 in a column, such sign type is allowed in the zoning district represented by that column only  
 43 with prior approval by the Commission after a public hearing.

44 b. Although permitted under subsection (a) of this section, a sign designated by an “A” or “P”  
 45 in Table 1 shall be allowed only if:

46 1. The sum of the area of all building and freestanding signs on the lot does not exceed  
 47 the maximum permitted sign area for the zoning district in which the lot is located as  
 48 specified in Table 2; and

49 2. The characteristics of the sign conform to the limitations of Table 3, Permitted Sign  
 50 Characteristics by Zoning District, and with any additional limitations on characteristics  
 51 listed in Table 1 or Table 2.

52

53 c. A sign type that is not listed on the following tables is prohibited.

54

Key to Tables 1 through 3			
RR	Rural Residential	GBD	Gateway Business District
UR	Urban Residential	GC1	General Commercial 1
RO	Residential Office	GC2	General Commercial 2
INS	Institutional Uses Permitted in Residential Zoning Districts (a)	EEMU	East End Mixed Use
CBD	Central Business District	MC	Marine Commercial
TC	Town Center District	MI	Marine Industrial
		OSR	Open Space Recreation
		PS	Public Sign Uses Permit

A = Allowed without sign permit

P = Allowed only with sign permit

N = Not allowed

PH = Allowed only upon approval by the Planning Commission after a public hearing.

For parenthetical references, e.g., “(a),” see notes following graphical portion of table.

Table 1														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS
Freestanding														
Residential (b)	A	A	A	A	A	A	A	N	N	N	N	N	A	PH
Other (b)	N	N	N	P	P	P	P (i)	A	A	A	P	P	N	PH
Incidental (c)	N	N	A (d)	A (d)	A	A	A	A	A	A	A	A	N	N
<b><u>Parking Lot Identification</u></b>					<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>		
Building														

[**Bold and underlined added.** Deleted language stricken through

Table 1														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS
Banner	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Building Marker (e)	A	A	A	A	A	A	A	A	A	A	A	A	A	N
Identification (d)	A	A	A	A	A	A	A	A	A	A	A	A	A	N
Incidental (c)	N	N	A (f)	A	A	A	A	A	A	A	A	A	N	N
Marquee	N	N	N	N	P	P	P	P	P	P	P	P	N	N
Projecting	N	N	N	N	P	P	P	P	P	P	P	P	N	N
Residential (b)	A	A	A	N	A	A	A	N	N	N	N	N	A	N
Roof, Integral	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Suspended	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Temporary (g)	P	P	P	N		P	P	P	P	P	P	P	N	N
Wall	A	A	A	A	P	P	P	P	P	P	P	P	A	A
Window	N	N	A	N	P	P	P	P	P	P	P	P	N	N
Miscellaneous														
Flag (h)	A	A	A	A	A	A	A	A	A	A	A	A	A	A

56 Notes to Table 1:

- 57 a. This column does not represent a zoning district. It applies to institutional uses permitted  
58 under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an  
59 established organization or corporation of a public, nonprofit, or public safety/benefit  
60 nature, i.e., schools, churches, and hospitals.
- 61 b. No commercial message allowed on sign, except for a commercial message drawing  
62 attention to goods or services legally offered on the lot.
- 63 c. No commercial message of any kind allowed on sign if such message is legible from any  
64 location off the lot on which the sign is located.
- 65 d. Only address and name of occupant allowed on sign.
- 66 e. May include only building name, date of construction, or historical data on historic site;  
67 must be cut or etched into masonry, bronze, or similar material.
- 68 f. No commercial message of any kind allowed on sign.
- 69 g. The conditions of HCC 21.60.130 apply.
- 70 h. Flags of the United States, the State, the City, foreign nations having diplomatic relations  
71 with the United States and any other flag adopted or sanctioned by an elected legislative body  
72 of competent jurisdiction. These flags must be flown in accordance with protocol established  
73 by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or  
74 more of these conditions shall be considered a banner sign and shall be subject to regulations  
75 as such.

**[Bold and underlined added. Deleted language stricken through**

76 i. The main entrance to a development in GBD may include one ground sign announcing the  
 77 name of the development. Such sign shall consist of natural materials. Around the sign grass,  
 78 flowers and shrubs shall be placed to provide color and visual interest. The sign must comply  
 79 with applicable sign code requirements.  
 80

**Table 2. Maximum Total Sign Area Per Lot by Zoning District**

**Table 2 Part A**

The maximum combined total area of all signs, in square feet, except incidental, building marker, and flags (b), shall not exceed the following according to district:

RR	UR	RO	RO (e)	INS (a)	OSR	PS (d)
4	4	6	50	20	4	32

**Table 2 Part B**

In all other districts not described in Table 2 Part A, the maximum combined total area of all signs, in square feet, except incidental, building marker and flags, shall not exceed the following:

Square feet of wall frontage (c):	Maximum allowed sign area per principal building:
750 s.f. and over	150 s.f.
650 to 749	130 s.f.
550 to 649	110 s.f.
450 to 549	90 s.f.
350 to 449	70 s.f.
200 to 349	50 s.f.
0 to 199	30 s.f.

- 81 **1.** In all districts covered by Table 2 Part B, on any lot with multiple principal buildings or  
 82 with multiple independent businesses or occupancies in one or more buildings, the  
 83 total allowed sign area may be increased beyond the maximum allowed signage as  
 84 shown in Table 2 Part B, by 20%. This additional sign area can only be used to promote  
 85 or identify the building or complex of buildings.  
 86 **2.** **In all districts covered by Table 2 Part B, freestanding Parking Lot Identification**  
 87 **signs are excluded from calculation as sign area, and are allowed in addition to the**

**[Bold and underlined added. Deleted language stricken through**

88 freestanding sign per limitation stated in Table 2 Part B(4). One directional  
89 parking lot identification sign may be erected without a sign permit if restricted to  
90 identifying a parking lot with its owner, operator, or name of the business  
91 providing the lot. The sign may include the logo, corporate colors or name of the  
92 business but no advertising other than the name of the business shall be included.  
93 The total sign area shall not exceed six square feet and shall not exceed a sign  
94 height of six feet.

95 **3. In all districts covered by Table 2 Part B, special conditions for additional signage**  
96 **allowance above 150 square feet per building. An allowance for additional signage**  
97 **may be granted by the City Planner for either section (a) or section (b) below.**

98  
99 **a. Multiple-Tenant Buildings which adjoin and have which have more than one**  
100 **entrance for clients that access more than one improved street.**

101 **1. Secondary and tertiary entrances must be commonly used by clients and**  
102 **must access the interior of the building and conversely the entrance**  
103 **must access a parking lot, sidewalk or constructed public road. These**  
104 **entrances are approved at the sole direction of the planning department.**  
105 **Alleys, stairways to upper levels, emergency exits may not apply at the**  
106 **discretion of the Planning Director.**

107 **2. Additional signage is allowed based ½ the allowance on Table 2 part B to**  
108 **existing for each secondary or tertiary street wall frontage. Signage must**  
109 **be placed on the wall face of the building the allowance was based on.**

110 **b. Additional sign allowance for multitenant split level buildings and buildings**  
111 **two or more businesses deep:**

112 **1. In a building that has one frontage, which is the only frontage that has**  
113 **access to a public street, and is split level or is more than one business in**  
114 **depth.**

115 **2. Additional signage is allowed based on ½ the allowance of Table 2 Part**  
116 **B.**

117  
118 **4. In all districts covered by Table 2 Part B, freestanding signs, when otherwise allowed,**  
119 **shall not exceed the following limitations:**

120 **a.** Only one freestanding sign is allowed per lot, except one freestanding public  
121 sign may be additionally allowed. A freestanding sign may not exceed 10 feet in  
122 height.

123 **b.** The sign area on a freestanding sign (excluding a public sign) shall be included  
124 in the calculation of maximum allowed sign area per lot and shall not exceed the  
125 following:

126 **i.** One business or occupancy in one building – 36 sq ft

127 **ii.** Two independent businesses or occupancies or principal buildings in any  
128 combination – 54 sq ft

- 129                    **iii.** Three independent businesses or occupancies or principal buildings in any  
 130                    combination – 63 sq ft  
 131                    **iv.** Four or more independent businesses or occupancies or principal buildings in  
 132                    any combination – 72 sq ft  
 133

134 Notes to Table 2, Parts A and B

- 135 a. The INS column does not represent a zoning district. It applies to institutional uses  
 136 permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined  
 137 as an established organization or corporation of a public, nonprofit, or public safety or benefit  
 138 nature, e.g., schools churches, and hospitals.  
 139  
 140 b. Flags of the United States, the State, the City, foreign nations having diplomatic relations  
 141 with the United States, and any other flag adopted or sanctioned by an elected legislative body  
 142 of competent jurisdiction. These flags must be flown in accordance with protocol established  
 143 by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or  
 144 more of these conditions shall be considered a banner sign and shall be subject to regulation  
 145 as such.  
 146  
 147 c. Square feet of wall frontage is defined as total square footage of wall surface, under the  
 148 roof, that faces the major access or right-of-way of the business. In the case of a business  
 149 located on a corner lot, square footage of wall frontage is the total square footage of wall  
 150 surface, under the roof, on the side of the business with the most square footage.  
 151  
 152 d. The PS column does not represent a zoning district. It applies to public signs permitted  
 153 under the zoning code, in all zoning districts.  
 154  
 155 e. This RO column applies only to lots in that portion of the RO district that abuts East End  
 156 Road, Bartlett Street, Hohe Street, and Pennock Street. Within this area, there is allowed a  
 157 maximum of 50 square feet total area of all signs (including the ground sign referred to below),  
 158 except incidental, building marker, and flags (see note (b) above). One ground sign, with a  
 159 maximum total area of 16 square feet, will be permitted per lot. Each ground sign shall not  
 160 exceed six feet in height, measured from the base to the highest portion of any part of the sign  
 161 or supporting structure.  
 162

Table 3. Permitted Sign Characteristics by Zoning District

Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS (e)
Animated (b)	N	N	N	N	P	P	N	P	N	P	P	N	N	N
Changeable Copy (c)	N	N	N	P	P	P	P	P	P	P	P	P	N	PH

**Added language** Deleted language ~~stricken through~~

Table 3. Permitted Sign Characteristics by Zoning District														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS (e)
Illumination Internal	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Illumination External	N	N	N	P	P	P	P	P	P	P	P	P	N	PH
Neon (d)	N	N	N	N	P	P	N	P	P	P	P	P	N	N

163 Notes to Table 3:

- 164 a. The INS column does not represent a zoning district. It applies to institutional uses
- 165 permitted under the zoning code, in the RR, UR and RO zoning districts. Institutional is defined
- 166 as an established organization or corporation of a public, nonprofit, or public safety/benefit
- 167 nature, i.e., schools, churches, and hospitals.
- 168 b. Animated signs may not be neon or change colors or exceed three square feet in area.
- 169 c. Changeable copy signs must be wall- or pole-mounted, and may not be flashing.
- 170 d. Neon signs may not be flashing and may not exceed 32 square feet.
- 171 e. The PS column does not represent a zoning district. It applies to public signs permitted
- 172 under the zoning code, in all zoning districts.
- 173 [Ord. 14-34 § 1, 2014; Ord. 12-26 § 1, 2012; Ord. 12-01(S)(A) §§ 2 – 6, 2012].

174  
 175 Section 2: This ordinance is of a permanent and general character and shall be included in  
 176 the City Code.

177  
 178 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA THIS \_\_\_ DAY OF \_\_\_\_\_,  
 179 2020.

180 CITY OF HOMER

181  
 182  
 183 \_\_\_\_\_  
 184 KEN CASTNER, MAYOR

185 ATTEST:

186  
 187 \_\_\_\_\_  
 188 MELISSA JACOBSEN, MMC, CITY CLERK

189 YES:

190 NO:

191 ABSTAIN:

192 ABSENT:

193  
 194  
 195 First Reading:

**[Bold and underlined added. Deleted language stricken through**

196 Public Hearing:  
197 Second Reading:  
198 Effective Date:  
199  
200 Reviewed and approved as to form:  
201  
202 \_\_\_\_\_  
203 Rick Abboud, Acting City Manager  
204  
205 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney  
  
Date: \_\_\_\_\_





## City of Homer

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

### Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

## Memorandum 20-081 PI 20-06

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
FROM: RICK ABOUD, AICP, MPA, ACTING CITY MANAGER  
DATE: JUNE 15, 2020  
SUBJECT: The provision of additional signage for parking lot identification and certain types of multi-tenant structures

After following up on a business retention and expansion survey, the EDC embarked on an extensive analysis of the needs and recommendations for signage concerns with larger, multi-tenant building. After more review and analysis by the Planning Department and the Planning Commission, a draft ordinance is being recommended for adoption.

The draft ordinance is extensively explained in staff report 20-34. It basically does two things. It allows additional signage for parking lot identification (any business) and it gives a 50% increase in the signage allowed for certain types of multi-tenant structures that have multiple entrances fronting multiple rights-of-way, more than 1 story, or have interior tenants (such as a mall or office building). This addresses a relatively frequent situation where a building with multiple tenants are not able to provide effective signage for all tenants within the current allowances.

The Planning Commission held a public hearing on the draft ordinance at their June 3, 2020 meeting. The Commission moved with the unanimous consent of the six commissioners present at the public hearing to recommend that the City Council adopt the draft ordinance.

### **Attachments:**

Ordinance

Staff report and corresponding meeting minutes

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Planning

4 **ORDINANCE 20-xx**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING  
7 HOMER CITY CODE 21.60 SIGN CODE TABLES 1, TABLE 2 AND 3.  
8

9 WHEREAS, The Economic Development Advisory Commission (EDC) conducted a  
10 Business Retention and Expansion Study, and found that signage was a concern to local  
11 businesses; and  
12

13 WHEREAS, The EDC researched sign issues and recommended code amendments to the  
14 Homer Planning Commission (HPC); and  
15

16 WHEREAS, The 2018 Comprehensive Plan, Chapter 3 Goal 4 Objective B 2 states, “Use  
17 strategies to ensure the character of strip commercial development will make a positive  
18 contribution to the overall character of the community. Strategies include: controls on the size  
19 and appearance of signs, requirements for the landscaping of parking areas, and basic  
20 guidelines regarding building appearance”; and  
21

22 WHEREAS, The HPC considered the sign code amendments and recommended changes  
23 to the sign code, addressing buildings with more than one side with a main entrance,  
24 multistory buildings, buildings with interior tenants, parking lot identification signs, and a  
25 master sign plan process.  
26

27 NOW THEREFORE, THE CITY OF HOMER ORDAINS:  
28

29 Section 1. Homer City Code 21.60.060(c) Signs on private property, Tables 1, 2, and 3 are  
30 amended:  
31

32 **21.60.060 Signs on private property.**

33 a. Signs shall be allowed on private property in the City only in accordance with Table 1. If the  
34 letter “A” appears for a sign type in a column, such sign type is allowed without prior permit  
35 approval in the zoning district represented by that column. If the letter “P” appears for a sign  
36 type in a column, such sign type is allowed only with prior permit approval in the zoning district  
37 represented by that column. Special conditions may apply in some cases. If the letter “N”  
38 appears for a sign type in a column, such sign type is not allowed in the zoning district  
39 represented by that column under any circumstances. If the letters “PH” appear for a sign type  
40 in a column, such sign type is allowed in the zoning district represented by that column only  
41 with prior approval by the Commission after a public hearing.

42 b. Although permitted under subsection (a) of this section, a sign designated by an “A” or “P”  
43 in Table 1 shall be allowed only if:

- 44 1. The sum of the area of all building and freestanding signs on the lot does not exceed  
 45 the maximum permitted sign area for the zoning district in which the lot is located as  
 46 specified in Table 2; and  
 47 2. The characteristics of the sign conform to the limitations of Table 3, Permitted Sign  
 48 Characteristics by Zoning District, and with any additional limitations on characteristics  
 49 listed in Table 1 or Table 2.  
 50  
 51 c. A sign type that is not listed on the following tables is prohibited.  
 52

<b>Key to Tables 1 through 3</b>														
RR	Rural Residential	GBD	Gateway Business District											
UR	Urban Residential	GC1	General Commercial 1											
RO	Residential Office	GC2	General Commercial 2											
INS	Institutional Uses Permitted in Residential Zoning Districts (a)	EEMU	East End Mixed Use											
CBD	Central Business District	MC	Marine Commercial											
TC	Town Center District	MI	Marine Industrial											
		OSR	Open Space Recreation											
		PS	Public Sign Uses Permit											
A = Allowed without sign permit														
P = Allowed only with sign permit														
N = Not allowed														
PH = Allowed only upon approval by the Planning Commission after a public hearing.														
For parenthetical references, e.g., “(a),” see notes following graphical portion of table.														
<b>Table 1</b>														
<b>Sign Type</b>	<b>RR</b>	<b>UR</b>	<b>RO</b>	<b>INS (a)</b>	<b>CBD</b>	<b>TC</b>	<b>GBD</b>	<b>GC1</b>	<b>GC2</b>	<b>EEMU</b>	<b>MC</b>	<b>MI</b>	<b>OSR</b>	<b>PS</b>
Freestanding														
Residential (b)	A	A	A	A	A	A	A	N	N	N	N	N	A	PH
Other (b)	N	N	N	P	P	P	P (i)	A	A	A	P	P	N	PH
Incidental (c)	N	N	A (d)	A (d)	A	A	A	A	A	A	A	A	N	N
<b><u>Parking Lot Identification</u></b>					<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>	<b><u>A</u></b>		
Building														
Banner	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Building Marker (e)	A	A	A	A	A	A	A	A	A	A	A	A	A	N
Identification (d)	A	A	A	A	A	A	A	A	A	A	A	A	A	N

[**Bold and underlined added.** Deleted language stricken through

Table 1														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS
Incidental (c)	N	N	A (f)	A	A	A	A	A	A	A	A	A	N	N
Marquee	N	N	N	N	P	P	P	P	P	P	P	P	N	N
Projecting	N	N	N	N	P	P	P	P	P	P	P	P	N	N
Residential (b)	A	A	A	N	A	A	A	N	N	N	N	N	A	N
Roof, Integral	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Suspended	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Temporary (g)	P	P	P	N		P	P	P	P	P	P	P	N	N
Wall	A	A	A	A	P	P	P	P	P	P	P	P	A	A
Window	N	N	A	N	P	P	P	P	P	P	P	P	N	N
Miscellaneous														
Flag (h)	A	A	A	A	A	A	A	A	A	A	A	A	A	A

54 Notes to Table 1:

55 a. This column does not represent a zoning district. It applies to institutional uses permitted  
56 under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an  
57 established organization or corporation of a public, nonprofit, or public safety/benefit  
58 nature, i.e., schools, churches, and hospitals.

59 b. No commercial message allowed on sign, except for a commercial message drawing  
60 attention to goods or services legally offered on the lot.

61 c. No commercial message of any kind allowed on sign if such message is legible from any  
62 location off the lot on which the sign is located.

63 d. Only address and name of occupant allowed on sign.

64 e. May include only building name, date of construction, or historical data on historic site;  
65 must be cut or etched into masonry, bronze, or similar material.

66 f. No commercial message of any kind allowed on sign.

67 g. The conditions of HCC 21.60.130 apply.

68 h. Flags of the United States, the State, the City, foreign nations having diplomatic relations  
69 with the United States and any other flag adopted or sanctioned by an elected legislative body  
70 of competent jurisdiction. These flags must be flown in accordance with protocol established  
71 by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or  
72 more of these conditions shall be considered a banner sign and shall be subject to regulations  
73 as such.

74 i. The main entrance to a development in GBD may include one ground sign announcing the  
75 name of the development. Such sign shall consist of natural materials. Around the sign grass,  
76 flowers and shrubs shall be placed to provide color and visual interest. The sign must comply  
77 with applicable sign code requirements.

78

**Added language**. Deleted language stricken through

79  
 80

**Table 2. Maximum Total Sign Area Per Lot by Zoning District**

**Table 2 Part A**

The maximum combined total area of all signs, in square feet, except incidental, building marker, and flags (b), shall not exceed the following according to district:

RR	UR	RO	RO (e)	INS (a)	OSR	PS (d)
4	4	6	50	20	4	32

**Table 2 Part B**

In all other districts not described in Table 2 Part A, the maximum combined total area of all signs, in square feet, except incidental, building marker and flags, shall not exceed the following:

Square feet of wall frontage (c):	Maximum allowed sign area per principal building:
750 s.f. and over	150 s.f.
650 to 749	130 s.f.
550 to 649	110 s.f.
450 to 549	90 s.f.
350 to 449	70 s.f.
200 to 349	50 s.f.
0 to 199	30 s.f.

- 81 **1.** In all districts covered by Table 2 Part B, on any lot with multiple principal buildings or  
 82 with multiple independent businesses or occupancies in one or more buildings, the  
 83 total allowed sign area may be increased beyond the maximum allowed signage as  
 84 shown in Table 2 Part B, by 20%. This additional sign area can only be used to promote  
 85 or identify the building or complex of buildings.
- 86 **2. In all districts covered by Table 2 Part B, freestanding Parking Lot Identification**  
 87 **signs are excluded from calculation as sign area, and are allowed in addition to the**  
 88 **freestanding sign per limitation stated in Table 2 Part B(4). One directional**  
 89 **parking lot identification sign may be erected without a sign permit if restricted to**  
 90 **identifying a parking lot with its owner, operator, or name of the business**  
 91 **providing the lot. The sign may include the logo, corporate colors or name of the**  
 92 **business but no advertising other than the name of the business shall be included.**

**[Bold and underlined added. Deleted language stricken through**

93           **The total sign area shall not exceed six square feet and shall not exceed a sign**  
94           **height of six feet.**

95           **3. In all districts covered by Table 2 Part B, special conditions for additional signage**  
96           **allowance above 150 square feet per building. An allowance for additional signage**  
97           **may be granted by the City Planner for either section (a) or section (b) below.**

98  
99           **a. Multiple-Tenant Buildings which adjoin and have which have more than one**  
100           **entrance for clients that access more than one improved street.**

101           **1. Secondary and tertiary entrances must be commonly used by clients and**  
102           **must access the interior of the building and conversely the entrance**  
103           **must access a parking lot, sidewalk or constructed public road. These**  
104           **entrances are approved at the sole direction of the planning department.**  
105           **Alleys, stairways to upper levels, emergency exits may not apply at the**  
106           **discretion of the Planning Director.**

107           **2. Additional signage is allowed based ½ the allowance on Table 2 part B to**  
108           **existing for each secondary or tertiary street wall frontage. Signage must**  
109           **be placed on the wall face of the building the allowance was based on.**

110           **b. Additional sign allowance for multitenant split level buildings and buildings**  
111           **two or more businesses deep:**

112           **1. In a building that has one frontage, which is the only frontage that has**  
113           **access to a public street, and is split level or is more than one business in**  
114           **depth.**

115           **2. Additional signage is allowed based on ½ the allowance of Table 2 Part**  
116           **B.**

117  
118           **4. In all districts covered by Table 2 Part B, freestanding signs, when otherwise allowed,**  
119           **shall not exceed the following limitations:**

120           **a.** Only one freestanding sign is allowed per lot, except one freestanding public  
121           sign may be additionally allowed. A freestanding sign may not exceed 10 feet in  
122           height.

123           **b.** The sign area on a freestanding sign (excluding a public sign) shall be included  
124           in the calculation of maximum allowed sign area per lot and shall not exceed the  
125           following:

126           **i.** One business or occupancy in one building – 36 sq ft

127           **ii.** Two independent businesses or occupancies or principal buildings in any  
128           combination – 54 sq ft

129           **iii.** Three independent businesses or occupancies or principal buildings in any  
130           combination – 63 sq ft

131           **iv.** Four or more independent businesses or occupancies or principal buildings in  
132           any combination – 72 sq ft

133  
134  
**[Bold and underlined added. Deleted language stricken through**

135 Notes to Table 2, Parts A and B

136

137 a. The INS column does not represent a zoning district. It applies to institutional uses  
 138 permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined  
 139 as an established organization or corporation of a public, nonprofit, or public safety or benefit  
 140 nature, e.g., schools churches, and hospitals.

141

142 b. Flags of the United States, the State, the City, foreign nations having diplomatic relations  
 143 with the United States, and any other flag adopted or sanctioned by an elected legislative body  
 144 of competent jurisdiction. These flags must be flown in accordance with protocol established  
 145 by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or  
 146 more of these conditions shall be considered a banner sign and shall be subject to regulation  
 147 as such.

148

149 c. Square feet of wall frontage is defined as total square footage of wall surface, under the  
 150 roof, that faces the major access or right-of-way of the business. In the case of a business  
 151 located on a corner lot, square footage of wall frontage is the total square footage of wall  
 152 surface, under the roof, on the side of the business with the most square footage.

153

154 d. The PS column does not represent a zoning district. It applies to public signs permitted  
 155 under the zoning code, in all zoning districts.

156

157 e. This RO column applies only to lots in that portion of the RO district that abuts East End  
 158 Road, Bartlett Street, Hohe Street, and Pennock Street. Within this area, there is allowed a  
 159 maximum of 50 square feet total area of all signs (including the ground sign referred to below),  
 160 except incidental, building marker, and flags (see note (b) above). One ground sign, with a  
 161 maximum total area of 16 square feet, will be permitted per lot. Each ground sign shall not  
 162 exceed six feet in height, measured from the base to the highest portion of any part of the sign  
 163 or supporting structure.

164

Table 3. Permitted Sign Characteristics by Zoning District														
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	EEMU	MC	MI	OSR	PS (e)
Animated (b)	N	N	N	N	P	P	N	P	N	P	P	N	N	N
Changeable Copy (c)	N	N	N	P	P	P	P	P	P	P	P	P	N	PH
Illumination Internal	N	N	N	P	P	P	P	P	P	P	P	P	N	N
Illumination External	N	N	N	P	P	P	P	P	P	P	P	P	N	PH
Neon (d)	N	N	N	N	P	P	N	P	P	P	P	P	N	N

**Added language** Deleted language stricken through

165 Notes to Table 3:

- 166 a. The INS column does not represent a zoning district. It applies to institutional uses  
167 permitted under the zoning code, in the RR, UR and RO zoning districts. Institutional is  
168 defined as an established organization or corporation of a public, nonprofit, or public  
169 safety/benefit nature, i.e., schools, churches, and hospitals.  
170 b. Animated signs may not be neon or change colors or exceed three square feet in area.  
171 c. Changeable copy signs must be wall- or pole-mounted, and may not be flashing.  
172 d. Neon signs may not be flashing and may not exceed 32 square feet.  
173 e. The PS column does not represent a zoning district. It applies to public signs permitted  
174 under the zoning code, in all zoning districts.  
175 [Ord. 14-34 § 1, 2014; Ord. 12-26 § 1, 2012; Ord. 12-01(S)(A) §§ 2 – 6, 2012].  
176  
177  
178

179 Section x: This ordinance is of a permanent and general character and shall be included in  
180 the City Code.

181  
182 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_ DAY OF \_\_\_\_\_,  
183 2020.  
184  
185

186  
187 CITY OF HOMER  
188  
189

190  
191  
192 \_\_\_\_\_  
193 KEN CASTNER, MAYOR  
194

195 ATTEST:

196  
197 \_\_\_\_\_  
198 MELISSA JACOBSEN, MMC, CITY CLERK  
199  
200

201  
202 YES:

203 NO:

204 ABSTAIN:

205 ABSENT:  
206



207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219

First Reading:  
Public Hearing:  
Second Reading:  
Effective Date:  
  
Reviewed and approved as to form:

\_\_\_\_\_  
  
\_\_\_\_\_, City Manager  
  
Date: \_\_\_\_\_

\_\_\_\_\_  
  
Michael Gatti, City Attorney  
  
Date: \_\_\_\_\_



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 20-34

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: June 3, 2020  
SUBJECT: Proposed ordinance to amend HCC 21.60 Sign Code Tables 1, 2 & 3

---

**Requested action:** Conduct a public hearing on revisions to the sign code, and forward a recommendation to the City Council.

#### **Introduction**

In May 2019, the Economic Development Commission (EDC) identified a need for a change to the sign code. The current sign area total of 150 square feet for large buildings with multiple tenants can make it difficult for tenants to have effective signage. Planning staff has also found it challenging to permit effective signage for tenants in this situation. The Planning Commission worked on this topic in fall 2019. A draft ordinance was provided to the city attorney for review. The draft ordinance is now up for public hearing and a recommendation to the City Council.

There is one component of the Commission's earlier work that was not included in this ordinance. Staff and the Commission had explored the concept of a Master Sign Permit. When a new building was built, a sign plan would be submitted and approved, and thereafter no additional sign permitting would be needed. Upon legal review, the Attorney found the language unclear. Rather than add more unclear language to an already complicated sign code, staff has deleted that part of the draft ordinance. This topic can be revisited in the future if there is further public desire to modify the sign code.

#### **Synopsis of Code Changes**

##### **Amendments to Table 1:**

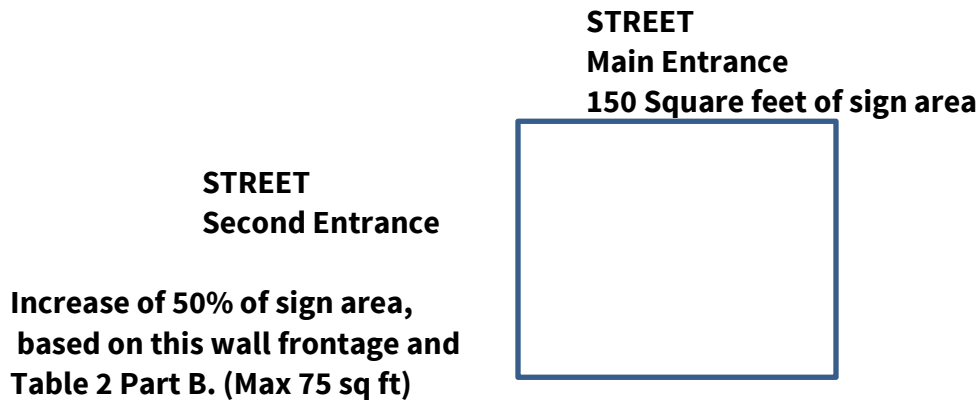
- Adds a Parking lot Identification Sign as a sign type and specifies which zones they are allowed.

##### **Amendments to Table 2 Part B:**

- The table has been organized into numbered sections for easier use.

- Parking lot identification sign regulations have been added.
- A provision has been included to allow larger buildings to have more than 150 square feet of signage, which is the current maximum. The building must be either more than 1 story in height, have interior tenants (such as a mall or office building) or have more than one primary entrance from a different public street, such as a corner lot with main entrances on both streets. Signage could increase up to ½ the amount of sign area determined by Table 2 Part B. Since the maximum sign area in the table is 150 square feet, the secondary wall cannot have more than 75 square feet of signage.
- Example: For buildings on corner lots with more than one main public entrance, additional signage would be based on the building wall frontage, with an increase of up to ½ the amount of sign area determined by Table 2 Part B. Since the maximum sign area in the table is 150 square feet, the secondary wall cannot have more than 75 square feet of signage.

**Example:**



**Planning Staff review per 21.95.040**

21.95.040 Planning Department review of code amendment. The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

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

*Staff response: 2008 Comprehensive Plan Chapter 4 Land Use Goal 3 Objective A states: "Create a clear, coordinated regulatory framework that guides development."*

*Implementation strategies include reviewing city plans for consistency and with consideration of operational constraints and community acceptance. The sign code amendments are consistent with and supported by supported by the Comprehensive Plan.*

b. Will be reasonable to implement and enforce.

*This amendment will be reasonable to implement and inforce.*

c. Will promote the present and future public health, safety and welfare.

*This amendment promotes health, safety and welfare by improving wayfinding for parking lots, and allowing more signage for larger buildings, which previously were limited the visibility of tenants.*

d. Is consistent with the intent and wording of the other provisions of this title.

*This amendment is consistent with the intent, wording and purpose of HCC Title 21.*

**Staff Recommendation:** Conduct a public hearing on revisions to the sign code, and forward a recommendation of approval to the City Council.

### **Attachments**

Draft Ordinance 20-xx Signs  
Staff Report 19-46  
EDC memo of May 8, 2019  
HPC minutes of May 15, 2019  
Staff Report 19-87  
HPC Minutes excerpt 10/16/2019  
Staff Report 19-94  
HPC Minutes excerpt 11/6/2019



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 19-46

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
DATE: May 15, 2019  
SUBJECT: Signage for large structures with multiple tenants

---

**Introduction** The Economic Development Commission (EDC) has identified a need for business owners regarding signage allowance in large structures that house multiple tenants. Planning staff has also found it challenging to permit effective signage for tenants in this situation. I have met with EDC Commissioner Richardson and reviewed some thoughtful input on the subject and have shown initial support for the two concepts presented in the attached memorandum.

**Analysis** The scenario presented deserves attention to consider a formula that is equitable and reasonable to enforce. Currently, we measure signage on the spit boardwalks in relation to the individual business structures and not treated them as one unit, as had been attempted in the past. Large structures may house many tenants and the maximum allowance for the entire structure may inhibit tenants from having effective signage.

I believe it is best to consider the concepts presented and perform a review of best practices for possible incorporation.

**Staff Recommendation** Make a motion to address the issue at future meetings

**Attachments** Memo from EDC.



## Memorandum

TO: HOMER ADVISORY PLANNING COMMISSION

FROM: ECONOMIC DEVELOPMENT ADVISORY COMMISSION

THROUGH: JENNY CARROLL, SPECIAL PROJECTS & COMMUNICATIONS COORDINATOR

DATE: MAY 8, 2019

SUBJECT: REQUEST TO CONSIDER AMENDMENT TO SIGN CODE FOR LARGE COMMERCIAL BUILDINGS WITH MULTIPLE BUSINESS TENANTS.

---

The Economic Development Advisory Commission is reaching out to you about a deficiency in the sign code as it relates to large, commercial buildings with multiple business tenants. After becoming aware of the issue through comments received in the 2017 Business Retention and Expansion Survey, the EDC began researching the existing Homer Sign Code, interviewing small business owners and talking to Planning Department staff to better understand the issue and develop possible solutions.

The EDC took this topic up at their April 9, 2019 meeting. In summary, the existing sign code provides a mathematical system based on road frontage to regulate signage in the community. This system seems to work well for the majority of businesses in Homer, equitably allotting signage square footage for businesses located in buildings with only one or two business tenants and businesses that are one of a group of small buildings on one commercial property.

Where the code falls short is in allocating adequate signage space to larger commercial buildings that house a larger number of small business tenants. The code provides no provision to increase signage for multi-level buildings or for buildings housing businesses two or more spaces deep from the storefront. This creates a barrier to sign advertising for small businesses located in larger multi-tenant buildings.

Examples of buildings with individual businesses that may have inadequate signage for the number of business that are in the building:

- Point of View Mall [on Lake Street]
- Blue Old Bank Building [corner of Lake Street and East End Road]
- Hillas Building [on Pioneer Ave uphill beside the movie theatre]
- Bypass Mall [on Sterling Highway adjacent to O'Riley's]
- Alderfer Building [on Ocean Drive at Beluga Lake]
- Kachemak Center [on Pioneer Ave between Heath and Lake Street]

It is in Homer's economic interest to develop strategies and actions that support small business retention and expansion.

After their discussion, the EDC passed a motion to 1) share the deficiency with you for your deliberation and 2) recommend sign code amendments to calculate allotted signage above 150 ft<sup>2</sup> to better accommodate the advertising needs of small businesses leasing space in large commercial buildings with multiple business tenants.

Below, the EDC shares two amendment ideas developed by EDC Commissioner Richardson in hopes it is useful in starting the discussion. The EDC has spoken with City Planner Abboud who is also looking into model codes to see what other methods are used to accommodate spatial features of buildings.

## POTENTIAL METHODS FOR ALLOTTING SIGNAGE ABOVE 150 SQUARE FEET

### Method 1 – Calculation by Secondary and Tertiary Entrances on Public Right of Way

- Buildings that have more than one entrance for clients, where the entrance is accessed by a separate public right-of-way that is bordered by a maintained road. The following criteria will be:
  - A separate sign permit by the city must be issued in addition to the original permit
  - Secondary and tertiary entrances must be commonly used by clients and must access the interior of the building and conversely the entrance must access a parking lot, sidewalk or road. These entrances are approved at the sole direction of the planning department. Alleys, stairways to upper levels, Emergency Exits likely do not apply.
  - Additional Square footage is applied to existing city allotment chart by  $\frac{1}{2}$  [half the amount allotted on the chart]
  - For example, a building with 200 x 12 feet [greater than 750] of wall frontage on a main road are allotted 150 square feet of sign space. With two other public accesses of secondary and tertiary frontage measuring 80 feet by 20 feet [greater than 750] on the east side of the building and 80 feet by 20 feet [greater than 750] on the west side of the building.
    - 2400 square feet = 150 square feet original signage
    - East side 1600 square feet = secondary allotment  $150 \text{ sq feet} / 2 = 75 \text{ square feet}$
    - West side 1600 square feet = tertiary allotment  $150 \text{ sq feet} / 2 = 75 \text{ square feet}$
  - Total of 300 square feet of signage approved.



### Method 2 – Split Level Buildings and Buildings Two or More Businesses Deep

- Buildings that have more than one entrance for clients, where the building is split level or two or more businesses deep.
  - In a building that has one frontage, which is the only frontage that has access to a public street, and is split level or is more than one business in depth – the owner may apply for additional signage if Method 1 above does not provide additional signage.
  - Additional Square footage is applied to existing city allotment chart by  $\frac{1}{2}$  [half the amount allotted on the chart]

- If the building is split level, then the larger of the two levels will be applied to the original allotment and smaller level will be assigned additional sign square footage based on a calculation of the surface area of the smaller level divided by two.
  - Such as if 150 square foot would be allotted for the largest level, then 75 square feet is added to the original allotment for a total of 225 square feet of signage.
- If the building is more than one business deep, and at least two businesses are not represented by the frontage calculation, then  $\frac{1}{2}$  of the original frontage calculation will be applied to the original frontage allotment. Therefore, if the original frontage gained the building 150 square feet of signage – 75 square feet would be added for a total of 225 square feet.



Thank you and the Planning Department staff for giving this your consideration. Please alert us to any worksessions you may have on this topic. Commissioner Richardson and potentially other EDC Commissioners would like to attend.

### **RECOMMENDATION**

The Economic Development Advisory Commission recommends that the Advisory Planning Commission pass a motion to review options and amend the Sign Ordinance to address the deficiency in the current code as it relates to larger commercial buildings that house several small business tenants.



City Planner Abboud reviewed Staff Report 19-45 explaining that in a technical rewrite of the Homer City Code in 2008 there was inadvertently a change in the definition of medical clinic. He would like to get something on the books right now that allows clinic in CBD outright and they can leave the size requirements, etc., to the CUP process. Currently only professional office is allowed and this does not allow medical clinics. They can then permit medical clinic outright.

City Planner Abboud brought forth points on medical clinics in the Residential Office district. He responded to a question on the ramifications to eliminating the term medical clinic would result in the requirement to make amendments to Professional Office. He commented on an instance when at one time there was a dispensary or pharmacy in the RO. The district was changed to RO because of demand and if the need is there the demand will grow and sometime in the future will change to possibly CBD because of the changes in the nature of the district.

Commissioner Banks reiterated the need for the change in the CBD by having the commission make a motion on amending City Code to add allowing Medical Clinics in the CBD and outlining the process that would be required to effect that change. He questioned if the Commission could address the medical district overlay at the same time.

City Planner Abboud explained that the Commission will have to follow the process on the remand first and appeal if that happens before addressing those changes.

Commissioner Highland pointed out that they would have to have a public hearing at the next meeting then it would go to City Council and they would not approve it until their meeting in July.

HIGHLAND/BANKS MOVED TO ADD MEDICAL CLINIC TO THE CENTRAL BUSINESS DISTRICT AS A PERMITTED USE.

There was a brief discussion on the amendment being the most reasonable.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**B.** Staff Report 19-46, Sign Ordinance

Chair Venuti introduced the item by reading of the title.

City Planner Abboud stated that he appreciated the work done by Dr. Richardson and advocacy on the recommendations that were proposed. He acknowledged the difficulties with the

current sign code and commented on two of the proposed recommendations that were presented.

Discussion ensued and the following points and comments were made:

- Building owner responsibility on signage allotment
- Allowance of signage for buildings that face multiple streets, dual level building signage
- Interior tenant signage allotment
- View sign code from Gilbert, Arizona which can be used as a guideline
- Previous work and education done by Planning staff and Commissioners
- Educating the public
- Signage types and measurement of light, electronic sign messages
- Not wanting an ugly clutter of signs, issues with signage sizes and what that actually looks like

Commissioner Highland favored having a short discussion on the issue as a courtesy to see what was possible.

Chair Venuti noted that a recommendation to motion this to a future meeting.

Commissioner Banks commented that they currently have several items on their worklist and did not think that they should hold worksessions during the summer and recommended that they address this in the fall.

Commissioner Smith requested input from City Planner Abboud on that recommendation.

City Planner Abboud responded that they are waiting on some items but that a response should be motioned as a courtesy.

Commissioner Petska-Rubalcava mentioned the previous presentation on Wayfinding and Trail signage and asked about combining those two things as they promote business also which provides a better gateway.

City Planner Abboud did not want to combine those two things as he believed that they can allow that type of signage without messing with the city code.

Commissioner Smith recommended putting this in a worksession in September.

Commissioner Banks agreed with the suggestion of adding it to the worklist and they can address the topic.

SMITH/HIGHLAND MOVED TO ADD THIS TO A WORKSESSION ON SEPTEMBER 4, 2019

↑  
There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**INFORMATIONAL MATERIALS**

A. City Manager's Report for the May 13, 2019 Homer City Council meeting

**COMMENTS OF THE AUDIENCE**

**COMMENTS OF THE STAFF**

Deputy City Clerk Krause inquired about using monument signage noting that several businesses could be advertised on that type of sign for a multi tenanted building.

City Planner Abboud responded that they do allow that type of signage. He then reminded the Commissioners to read the administrative law decision on the Medical Clinic. He noted the good information and decisions and how they need to make decisions defensible. He has also arranged to have the City Attorney perform some training at a worksession.

City Planner Abboud responded to question on the status of the Wayfinding that it was presented to Council but it is awaiting funding. He provided a bit of history on the Wayfinding idea and ended that it currently is in Council's hands for funding.

City Planner Abboud responded that if the commission would like to go there and address the issues regarding the clear cutting they can go there.

City Planner Abboud assured Commissioner Smith that the property owners are getting well above value for their properties, noting he is aware of who is buying up the property so they should not worry about it.

**COMMENTS OF THE COMMISSION**

Commissioner Highland inquired about the status of the Wayfinding plan and would not like to see the EDC go ahead on signs without input from the Commission. She then questioned the clear cutting of the lot on the way up West Hill and is cringing and waiting for someone to question who authorize that to be done. She wish that they have something that addressed that issue and is really concerned about improving the aesthetics.

Commissioner Smith commented on the topic of establishing a Medical District and it has come to his attention that the more of those properties that changeover are they in effect



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 19-87

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: October 16, 2019  
SUBJECT: Sign Code

---

#### Introduction

In May, the Economic Development Commission (EDC) identified a need for business owners regarding signage allowance in large structures that house multiple tenants. Planning staff has also found it challenging to permit effective signage for tenants in this situation. The Planning Commission determined they wanted to work on this topic in the fall.

The main gist of the EDC comments address allowed signage on some of our community's larger buildings, where the building is two stories, or has more than one main entrance – such as on a corner lot. The EDC offers two solutions for determining how much signage a building can have, called “Method 1” and “Method 2.” (Attached)

Staff would also like to briefly touch on allowing additional freestanding signs, and parking lot identification. Examples for each scenario will be provided at the meeting.

#### Analysis

Current Code – Table 2 Part B (see attachments), lists the square feet of wall frontage of the building, and the corresponding allowed signage PER BUILDING. Emphasis is added because if there is more than one structure, each structure is allowed signage according to the calculated wall frontage. For example, a Spit boardwalk with 10 buildings can have a separate sign allowance for each building. But a strip mall with interior tenants, or two story structure with 10 tenants is limited to a maximum of 150 square feet of signage. The sign code was amended in 2012 to allow the per building sign allowance, but no solution was adopted for multitenant buildings.

#### Proposed solutions

*Method 1: Corner lots.*

There are a few buildings in Homer that are large, and are located on corner lots. A clear example is Kachemak Center at the corner of Pioneer, Heath and Lake St (Subway, Summit

Physical Therapy are current tenants). Signage has long been a problem at this location. The building has great street traffic, but for the size of the structure and number of tenant spaces, 150 square feet of signage across three walls for the whole property is inadequate. Method 1 would grant additional signage on the east and west sides of the building, because they each front a maintained street. The amount of signage would be limited to ½ the allowance on the front (75 feet each).

**Analysis:** Method one provides a solution for side entrances.

**Staff comment:** What about just applying the existing wall frontage rules to the side of the building? Again this is for corner lots with multiple tenants and a public entrance on more than one face of the building. There are a handful of properties this applies to. Staff will provide examples at the meeting.

**Question 1 for the Commission:** Would you allow a second freestanding sign on the property? Perhaps if it was serving the secondary entrance? (Again, only talking about corner lots in this discussion)

Method 2: Multi-story buildings and/or more than 1 interior tenant.

This proposal is trickier and may have some unintended consequences. This method addresses multi-story buildings, or buildings where there are tenants with interior only access. Examples include the Kachemak Center basement, the building on Sterling Highway where the toy store and Thai restaurant are (345 Sterling Highway), and the Hillas Building at 126 W Pioneer Ave (next to the movie theater). Additional signage, in the amount of half the base allowance, would be granted to the structure. For a the Hillas building, if the current allowable signage is 150 square feet, that would increase by 50%, or 75 square feet, for a new total of 225 square feet. It would be up to the building owner to allocate the signage among the tenants, and could include a combination of wall and freestanding signage. (HCC already has limits on the size of the freestanding sign – no changes are under consideration.)

There is potential with this method that some really large signs could be put on a building, to the detriment of the smaller tenants. Larger communities address this by having an overall sign plan for the whole structure, so there is a cohesive plan starting from building design and construction. The concept of a unified permit up front is something we can explore, but regulating sign dimensions and proportions on a building is probably beyond the level of regulation our community desires, and beyond the level of service our department can provide. Staff just wants the Commission to be aware each solution may also have some unintended consequences. Staff continues to think through method two.

**Question 2:** Any comments or concerns on method 2?

### **Parking Lot entrance/exit signs**

This is a small point, but we have a few locations in the City where the primary entrance may have a freestanding sign, but a secondary entrance on another street is not allowed to have a logo or commercial message. Example; the main Safeway entrance is clearly defined on the Sterling Highway. Same with Wells Fargo. But if you are driving on Hazel Ave, its not as clear which businesses are served by which driveway. It is legal to have an entrance or exit sign, but that sign can't include the logo or business name. Staff researched Port Townsend WA, which has code language addressing this situation. Staff offers this idea for discussion.

#### Port Townsend

A. Parking Lot Identification Signs. Parking lot identification signs may be erected without a sign permit if restricted to posting regulations regarding the use of the lot and to identifying a parking lot with its owner, operator, or name of the business providing the lot. No advertising other than the name of the business shall be included. The total sign area for parking lot identification signs shall not exceed 32 square feet for each 1,000 square feet of parking lot area and each sign face shall not exceed six square feet; provided, that each lot shall be allowed at least one parking lot identification sign; and provided further, that these restrictions may be exceeded to the extent required by any applicable laws of the state. Parking lot identification signs shall not exceed a sign height of six feet;

**Staff comment:** Port Townsend has many small parking lots; a sign per 1,000 square feet of parking lot area is way more than we need in Homer. But the idea of at least one sign per parcel could assist with wayfinding. For example, the Chamber of Commerce is easily seen from the Sterling Highway. But the Ohlson Lane Entrance, where day parking for RV's is offered, would be an appropriate place for a clear entrance sign. Other examples could be the Safeway entrance on Hazel Ave, or the college entrance on Kachemak Way.

**Question 3:** What does the commission think about exploring parking lot signage? If there is consensus on this topic, staff can do further research and create a proposal.

### **Staff Recommendation**

#### **Commission discuss the following questions and provide feedback**

1. Should an additional freestanding sign be allowed for a secondary entrance? Perhaps for a total of two freestanding signs per lot?
2. Any comments or concerns on method 2?
3. What does the commission think about exploring parking lot signage?

**Next Steps:** Staff will listen to Commission discussion and comments, and provide additional information as requested. Eventually, an ordinance will be drafted with proposed changes.

**Attachments**

1. Table 2 – HCC 21.60
2. May 8, 2019 EDC memo to HPC
3. May 15, 2019 PC minutes excerpt

**Table 2 Part B**

In all other districts not described in Table 2 Part A, the maximum combined total area of all signs, in square feet, except incidental, building marker and flags, shall not exceed the following:

Square feet of wall frontage (c):	Maximum allowed sign area per principal building:
750 s.f. and over	150 s.f.
650 to 749	130 s.f.
550 to 649	110 s.f.
450 to 549	90 s.f.
350 to 449	70 s.f.
200 to 349	50 s.f.
0 to 199	30 s.f.

Motion carried.

## **VISITORS/PRESENTATIONS**

### **REPORTS**

A. Staff Report 19-86, City Planner's Report

City Planner Abboud provided a summary of Staff Report 19-86. He provided comment on the following items:

- Public Hearing at the next meeting on the ordinance placing a moratorium on Profession Offices and Medical Clinics in Residential Office District
- Received the decision notice this afternoon that the City has prevailed on the appeal hearing for the Remand  
If nothing further comes about they will be able to start talking about creation of a medical district at the December meeting.
- They have prevailed on the Windjammer CUP appeal on all counts

Commissioner Rubalcava volunteered for the December 9, 2019 City Council meeting

Commissioner Highland requested clarification from the chair to speak on the City Manager's Report.

Chair Venuti responded that it was on the agenda under informational items and that comments or questions should be done at that time.

A brief discussion was entertained on the basis and reasoning to place a moratorium on applications for Medical Clinics.

City Planner Abboud provided clarification on the appeal process remaining for the Windjammer CUP 14-05.

### **PUBLIC HEARING(S)**

### **PLAT CONSIDERATION**

### **PENDING BUSINESS**

A. Staff Report 19-87, Sign Code

Chair Venuti introduced the item by reading of the title into the record.

Deputy City Planner Engebretsen reviewed Staff Report 19-87 using visual components on the overhead monitors as samples of the proposed code changes. She noted some of the previous





work done on the sign code in 2012 that applied to businesses on the Spit. She reviewed the three recommendations from staff and requested input from the Commission.

Large Businesses (buildings) on Corner Lots with multiple entrances – Example used was Kachemak Center

The Commission recommended that if additional free standing signage is permitted that there should be a specific distance between the signs.

Adding the staff recommendation of 75 sf was acceptable to the Commission

Corner Lots, Smaller Buildings, two stories

Staff recommended allowing 50% of existing to a maximum of 225sf that a building owner would be responsible for dividing among tenants.

Parking lot Entrance or exit signage with logo or colors

The Commission agreed that they would like further information on this concept. It was agreed that it would not be a widely used signage but could be implemented for businesses that may have multiple accesses referring to the Kachemak Center as an example.

Commissioner Highland offered comments on the controversy experienced during the previous sign code amendments and that every business owner wanted the biggest sign possible.

City Planner Abboud responded to Commissioner Davis' inquiry about Sign Design review and the recommendations make to applicants regarding signage design.

Staff will provide specifics for the commission to review at the next meeting.

B. Staff Report 19-88, Permitting

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud reviewed Staff Report 19-88 for the Commission. He requested the Commission to amend the draft ordinance to remove Lines 44-47 for the following reasons:

- Driveways are permitted by Public Works Department
- Entrances are self-explanatory
- Asbuilt survey shows the site plan and parking areas are quite easily figured
- Proof of compliance with applicable building, plumbing, electrical, mechanical, and other such codes are governed by the State and the planning staff is not trained to enforce this. A building inspector would be required as well as developing building codes. He is not sure who the legitimate authority is to provide this information.
- Additionally the State Fire Marshal would sign off on commercial projects and that information would be required to be submitted with the application.
- It would be another sheet a paper that is retained by the Planning Department but have no use to the department



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 19-94

TO: Homer Advisory Planning Commission  
THROUGH: Rick Abboud, City Planner  
FROM: Julie Engebretsen, Deputy City Planner  
DATE: November 6, 2019  
SUBJECT: Sign code update

---

### Introduction

Staff has refined the ideas presented at the last meeting. Please ask any questions or recommend changes. When the Commission is done with discussing this staff report, the next step is for staff/attorney to prepare an ordinance for public hearing.

### Analysis

There are five areas of code this staff report addresses

1. Creates an allowance for a parking lot identification sign. Code already allows for “entrance” or regulatory signage, but does not allow for business identification.
2. Additional freestanding sign for parcels with more than one access street.
3. Additional sign allowance for multitenant, multiple street access buildings (corner lots)
4. Additional sign allowance for split level buildings and buildings two or more businesses deep
5. Creation of an Optional Master Sign Permit Plan

### Parking lot and freestanding signs

Staff note: staff recommends adding only one of these to city code. Parking lot identification would increase ease of wayfinding in our community. Additional freestanding signs could increase sign clutter and may not be effective business signage. Staff recommends allowing parking lot signage

#### 1. Parking Lot Identification Signage

*Concept:* One directional parking lot identification sign may be erected without a sign permit if restricted to identifying a parking lot with its owner, operator, or name of the business providing the lot. The sign may include the logo, corporate colors or name of the business but no advertising other than the name of the business shall be included. The total sign area shall not exceed six square feet and shall not exceed a sign height of six feet.

**Staff Recommendation 1: Move to amend the sign code to include allowance for one parking lot identification sign per parcel.**

**2. Additional Freestanding sign**

Concept: Each multiple-tenant building is permitted one freestanding sign on each street on which it adjoins and has access. Such signs shall be at least 75 feet apart, measured in a straight line from the base of the sign.

**Staff Recommendation 2:** Do not add this to city code. There are very few locations that would meet the separation requirement. A parking lot identification sign would be a less visually obtrusive, and still enhance wayfinding for drivers.

**3. Multiple-Tenant Buildings which adjoin and have which have more than one entrance for clients that access more than one improved street.**

Concept: Allow for additional signage above 150 square feet per building, in the above conditions.

- A.** Secondary and tertiary entrances must be commonly used by clients and must access the interior of the building and conversely the entrance must access a parking lot, sidewalk or road. These entrances are approved at the sole direction of the planning department. Alleys, stairways to upper levels, Emergency Exits likely do not apply.
- B.** Additional signage is allowed based  $\frac{1}{2}$  the allowance on Table 2 part B to existing per secondary or tertiary street wall frontage. Signage must be placed on the wall face of the building the allowance was based on.

Example: a building with 200 x 12 feet [greater than 750] of wall frontage on a main road are allotted 150 square feet of sign space. With two other public accesses of secondary and tertiary frontage measuring 80 feet by 20 feet [greater than 750] on the east side of the building and 80 feet by 20 feet [greater than 750] on the west side of the building.

- 2400 square feet = 150 square feet original signage
- East side 1600 square feet = secondary allotment  $150 \text{ sq feet} / 2 = 75 \text{ square feet}$
- West side 1600 square feet = tertiary allotment  $150 \text{ sq feet} / 2 = 75 \text{ square feet}$
- Total of 300 square feet of signage approved.

**Staff Recommendation 3:** Move to amend the sign code to include allowance for additional signage on secondary or tertiary building walls.

- 4.** Additional sign allowance for multitenant split level buildings and buildings two or more businesses deep

**Concept:** Allowance for additional signage for multitenant buildings that have more than one entrance for clients, where the building is split level or two or more businesses deep.

- In a building that has one frontage, which is the only frontage that has access to a public street, and is split level or is more than one business in depth – the owner may apply for additional signage if #3 above does not provide additional signage. (Staff note: a parcel can only get additional signage by one method - i.e. more than one access, multi-story, or interior tenants. Will work out details of technical language with the attorney.)
- Additional signage is allowed based on ½ the allowance of Table 2 Part B.

**EDC Example:** If the building is split level, then the larger of the two levels will be applied to the original allotment and smaller level will be assigned additional sign square footage based on a calculation of the surface area of the smaller level divided by two. Such as if 150 square foot would be allotted for the largest level, then 75 square feet is added to the original allotment for a total of 225 square feet of signage.

**Staff comment:** This is too specific, and there may be unintended consequences. In cases where the upper story has more wall face due to the peak of a roof, the signage could appear ‘top heavy’ on the structure. Further, some of the signage might be used on another side of the structure. The simplest way to administer this code change would be to grant the additional sign allowance and let the building owner determine how and where it will be used among the tenants. Homer has only a few buildings that would use this additional signage allowance.

- If the building is more than one business deep, and at least two businesses are not represented by the frontage calculation, then ½ of the original frontage calculation will be applied to the original frontage allotment. Therefore, if the original frontage gained the building 150 square feet of signage – 75 square feet would be added for a total of 225 square feet.

**Staff comment:** Very few structures in Homer would qualify for this allowance (ie interior tenants). Most multitenant buildings with interior spaces have more than one story, or are on a corner lot, and would use one of those methods for additional signage. But it is a good idea to include in code as this situation could occur.

**Staff Recommendation 4:** Move to amend the sign code to allow additional signage for multitenant split level buildings and buildings two or more businesses deep

## 5. Creation of an Optional Master Sign Permit Plan

**Concept:** Create a mechanism in code for an optional permanent approval of multitenant building signage. This would be an approval of the overall area of signage,

and allow a land lord to assign each unit wall and freestanding signage area and location. When a new tenant comes in to learn about sign regulations, planning staff would provide the master permit information on how much and the location of their approved signage. No new sign permit application, signed by the land owner, would be required. The tenant can then move forward with sign plans that fit within the already approved parameters. Staff would not review the proposed new signage, unless requested by the tenant.

If another building tenant is out of compliance, staff and the land lord can work on that violation independently of other tenants. Ideally the sign information would also be included in lease documents so tenants would know up front when they enter into a lease agreement.

This amendment would require staff and landlord effort to set up for a building, but should save staff and businesses time in the long term. Several multitenant buildings have frequent tenant changes, such as the Hillas building, and it would be much easier to administer the sign code with a master permit.

**Staff Recommendation 5:** Move to amend the sign code to create a code provision for an optional master sign permit plan

### **Conclusion**

Staff recommends the Commission review and discuss items 1-5, and make recommendations accordingly. Staff does not recommend applying an additional freestanding sign on a lot (#2).

Move to amend the sign code to:

1. Include an allowance for one parking lot identification sign per parcel.
2. *(excluded)*
3. Include an allowance for additional signage on secondary or tertiary building walls.
4. Allow additional signage for multitenant split level buildings and buildings two or more businesses deep
5. Create a code provision for an optional master sign permit plan

Motion carried.

## **PLAT CONSIDERATION**

### **PENDING BUSINESS**

- A. Staff Report 19-94, Sign Code

Chair Venuti introduced the item by reading of the title into the record.

Deputy City Planner Engebretsen reviewed Staff Report 19-94 and provided clarification on if one motion or individual motions were required and also what the process would be to follow-up.

BENTZ/RUBALCAVA MOVED TO ADOPT STAFF REPORT 19-94 AND AMEND THE SIGN CODE TO CREATE CODE PROVISION FOR AN OPTIONAL MASTER SIGN PERMIT PLAN AND INCLUDE OPTIONS ONE, THREE AND FOUR.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **NEW BUSINESS**

#### **INFORMATIONAL MATERIALS**

- A. City Manager Report for October 28, 2019 City Council Meeting

#### **COMMENTS OF THE AUDIENCE**

#### **COMMENTS OF THE STAFF**

City Planner Abboud had no additional comments.

Deputy City Clerk Krause stated that the issue of parking on the Spit has been before the Parks Commission and that since 2007 parking issues have been on the Port and Harbor Commission agendas.

Deputy City Planner Engebretsen stated that 99.9% of the written and public testimony were problem solving and looking at the big picture and not attacking the individual project and in

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-29**

Ordinance 20-29 An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.46 Small Boat Harbor Overlay Zoning District, Section 21.46.060 Architectural Standards, to Remove the Requirement for Gabled Roofs.

Sponsor: Planning Commission

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-082 from Acting City Manager as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-082 from Acting City Manager as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Planning  
4 Commission

5 **ORDINANCE 20-29**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING HOMER CITY CODE 21.46 SMALL BOAT HARBOR  
9 OVERLAY ZONING DISTRICT, SECTION 21.46.060 ARCHITECTURAL  
10 STANDARDS, TO REMOVE THE REQUIREMENT FOR GABLED  
11 ROOFS.  
12

13 WHEREAS, The 2011 Homer Spit Comprehensive Plan suggests looking into developing  
14 appropriate guidelines for new development to maintain the character of the Homer Spit; and  
15

16 WHEREAS, Structures located outside of the Small Boat Harbor Overlay Zoning  
17 District(Overlay District) have been developed without incorporating a gabled roof; and  
18

19 WHEREAS, A gabled roof requirement challenges the ability to design a two-story  
20 structure that does not exceed the 25 foot height restriction in the Overlay District; and  
21

22 WHEREAS, The Port and Harbor Advisory Commission and Planning Commission  
23 approve of the use of alternate roof designs.  
24

25 NOW THEREFORE, THE CITY OF HOMER ORDAINS:  
26

27 Section 1. Homer City Code 21.46.060, Architectural standards is hereby amended  
28 to read as follows:  
29

30 Overslope development shall conform to the following architectural standards:  
31

32 a. All buildings on the same overslope platform shall receive a common architectural  
33 treatment. The main color of the exterior walls of all buildings on an overslope platform  
34 shall be one or more earth or seascape tones.  
35

36 b. Not less than five percent of the area of an overslope platform area shall be outdoor  
37 public open space.  
38

39 c. Overslope development shall include pedestrian walkways that provide direct access  
40 between common areas in the overslope development and public rights-of-way.  
41



- 42 d. Opaque walls, fences or planter boxes, or any combination of them, shall be used to  
43 screen mechanical equipment and trash containers from view in adjacent public areas.  
44  
45 e. The design of structures and outdoor pedestrian areas shall take into consideration  
46 environmental factors such as prevailing wind, salt spray, solar exposure, snow and  
47 heavy rains.  
48  
49 f. Along the length of a building, the roofline shall not be continuous for more than 60  
50 feet. ~~Roofs shall be gabled.~~  
51  
52 g. The maximum height of a building measured from the overslope platform or the  
53 adjacent grade to the highest roof peak shall not exceed 25 feet.  
54  
55 h. A public access not less than eight feet wide to an area overlooking the harbor shall  
56 be provided at each end of an overslope platform and at intervals not greater than 150  
57 feet on the overslope platform.  
58  
59 i. A continuous pedestrian corridor at least eight feet wide must extend the length of  
60 the overslope development, on either the harbor or the uplands side, or some  
61 combination thereof. The corridor must be clear of obstructions, but may be covered  
62 by an awning or roof overhang. The minimum eight-foot width of the corridor may not  
63 be counted to meet landscaping or public open space requirements.  
64

65 Section 2: This ordinance is of a permanent and general character and shall be included in  
66 the City Code.

67  
68 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_\_ DAY OF \_\_\_\_\_,  
69 2020.

70 CITY OF HOMER

71  
72 \_\_\_\_\_  
73 KEN CASTNER, MAYOR

74 ATTEST:

75  
76 \_\_\_\_\_  
77 MELISSA JACOBSEN, MMC, CITY CLERK

78  
79 Yes:

80 No:

81 Abstain:

82 Absent:

83

84 First Reading:  
85 Public Hearing:  
86 Second Reading:  
87 Effective Date:  
88  
89 Reviewed and approved as to form:  
90  
91  
92 \_\_\_\_\_  
93 Rick Abboud, Acting City Manager  
94  
95 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney  
  
Date: \_\_\_\_\_



## City of Homer

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

### Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

## Memorandum 20-082 PI 20-05

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
THROUGH: KATIE KOESTER, CITY MANAGER  
FROM: RICK ABOUD AICP, CITY PLANNER  
DATE: JUNE 11, 2020  
SUBJECT: THE ELIMINATION OF THE REQUIREMENT FOR A GABLE ROOF DESIGN IN THE SMALL BOAT HARBOR OVERLAY DISTRICT (SBHO).

After processing the first Conditional Use Permit (CUP) for Overslope Development in the SBHO, the Planning Commission has determined that designs other than gabled roofs are appropriate for the district.

Current code requires that overslope development use a gabled roof design. After receiving support of the Port and Harbor Commission for an overslope design that deviated from a gabled roof, the Planning Commission removed the staff recommendation requiring a gabled roof design for approval of the CUP.

It was noted that it is challenging to design a two-story structure with a gabled roof that keep height below the maximum allowance of twenty-five feet. It was also recognized that designs other than gable can be aesthetically appealing.

The Planning Commission held a public hearing on the draft ordinance at their June 3, 2020 meeting. The Commission moved with the unanimous consent of the six commissioners present at the public hearing to recommend that the City Council eliminate the requirement of gabled roof designs

### **Attachments:**

Ordinance

Staff report and corresponding meeting minutes

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Planning

4 **ORDINANCE 20-xx**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING  
7 HOMER CITY CODE 21.46 SMALL BOAT HARBOR OVERLAY ZONING  
8 DISTRICT SECTION 21.46.060 ARCHITECTURAL STANDARDS, TO REMOVE  
9 THE REQUIREMENT FOR GABLED ROOFS.

10  
11 WHEREAS, the 2011 Homer Spit Comprehensive Plan suggests looking into developing  
12 appropriate guidelines for new development to maintain the character of the Homer Spit; and

13  
14 WHEREAS, structures located outside of the Overlay District have been developed  
15 without incorporating a gabled roof; and

16  
17 WHEREAS, a gabled roof requirement challenges the ability to design a two-story  
18 structure that does not exceed the 25 foot height restriction in the Overlay District; and

19  
20 WHEREAS, the Port and Harbor and Planning Commissions both approve of alternate  
21 roof designs; and

22  
23 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

24  
25 Section 1. Homer City Code 21.46.060, Architectural standards is hereby amended to read  
26 as follows:

27  
28 Overslope development shall conform to the following architectural standards:

29  
30 a. All buildings on the same overslope platform shall receive a common architectural  
31 treatment. The main color of the exterior walls of all buildings on an overslope  
32 platform shall be one or more earth or seascape tones.

33  
34 b. Not less than five percent of the area of an overslope platform area shall be outdoor  
35 public open space.

36  
37 c. Overslope development shall include pedestrian walkways that provide direct  
38 access between common areas in the overslope development and public rights-of-  
39 way.  
40

41 d. Opaque walls, fences or planter boxes, or any combination of them, shall be used to  
42 screen mechanical equipment and trash containers from view in adjacent public  
43 areas.

44  
45 e. The design of structures and outdoor pedestrian areas shall take into consideration  
46 environmental factors such as prevailing wind, salt spray, solar exposure, snow and  
47 heavy rains.

48  
49 f. Along the length of a building, the roofline shall not be continuous for more than 60  
50 feet. ~~Roofs shall be gabled.~~

51  
52 g. The maximum height of a building measured from the overslope platform or the  
53 adjacent grade to the highest roof peak shall not exceed 25 feet.

54  
55 h. A public access not less than eight feet wide to an area overlooking the harbor shall  
56 be provided at each end of an overslope platform and at intervals not greater than 150  
57 feet on the overslope platform.

58  
59 i. A continuous pedestrian corridor at least eight feet wide must extend the length of  
60 the overslope development, on either the harbor or the uplands side, or some  
61 combination thereof. The corridor must be clear of obstructions, but may be covered  
62 by an awning or roof overhang. The minimum eight-foot width of the corridor may not  
63 be counted to meet landscaping or public open space requirements.

64  
65 Section 3: This ordinance is of a permanent and general character and shall be included in  
66 the City Code.

67  
68 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_ DAY OF \_\_\_\_\_,  
69 2020.

70  
71 CITY OF HOMER

72  
73  
74  
75  
76 \_\_\_\_\_  
77 KEN CASTNER, MAYOR

78  
79 ATTEST:

80  
81 \_\_\_\_\_  
82 MELISSA JACOBSEN, MMC, CITY CLERK

83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99

YES:  
NO:  
ABSTAIN:  
ABSENT:  
  
First Reading:  
Public Hearing:  
Second Reading:  
Effective Date:  
  
Reviewed and approved as to form:

100 \_\_\_\_\_  
101 Marvin Yoder, Interim City Manager  
102  
103 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney  
  
Date: \_\_\_\_\_



# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 20-33

TO: Homer Planning Commission  
FROM: Rick Abboud, AICP, City Planner  
DATE: June 3, 2020  
SUBJECT: Architectural Standards SBHOD

---

#### Introduction

After reviewing proposed overslope development, both the Planning Commission and Port and Harbor Commission gave recommendations supporting structures without a gabled roof design.

#### Analysis

Currently, overslope development is required to have a gable roof. In practice, we have found that a gable roof design of a two-story structure presents a challenge for the structure to remain under the 25' height limit of the overslope district when a two-story structure is desired. Additionally, it has been found that alternate roof designs may be able to provide better functionality, while being aesthetic pleasing. Overslope development was approved by CUP 20-05 with the concurrence of the Port and Harbor Commission. The rendering of the structure displayed a shed roof design and the Planning Commission removed the staff language that a gabled roof design be a requirement.

The Homer Spit Comprehensive Plan documents the support for the eclectic nature of the spit. All overslope development requires a Conditional Use Permit and will be subject to public comment and the scrutiny of the Planning Commission. Design features are part of the review of the CUP. Eliminating the requirement in code for a gabled roof will allow the Planning Commission to consider and the Planning Office to permit structures with designs other than gabled roofs in the Small Boat Harbor Overlay District.

#### Staff Recommendation

Recommend that the City Council approve the proposed draft ordinance.

#### Attachments

Draft Ordinance

Recent Planning Commission and Port & Harbor Commission minutes excerpts (with irrelevant portions greyed-out)

### **21.95.040 Planning Department review of code amendment.**

The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

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

***Staff response***

The Homer Spit Comprehensive Plan encourages economic development without compromising the unique character of the Spit (p. 2). Goal 3.1, *Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit* includes an objective to determine incentives needed to promote overslope development (p. 40). Allowing for the consideration of alternative roof design does help promote overslope development by allowing structure to more easily comply with the 25' height requirement of the district.

**b. Will be reasonable to implement and enforce.**

***Staff response***

Nothing in the ordinance will introduce a regulation that would not be reasonable to enforce.

**c. Will promote the present and future public health, safety and welfare.**

***Staff response***

The draft ordinance is not anticipated to affect public health safety and welfare.

**d. Is consistent with the intent and wording of the other provisions of this title.**

***Staff response***

The ordinance has been reviewed by the City Attorney and no inconsistency has been found by the City Planner.



Commissioner Bentz inquired about process for public comment from persons attending the meeting.

Staff responded that they would not be allowed to comment if they have not signed up prior to the meeting.

SMITH/HIGHLAND MOVED TO RECOMMEND THE PLANNING COMMISSION ADOPT STAFF REPORT 20-24 AND APPROVE CUP 20-06 WITH FINDINGS 1-10 AND CONDITION 1 AS FOLLOWS:

1. ANY ADDITIONAL LIGHTING MUST BE DOWN LIT PER HCC 21.69.303 AND THE COMMUNITY DESIGN MANUAL

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**B. Staff Report 20-23, Conditional Use Permit 20-05 for a harbor overslope development at 4081A Freight Dock Rd.**

Chair Venuti introduced the item by reading of the title into the record and requested if anyone on the Commission had a conflict to declare.

Deputy City Clerk noted the declared the conflict of interest and requested a motion.

Commissioner Petska Rubalcava declared she had a conflict of interest.

BENTZ/HIGHLAND - MOVED THAT COMMISSIONER RUBALCAVA HAD A CONFLICT OF INTEREST.

A brief discussion ensued with Commissioner Rubalcava declaring that she assisted the applicant with the design of the project.

VOTE. YES. BENTZ, HIGHLAND, VENUTI, DAVIS, SMITH

Motion carried.

Commissioner Petska –Rubalcava turned her mic off and did not participate in this portion of the meeting.

City Planner Abboud provided a summary review of Staff Report 20-23 for the commission noting that there were two conditions recommended. The first condition is the standard requirement on a CUP that all dumpsters be screened on three sides as well as inclusion of any electrical boxes and the second condition was the design of the roof should be modified to a gable type roof from the shed style roof depicted in the drawings. City Planner Abboud then

focused on the requirements in City Code of a gabled roof. He has no objection to amending city code but is not sure how that will affect this project in timing.

Commissioner Bos joined the meeting in progress at 6:00 p.m.

Suvi Bayly, applicant, provided a review of the project commenting on the history of the Homer Spit Oyster Bar, reuse of the oyster shells by herself and local residents, roof design and her passion for architecture while acknowledging the other buildings on the Homer Spit with similar roof designs stating if there was something that could be done to leave the shed roof design she would welcome that and if not she understood. Ms. Bayly explained the permits that she has obtained and will be getting within two weeks and is on schedule to get the project started by the first of June.

Chair Venuti opened the Public Hearing and confirming with the Clerk that there were no members of the public present to provide testimony he closed the public hearing and opened the floor to the Commission for questions.

A discussion ensued on the following points:

- Location in proximity to the Load & Launch Ramp
  - o Harbormaster recommended the location and Port & Harbor Advisory Commission reviewed and had no problem with the location selected.
  - o Impacts to the boat traffic in the harbor
- Notification of the Public
  - o Concern that length of notification was not adequate
  - o Notification was followed as outlined and required in city code, notices mailed to all property owners and this was advertised in the newspaper and on the city website.
- Parking
  - o There is ample parking in the public lot adjacent and next to the selected location
- Roof design
  - o Support was expressed by several of the Commissioners on the shed roof design
  - o Suggestion to modify or exclude Condition #2
  - o It was noted that a precedence was set for non-gabled roof design in other areas of the Spit
    - The Harbormaster's Office is not in the district and other buildings on the spit not considered as overslope development
  - o This is the first project using the new overslope development code
  - o Referred to the information/comments in the Staff Report 20-23 regarding the roof design

There was a brief discussion on making changes to the conditions recommended in Staff Report 20-23 and the process to reflect those changes. The Commission can remove or amend it with the basis for taking that action.

SMITH/BENTZ - MOVED TO ADOPT STAFF REPORT 20-23 AND RECOMMEND PLANNING COMMISSION APPROVE CONDITIONAL USE PERMIT 20-05 WITH FINDINGS 1-10 AND CONDITIONS 1 AND 2 AS FOLLOWS:

1. TRASH CONTAINERS SHALL BE SCREENED ON THREE SIDES AND ELECTRICAL BOXES SHALL BE SCREENED
2. THE ROOF SHALL BE MODIFIED TO A GABLED DESIGN THAT FITS WITHIN THE REQUIREMENTS OF THE OVERSLOPE DEVELOPMENT.

There was a brief discussion on amending condition two. Commissioner Bentz expressed that the current design fits the space and was within the height requirements and that architecturally the design and plan is appropriate for the district and would encourage an exception to the city code language and supported the plan.

Chair Venuti requested clarification on process from the Clerk.

Deputy City Clerk Krause explained that the Commission can offer to amend or remove Condition two by amending the motion.

BENTZ/SMITH MOVED TO AMEND THE MOTION TO REMOVE CONDITION TWO, THE ROOF SHALL BE MODIFIED TO A GABLED DESIGN THAT FITS WITHIN THE REQUIREMENTS OF OVERSLOPE DEVELOPMENT.

There was no discussion.

VOTE. (Amendment). NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion on the main motion as amended.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Petska-Rubalcava returned to the meeting by turning on her mic and returning to view of the camera.

#### **PLAT CONSIDERATION**

- A. Staff Report 20-25, Nedosik 1998 Tract C Jack Hamilton Replat No. 2 Preliminary Plat



Session 20-03, a Regular Meeting of the Port and Harbor Advisory Commission was called to order by Chair Steve Zimmerman at 5:03 p.m. on March 25, 2020 in the Cowles Council Chambers, City Hall located at 491 E Pioneer Avenue, Homer, Alaska. Due to the COVID 19 Pandemic this meeting was conducted electronically as outlined by Ordinance 20-15

**PRESENT (TELEPHONIC):** COMMISSIONERS ZIMMERMAN, ULMER, STOCKBURGER, DONICH, CARROLL, ZEISET, AND ERICKSON

**STAFF (TELEPHONIC):** PORT DIRECTOR/HARBORMASTER HAWKINS

**(PHYSICALLY):** CITY CLERK JACOBSEN  
DEPUTY CITY CLERK KRAUSE

### **AGENDA APPROVAL**

Chair Zimmerman requested a motion to approve the agenda.

ULMER/STOCKBURGER MOVED TO APPROVE THE AGENDA AS WRITTEN.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

### **RECONSIDERATION**

### **APPROVAL OF MINUTES**

### **VISITORS/PRESENTATIONS**

### **STAFF & COUNCIL REPORT/COMMITTEE REPORTS**

### **PUBLIC HEARING**

### **PENDING BUSINESS**

### **NEW BUSINESS**

- A. Memorandum from Port Director/Harbormaster re: Lease Application - Homer Spit Oyster Bar  
Lease Application - Homer Spit Oyster Bar

Chair Zimmerman introduced the item into the record by reading of the title.

Port Director/Harbormaster Hawkins provided a summary of his report to the Commission.

Chair Zimmerman opened the floor for discussion and questions of the Commission.

Commissioners discussed, commented and received input from Port Director Hawkins on the following:

- Numbers and proposal were well thought out and appeared to be realistic
- Financial back up plan included for the project
- Concerns expressed regarding funding available to complete the project
- **Supported the project to start overslope development**
- Considerations regarding parking and/or designated parking, permitted parking for employees of businesses
- Parking for patrons for new business
- The location for the proposed development

ZIMMERMAN/ERICKSON MOVED TO SUSPEND THE RULES TO ALLOW APPLICANT TO PROVIDE INFORMATION AND RESPOND TO COMMISSIONERS QUESTIONS

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Suvi Bayly, Lease Applicant, provided details on the licensing, location selection and on the time involved in bringing the project to completion.

Commissioners offered their opinions on the following:

- Great location selection
- Well thought out plan and hoped it could be accomplished for the amount budgeted
- General support for the overall project

ULMER/STOCKBURGER MOVED THAT THE PORT AND HARBOR ADVISORY COMMISSION RECOMMENDS CITY COUNCIL APPROVE THE LEASE APPLICATION FROM HOMER SPIT OYSTER BAR FOR OVERSLOPE DEVELOPMENT

There was no additional discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. Memorandum from Port Director/Harbormaster re: Lease Application – Sea Tow South Central Alaska
- i. Lease Application – Sea Tow South Central Alaska

Motion carried.

## **VISITORS/PRESENTATIONS**

### **REPORTS**

#### A. Staff Report 20-32, City Planner's Report

City Planner Abboud provided a summary of Staff Report 20-32 noting the discussion at the May 26, 2020 City Council meeting on CARES Act Funding, litigation has been continued, Planning Department has been staffed with limited presence in office, worklist is being addressed, and a brief discussion on the Commission report to City Council will be submitted by Chair Venuti.

City Planner Abboud provided clarification on the public hearing process for the Medical District and that the public will be invited to attend and comment. He noted that in discussing the process with Chair Venuti he stated that any issues occur to not hesitate to carry it over to the next meeting date.

Chair Venuti noted the arrival of Commissioner Petska-Rubalcava at 6:42 p.m.

### **PUBLIC HEARING(S)**

Staff Report 20-33, Proposed ordinance to remove the gabled roof requirement within the Small Boat Harbor Overlay Zoning District HCC 21.46.060 Architectural Standards

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud provided a summary review of Staff Report 20-33 for the Commission. He noted that this item was presented to this Commission and the Port & Harbor Advisory Commission who provided supported and recommended Council approve the project.

Chair Venuti opened the Public Hearing. He inquired if there were any members of the Public who signed up to testify.

Deputy City Clerk Krause noted that there were no requests to provide testimony.

Chair Venuti closed the Public Hearing having no further requests to provide testimony and opened the floor to questions of the Commission.

SMITH/HIGHLAND MOVED TO ADOPT STAFF REPORT 20-33 AND FORWARD A RECOMMENDATION TO CITY COUNCIL TO APPROVE A DRAFT ORDINANCE AMENDING 21.46 SMALL BOAT HARBOR OVERLAY ZONING DISTRICT, SECTION 21.46.060 ARCHITECTURAL STANDARDS TO REMOVE THE REQUIREMENT FOR GABLED ROOFS.



There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

~~B. Staff Report 20-34, Proposed ordinance to amend HCC 21.60 Sign Code Tables 1, 2 & 3~~

~~Chair Venuti introduced the item by reading of the title into the record.~~

~~City Planner Abboud provided a summary of Staff Report 20-34 for the Commission. He was glad to finally be bringing the draft sign code before the commission noting the prior work that had been addressed on this issue. He mentioned there was one component not addressed by the commission and that was a master sign permit but after review, it was not recommended by the City Attorney.~~

~~Chair Venuti opened the Public Hearing and confirming with the Clerk that there were members of the public attending to provide testimony. Invited the public to speak to the Commission.~~

~~Dr. Bill Richardson, EDC Commissioner and city resident commented in support of the ordinance and provided some background on the business aspect and understanding of the sign code. He believed these changes would enable the business community to effectively advertise their businesses.~~

~~Chair Venuti closed the public hearing having no additional members of the public present for testimony and opened the floor to the Commission for questions.~~

~~There was a brief discussion with City Planner Abboud providing clarification on Table 1 shown on page 34 and page 37 of the packet with regard to the word "neon" and (b) referenced the note on page 35 and was already included in Homer City Code.~~

~~HIGHLAND/SMITH MOVED TO ADOPT STAFF REPORT 20-34 AND FORWARD A RECOMMENDATION TO CITY COUNCIL TO APPROVE A DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.60, SIGN CODE TABLES 1, 2 AND 3.~~

~~There was no discussion.~~

~~VOTE. NON-OBJECTION. UNANIMOUS CONSENT.~~

~~Motion carried.~~



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-30**

An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital budget by Authorizing the Expenditure of up to \$47,484 to Design the Seawall Armor Rock Improvement Project.

Sponsor: Aderhold/City Manager

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-083 from City Engineer as backup
  - b. Memorandum 20-072 from City Engineer as backup
  - c. Memorandum 20-073 from City Engineer as backup
  
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-083 from City Engineer as backup
  - b. Memorandum 20-072 from City Engineer as backup
  - c. Memorandum 20-073 from City Engineer as backup

1 CITY OF HOMER  
2 HOMER, ALASKA

Aderhold/City Manager

3  
4 ORDINANCE 20-30

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING THE 2020 CAPITAL BUDGET BY AUTHORIZING THE  
8 EXPENDITURE OF UP TO \$47,484 TO DESIGN THE SEAWALL  
9 ARMOR ROCK IMPROVEMENT PROJECT.

10  
11 WHEREAS, Seawall maintenance costs have been increasing; ~~and~~ ~~the~~ special service  
12 district mil rate that funds this effort will need to be dramatically increased to repair existing  
13 damage and expected future damage unless long term solutions are implemented; ~~;~~ and  
14

15 WHEREAS, Installation of armor rock to protect the toe of the wall from further erosion  
16 is considered to be the most economical method of minimizing current repair and long term  
17 maintenance costs; ~~;~~ and  
18

19 WHEREAS, The City Council has recognized that it is imperative that the wall be  
20 protected from further erosion by December 2020, since significant damage from the 2019  
21 winter storms threatens the wall's integrity (see Memorandum 20-072 and 20-073 from Public  
22 Works); and  
23

24 WHEREAS, A property owner in the Ocean Drive Loop Special Service District (Seawall)  
25 has initiated the process to form a Special Assessment District to pay for the installation of  
26 armor rock along the seawall (the Seawall Armor Rock Improvement project); and  
27

28 WHEREAS, Based on the timeline for the Seawall Armor Rock Improvement project  
29 provided to the Homer City Council supported the initiation of design of the Seawall Armor  
30 Rock Improvements project at for the June 8 City Council meeting based on the timeline  
31 established and requested that an ordinance be placed on the June 22 Council meeting  
32 agenda to formally authorize expenditures on project design is timely; and  
33

34 WHEREAS, based on ~~the support for design initiation~~ initiation of a Special Assessment  
35 District process, Public Works has submitted an application for a U.S. Army Corps of Engineer's  
36 permit and for an Alaska Department of Environmental Conservation (ADEC) low interest loan  
37 for the project; and  
38

39 WHEREAS, The City Council would accept the ADEC low interest loan only if a Special  
40 Assessment District is formed for the project; and  
41

42 WHEREAS, The expenditures required to complete the construction of the Seawall  
43 Armor Rock Improvement project would only be authorized by the City Council if a Special  
44 Assessment District is formed to construct the recommended erosion control improvements.  
45

46 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
47

48 Section 1. Amending the 2020 Capital Budget  
49

50 Expenditure

51 <u>Account No.</u>	52 <u>Description</u>	53 <u>Amount</u>
54 156-0369-5261	55 City Seawall Maintenance Fund	56 \$ 5,698 (12%)
57 808-0375-5261	58 Seawall Special Service Area Fund	59 \$ 41,786 (88%)
	60 Total Expenditure	61 \$47,484

62 Section 2. This is a budget ordinance and shall not be codified.  
63

64 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this \_\_\_ day of \_\_\_\_\_,  
65 2020.

66 CITY OF HOMER

67 \_\_\_\_\_  
68 KEN CASTNER, MAYOR

69 ATTEST:

70 \_\_\_\_\_  
71 MELISSA JACOBSEN, MMC, CITY CLERK

72 YES:

73 NO:

74 ABSTAIN:

75 ABSENT:

76 First Reading:

77 Public Hearing:

78 Second Reading:

79 Effective Date:

80 Reviewed and Approved as to form and content:  
81  
82  
83

84 \_\_\_\_\_  
85 Rick Abboud, Acting City Manager  
86  
87 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney  
  
Date: \_\_\_\_\_



## Memorandum 20-083

TO: Mayor Castner and Homer City Council  
THRU: Rick Abboud, Acting City Manager  
FROM: Carey Meyer, City Engineer  
DATE: June 17, 2020  
SUBJECT: Ordinance 20-30 Authorizing Seawall Design Funds

---

Property owners, City Council members, maintenance crews and myself have expressed concern about the condition of the seawall and its ability to continue to protect property behind the wall:

- 1) Seawall maintenance costs have been increasing substantially in recent years,
- 2) The seawall maintenance budget, authorized to be spent this year, has been spent,
- 3) Full repairs of significant damage from the 2019 winter storms are estimated to approach \$100,000,
- 4) In 2019, the Council approved funding for a study to identify alternative solutions (from the Ocean Drive Loop Special Service District seawall maintenance account), and this was completed,
- 5) Protecting the toe of the wall with armor rock appears to be the most cost effective solution, property owners have shown support for implementing this solution,
- 6) A property owner requested SAD creation process is underway,
- 7) The timeline to assure that armor rock is in place by November of this year (eliminating the need for significant repair) requires prompt action now in order to proceed with the SAD creation process and procurement (see attached timeline).

Allowing the normal process to play out – benefited property owner engagement, Council action to create a Special Assessment District, design, environmental permitting, construction bidding, contract award, quarrying of the rock, transporting it to the site, and placement of the rock; traditionally will not allow for project completion in the timeframe required this year.

Any improvements to the seawall must be completed under the existing Corps of Engineers permit (the Corps has ruled that the City is the entity with the permit). The design and permitting for the project needs to be initiated quickly by the City if the work is to be completed this year.

The existing Ocean Drive Loop Special Service District fund (containing funds collected by the Borough through property tax, designated for seawall maintenance) can be used to design and

construct improvements to the seawall. The account balance currently is approximately \$60,000.

**Recommendation:** The City Council authorize the expenditure of \$47,484 to complete seawall improvement design (12% from the City's Seawall Maintenance Fund/88% from the Seawall Special Service Area Fund). Funds will be utilized to complete a design survey, prepare bid ready drawings and specifications, complete required rock size calculations, and support environmental permitting.



# City of Homer

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

## Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907-235-3170

(f) 907-235-3145

## Memorandum 20-072

**TO:** Marvin Yoder, City Manager  
**FROM:** Carey Meyer, City Engineer  
**DATE:** May 11, 2020  
**SUBJECT:** Seawall Failure Concerns

---

Rigid (steel) sheet piling is typically driven into the ground to a depth that allows it to support itself and resists loads applied from behind the wall (and in the case of a seawall wave forces from the front).

Our seawall was designed to utilize less rigid piling and tie-rods connected to concrete blocks (sometimes called dead men) buried behind the wall to provide the additional support necessary. See attached drawing. The blocks are tie-rodged to the wall. This tie-rod technique is used successfully in many civil engineering applications.

The vulnerability of this technique is that loss of the backfill in which the tie-rodged concrete “dead men” block is buried can result in the loss of structural support of the wall. As long as the wall protects the material behind the wall, the concrete blocks will continue to provide wall support.

Since the wall was backfilled with dredge spoils (sand), this material is very erodible.

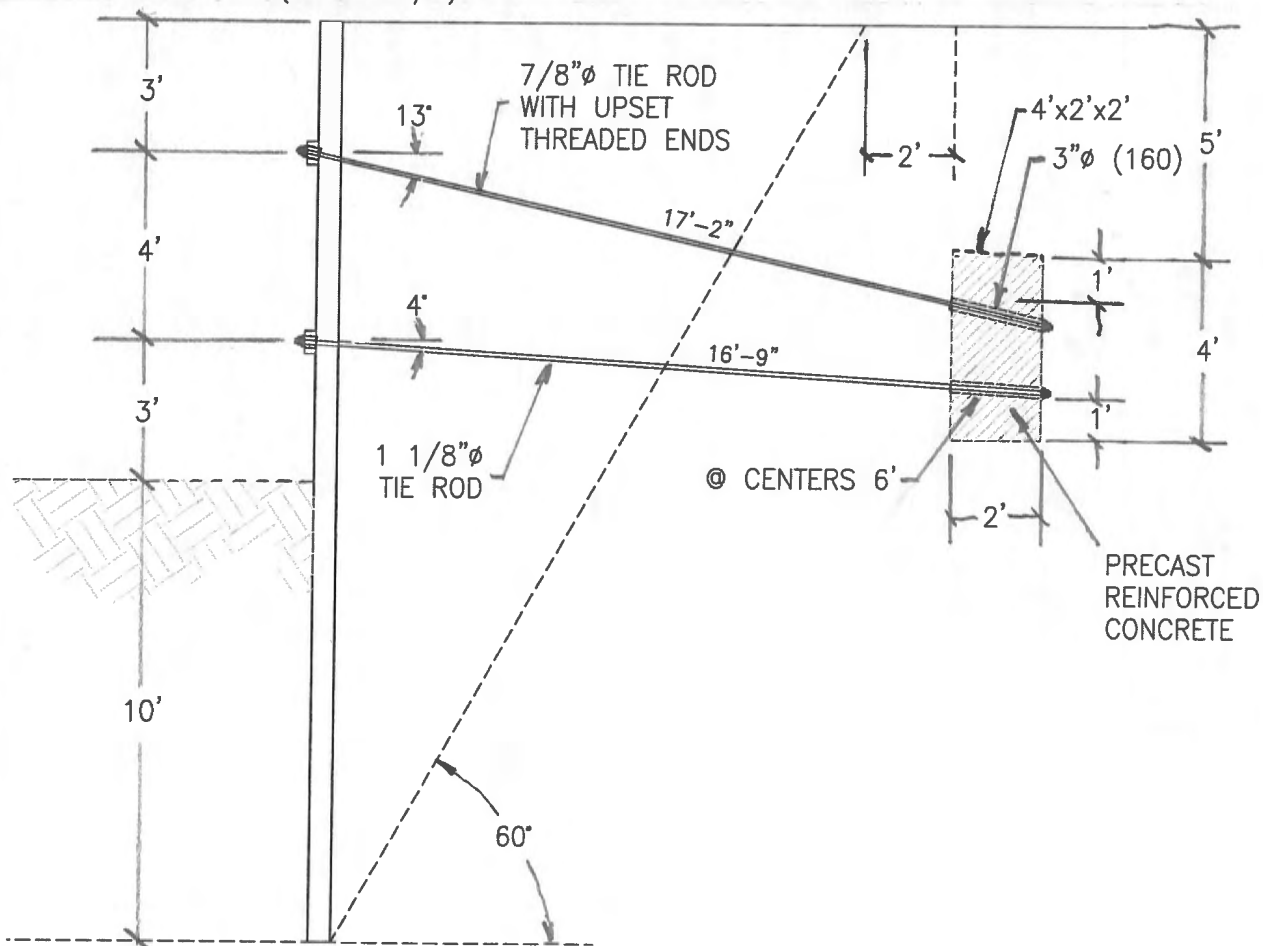
The fear that I have expressed (regarding complete failure of the wall) stems from the potential that should a section of wall be punctured (most probable during a significant winter storm), material from behind the punctured wall section would begin eroding away. This would expose and undermine the concrete block and eliminate support of that wall section.

Once one wall section was lost, material behind the adjacent wall section would begin to erode, exposing and undermining its dead man concrete block, removing structural support of the adjacent wall section. This would trigger the loss of the adjacent wall section and this would domino down the wall, potentially taking out the entire wall. In a storm this would happen very quickly.

**Why is this important now?** An inspection in April determined that 20 of the 85 wood panels that protect the sheet piling from damage needs significant rebuild (cost approaching \$100,000). In addition, sinkholes behind the wall are more frequent, indicating puncturing of the fiberglass sheet piling. The sheet piling behind one wood panel has experience significant damage this last winter and is particularly susceptible to the type of wall failure described above.

This year’s allocated maintenance budget has been spent (approximately \$45,000), make necessary repairs between January 1 and April 30.

WALER  
STRUCTURAL TUBE  
(TS 6x3x3/8)



C:\PhukanLogo.jpg	Civil Geotechnical Surveying Environmental Construction Materials Testing 2702 Gambell Street, Suite 201 Anchorage, Alaska, 99503 Tele: (907) 272-7111 Fax: (907) 277-3177 Email: pcarie@alaska.net	DATE	12/11/01	FIGURE 1  -  -  EROSION CONTROL PROJECT HOMER, AK
		SCALE	1/4" = 1'-0"	
		FILE NAME	FIG-DRAFT	
		JOB NO.	01965.1	
			216	





# City of Homer

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

## Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907-235-3170

(f) 907-235-3145

## Memorandum 20-073

**TO:** Marvin Yoder, City Manager  
**FROM:** Carey Meyer, City Engineer  
**DATE:** May 28, 2020  
**SUBJECT:** Seawall Alternatives

---

Seawall maintenance costs have been increasing. The special service district mil rate that funds this effort will need to be increased. The wall was battered this winter – significant damage threatens the wall’s integrity. 20 of the 85 wood panels needs significant rebuild (cost approaching \$100,000). In addition, sinkholes behind the wall are more frequent, indicating failure of the fiberglass sheet piling along the toe.

Damage to the wall is a direct result of erosion at the bottom of the wall. Erosion of the toe exposes the fiberglass sheet pile (below the protective timber face). This makes it easier for wave forces to get behind the timber panels, breaking them and damaging the sheet pile. Holes in the sheet pile at the bottom of the wall allow material from behind the wall to escape. The wall is structurally supported by tie-rodged concrete blocks buried behind the wall. Protection the toe of the wall from erosion will significantly reduce maintenance costs and extend wall life.

This year’s maintenance budget has been spent (approximately \$45,000). This will get us through the summer, but another winter like the last one, I fear, may very well result in complete wall failure.

The City has been looking at workable, affordable solutions. Protecting the toe of the wall with armor rock seems to be the most practical cost effective solution. Public Works has prepared a map, conceptual cost estimate, and spreadsheets (all attached) to help the Council and property owners evaluate what property is benefitted, how improvement/maintenance districts might be established, calculating potential assessments under each potential assessment method (for both construction of the armor rock improvements and the special service district funding long term maintenance).

Currently, the most realistic approach seems to be the creation of a special service district (SAD) for the cost of placement of the armor rock (administered by the City, assessment methods not yet determined); and a special service district for long-term maintenance costs (collected by the Borough similar to the existing SDD, mil rate not yet determined).

Financing for the armor rock placement has also not been determined; options being considered include direct City financing and use of low interest ADEC/EPA revolving loan funds.

The following is a brief introduction to the maps, cost estimates, and spreadsheets attached:

The **map** shows historical erosion, projected erosion, lots potentially impacted by erosion as defined in the Coastal Erosion Study (updated in 2006). The map shows potential expanded special assessment/service district boundaries. The map shows more lots than those immediately behind the wall that benefit from the wall (i.e. - loss of Krueth Way eliminates road access and utilities serving several lots). Lots shaded beige are properties that currently contribute to seawall maintenance; lots shaded blue are properties that one could argue also benefit from the existence of the seawall.

**Conceptual Cost Estimate** shows the estimated cost of placing armor rock (as defined in the HDR memo) that evaluated alternative methods of protecting the toe of the wall from erosion. This cost reflects discussions with local contractors (that complete this type of work using rock produced from across the Bay).

**Spreadsheet #1 Seawall SAD Analysis – Current District Members Only** reflects physical characteristics of lots that currently remain in the original district; and potential assessment costs (under several assessment methodologies) for a \$1.47M armor rock improvement.

**Spreadsheet #2 Seawall Special Assessment District (SAD) – Armored Toe Improvement** reflects the physical characteristics of each of the lots potentially benefitted by the seawall; and estimates assessments (for a \$1.47M project) under several different assessment methods.

**Spreadsheet #3 Seawall Overall Assessment Analysis** reflects the KPB tax value of each of the lots potentially benefitted by seawall (blue columns), and calculates in the orange column, 1) total annual assessments (for both rock placement and maintenance) if only those lots that are located directly behind the wall are included (base on equal share assessments for rock placement), and 2) the same for an expanded district (green columns).

# #1 SEAWALL SPECIAL ASSESSMENT DISTRICT (SAD) ANALYSIS - Current District Members Only

EST. ARMOR ROCK IMPROVEMENT COST = \$1,474,824

PARCEL ID	KPB PARCEL_ID	LOT ADDRESS	OWNER	LOT CHARACTERISTICS							ALTERNATIVE ASSESSMENTS METHODS				
				DIRECT WALL FRONTAGE (LF)	KPB LAND VALUE	KPB STRUCTURE VALUE	TOTAL ASSESSED VALUE	TAXABLE VALUE	LOT AREA (SF)	BENEFITTED LOT AREA (SF)	DIRECT WALL FRONTAGE	KPB PROPRTY VALUE	LOT AREA	BENIFITTED LOT AREA	EQUAL SHARE
A	17718019	829 OCEAN DRIVE LOOP	NEWBY REVOCABLE TRUST	200	\$ 127,200	\$ 325,500	\$ 452,700	\$ 102,700	50,682	39,500	\$180,407	\$185,222	\$157,056.65	\$233,891	\$105,344.57
B	17718016	869 OCEAN DRIVE LOOP	SZAJKOWSKI JOHN J & JANET L	100	\$ 120,900	\$ 366,800	\$ 487,700	\$ 137,700	25,329	18,719	\$90,203	\$199,543	\$78,491.14	\$110,841	\$105,344.57
			HOMER CITY OF	30	TBD		TBD	TBD	TBD	TBD	\$27,061	TBD	TBD	TBD	TBD
C	17717701	895 OCEAN DRIVE LOOP	HUEPER MARILYN	110	\$ 117,000	\$ 461,500	\$ 578,500	\$ 528,500	25,679	17,122	\$99,224	\$236,694	\$79,575.74	\$101,384	\$105,345
D	17717702	917 OCEAN DRIVE LOOP	NORMAN W SCHUMACHER TRUST	115	\$ 64,600	\$ 118,900	\$ 183,500	\$ 183,500	26,568	10,582	\$103,734	\$75,079	\$82,330.63	\$62,659	\$105,345
E	17717703	939 OCEAN DRIVE LOOP	IRWIN PATRICK L	100	\$ 53,700	\$ 71,900	\$ 125,600	\$ 75,600	27,411	7,209	\$90,203	\$51,389	\$84,942.98	\$42,687	\$105,345
F	17717704	957 OCEAN DRIVE LOOP	PFEFFER MARK E REVOCABLE TRUST	100	\$ 44,900	\$ 1,500	\$ 46,400	\$ 46,400	28,247	6,128	\$90,203	\$18,985	\$87,533.63	\$36,286	\$105,345
G	17717705	979 OCEAN DRIVE LOOP	ABBOTT FINDLAY	100	\$ 31,900	\$ 1,500	\$ 33,400	\$ -	29,075	5,310	\$90,203	\$13,666	\$90,099.49	\$31,442	\$105,345
H	17717706	997 OCEAN DRIVE LOOP	HOMER CITY OF	100	\$ 2,100	\$ -	\$ 2,100	\$ -	29,977	3,414	\$90,203.30	\$859	\$92,894.66	\$20,215	\$105,345
I	17717707	1017 OCEAN DRIVE LOOP	HOMER CITY OF	100	\$ 2,600	\$ -	\$ 2,600	\$ -	42,759	5,500	\$90,203.30	\$1,064	\$132,504.35	\$32,567	\$105,345
			HOMER CITY OF	60	TBD		TBD	TBD	TBD	TBD	\$54,121.98	TBD	TBD	TBD	TBD
J	17717904	3102 LAKE ST	JUMP CHARLENE A	100	\$ 106,000	\$ 148,300	\$ 254,300	\$ -	30,555	12,735	\$90,203.30	\$104,047	\$94,685.81	\$75,408	\$105,345
K	17717903	1065 KRUETH WAY	GOODE LARRY JACK LIVING TRUST	140	\$ 111,500	\$ 405,100	\$ 516,600	\$ 516,600	37,135	13,948	\$126,284.62	\$211,367	\$115,076.33	\$82,590	\$105,345
L	17923036	1103 KRUETH WAY	KING LAWRENCE A	130	\$ 96,700	\$ 320,700	\$ 417,400	\$ 417,400	56,319	56,319	\$117,264.29	\$170,779	\$174,524.95	\$333,482	\$105,345
M	17923026	1121 SEA BREEZE CT	FRANKLIN CAMARRON JAY	75	\$ 73,200	\$ 181,400	\$ 254,600	\$ 254,600	17,180	15,890	\$67,652.48	\$104,170	\$53,238.49	\$94,089	\$105,345
N	17923028	1137 SEA BREEZE CT	LAWER DAVID A	75	\$ 94,000	\$ 155,200	\$ 249,200	\$ 249,200	49,008	36,695	\$67,652.48	\$101,960	\$151,869.15	\$217,282	\$105,345
				1,635	\$ 1,046,300	\$ 2,558,300	\$ 3,604,600	\$ 2,512,200	475,924	249,071	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824

## #2 SEAWALL SPECIAL ASSESSMENT DISTRICT (SAD) ANALYSIS - ARMORED TOE IMPROVEMENT

EST. ARMOR ROCK IMPROVEMENT COST = \$1,474,824

PARCEL ID	KPB PARCEL_ID	LOT ADDRESS	OWNER	LOT CHARACTERISTICS								ALTERNATIVE ASSESSMENTS METHODS					
				DIRECT WALL FRONTAGE (LF)	KPB LAND VALUE	KPB STRUCTURE VALUE	TOTAL ASSESSED VALUE	TAXABLE VALUE	LOT AREA (SF)	BENEFITTED LOT AREA (SF)	% TIERED BENEFIT	DIRECT WALL FRONTAGE	KPB PROPRTY VALUE	LOT AREA	BENEFITTED LOT AREA	TIERED BENEFIT	EQUAL SHARE
A	17718019	829 OCEAN DRIVE LOOP	NEWBY REVOCABLE TRUST	200	\$ 127,200	\$ 325,500	\$ 452,700	\$ 102,700	50,682	39,500	100	\$190,916	\$107,185	\$102,738	\$122,101	\$71,943	\$56,724
B	17718016	869 OCEAN DRIVE LOOP	SZAJKOWSKI JOHN J & JANET L	100	\$ 120,900	\$ 366,800	\$ 487,700	\$ 137,700	25,329	18,719	100	\$95,458	\$115,471	\$51,345	\$57,864	\$71,943	\$56,724
C	17717701	895 OCEAN DRIVE LOOP	HUEPER MARILYN	110	\$ 117,000	\$ 461,500	\$ 578,500	\$ 528,500	25,679	17,122	100	\$105,004	\$136,970	\$52,054	\$52,927	\$71,943	\$56,724
D	17717702	917 OCEAN DRIVE LOOP	NORMAN W SCHUMACHER TRUST	115	\$ 64,600	\$ 118,900	\$ 183,500	\$ 183,500	26,568	10,582	100	\$109,777	\$43,447	\$53,856	\$32,711	\$71,943	\$56,724
E	17717703	939 OCEAN DRIVE LOOP	IRWIN PATRICK L	100	\$ 53,700	\$ 71,900	\$ 125,600	\$ 75,600	27,411	7,209	100	\$95,458	\$29,738	\$55,565	\$22,284	\$71,943	\$56,724
F	17717704	957 OCEAN DRIVE LOOP	PFEFFER MARK E REVOCABLE TRUST	100	\$ 44,900	\$ 1,500	\$ 46,400	\$ 46,400	28,247	6,128	100	\$95,458	\$10,986	\$57,260	\$18,943	\$71,943	\$56,724
G	17717705	979 OCEAN DRIVE LOOP	ABBOTT FINDLAY	100	\$ 31,900	\$ 1,500	\$ 33,400	\$ -	29,075	5,310	100	\$95,458	\$7,908	\$58,938	\$16,414	\$71,943	\$56,724
H	17717706	997 OCEAN DRIVE LOOP	HOMER CITY OF	100	\$ 2,100	\$ -	\$ 2,100	\$ -	29,977	3,414	100	\$95,458	\$497	\$60,767	\$10,553	\$71,943	\$56,724
I	17717707	1017 OCEAN DRIVE LOOP	HOMER CITY OF	100	\$ 2,600	\$ -	\$ 2,600	\$ -	42,759	5,500	100	\$95,458	\$616	\$86,677	\$17,001	\$71,943	\$56,724
J	17717904	3102 LAKE ST	JUMP CHARLENE A	100	\$ 106,000	\$ 148,300	\$ 254,300	\$ -	30,555	12,735	100	\$95,458	\$60,210	\$61,939	\$39,366	\$71,943	\$56,724
K	17717903	1065 KRUETH WAY	GOODE LARRY JACK LIVING TRUST	140	\$ 111,500	\$ 405,100	\$ 516,600	\$ 516,600	37,135	13,948	100	\$133,641	\$122,314	\$75,277	\$43,116	\$71,943	\$56,724
L	17923036	1103 KRUETH WAY	KING LAWRENCE A	130	\$ 96,700	\$ 320,700	\$ 417,400	\$ 417,400	56,319	56,319	100	\$124,095	\$98,827	\$114,165	\$174,091	\$71,943	\$56,724
M	17923026	1121 SEA BREEZE CT	FRANKLIN CAMARRON JAY	75	\$ 73,200	\$ 181,400	\$ 254,600	\$ 254,600	17,180	15,890	100	\$71,593	\$60,281	\$34,826	\$49,119	\$71,943	\$56,724
N	17923028	1137 SEA BREEZE CT	LAWER DAVID A	75	\$ 94,000	\$ 155,200	\$ 249,200	\$ 249,200	49,008	36,695	100	\$71,593	\$59,002	\$99,345	\$113,430	\$71,943	\$56,724
O	17923029	1143 SEA BREEZE CT	LAWER DAVID A & BETSY		\$ 99,100	\$ 452,700	\$ 551,800	\$ 551,800	46,649	28,273	50		\$130,648	\$94,563	\$87,397	\$35,971	\$56,724
P	17923030		LAWER CHILDRENS TRUST		\$ 37,600	\$ -	\$ 37,600	\$ 37,600	13,510	13,510	50		\$8,902	\$27,386	\$41,762	\$35,971	\$56,724
Q	17923033	1136 SEA BREEZE CT	LAWER SARAH 2012 TRUST		\$ 62,800	\$ 145,300	\$ 208,100	\$ 208,100	25,035	25,035	50		\$49,271	\$50,749	\$77,387	\$35,971	\$56,724
R	17923027	1120 SEA BREEZE CT	LAWER SARAH 2012 TRUST		\$ 31,300	\$ 1,500	\$ 32,800	\$ 32,800	15,726	15,726	50		\$7,766	\$31,878	\$48,612	\$35,971	\$56,724
S	17717807		SCHEFFEL TIM		\$ 42,400	\$ -	\$ 42,400	\$ 42,400	21,504	21,504	50		\$10,039	\$43,591	\$66,472	\$35,971	\$56,724
T	17717808	1054 KRUETH WAY	MATTHEWS KELLY E		\$ 38,200	\$ 455,100	\$ 493,300	\$ 443,300	14,294	14,294	50		\$116,797	\$28,976	\$44,185	\$35,971	\$56,724
U	17717614	3119 LAKE ST	TALBOTT JOSEPH C		\$ 58,200	\$ 210,700	\$ 268,900	\$ -	15,539	15,539	50		\$63,667	\$31,499	\$48,034	\$35,971	\$56,724
V	17717615	1002 OCEAN DRIVE LOOP	JAMES HARRY W		\$ 59,100	\$ 223,700	\$ 282,800	\$ -	16,096	16,096	50		\$66,958	\$32,628	\$49,755	\$35,971	\$56,724
W	17717616	984 OCEAN DRIVE LOOP	SOTELO ED		\$ 46,300	\$ -	\$ 46,300	\$ 46,300	30,038	30,038	50		\$10,962	\$60,891	\$92,852	\$35,971	\$56,724
X	17717610	964 OCEAN DRIVE LOOP	O'CONNOR ABIGAIL		\$ 37,900	\$ 19,100	\$ 57,000	\$ 57,000	13,942	13,942	50		\$13,496	\$28,262	\$43,097	\$35,971	\$56,724
Y	17717611	946 OCEAN DRIVE LOOP	HAAS ANDREW H		\$ 37,900	\$ 166,900	\$ 204,800	\$ 154,800	13,942	13,942	50		\$48,490	\$28,262	\$43,097	\$35,971	\$56,724
Z	17718013	811 OCEAN DRIVE LOOP	RENNER MARTIN		\$ 117,300	\$ 281,300	\$ 398,600	\$ 338,600	25,349	20,139	100		\$94,375	\$51,385	\$62,253	\$71,943	\$56,724
				1,545	\$ 1,597,100	\$ 4,233,300	\$ 5,830,400	\$ 4,086,300	702,199	477,109		\$ 1,474,824	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824	\$ 1,474,824

### #3 SEAWALL OVERALL ASSESSMENT ANALYSIS

EST. ARMOR ROCK IMPROVEMENT COST = \$1,474,824

PARCEL ID	KPB PARCEL ID	LOT ADDRESS	OWNER	LOT CHARACTERISTICS				ASSESSMENT SCENARIOS - Equal Share Assessment							
				KPB LAND VALUE	KPB STRUCTURE VALUE	TOTAL ASSESSED VALUE	TAXABLE	CURRENT DISTRICT BOUNDARY				POTENTIAL EXPANDED DISTRICT BOUNDARY			
								TOTALSAD EQUAL SHARE ASSESSMENT (ARMOR ROCK TOE)	ANNUALSAD EQUAL SHARE ASSESSMENT (ARMOR ROCK TOE) 30 YRS @ 2%	ANNUALSSD ASSESSMENT (20 MIL) FOR MAINTENANCE	TOTALANNUAL ASSESSMENT (ROCK + MAINTENANCE)	TOTALSAD EQUAL SHARE ASSESSMENT (ARMOR ROCK TOE)	ANNUALSAD EQUAL SHARE ASSESSMENT (ARMOR ROCK TOE) 30 YRS @ 2%	ANNUALSSD ASSESSMENT (6 MIL) FOR MAINTENANCE	TOTALANNUAL ASSESSMENT (CONST + MAINTENANCE)
A	17718019	829 OCEAN DRIVE LOOP	NEWBY REVOCABLE TRUST	\$ 127,200	\$ 325,500	\$ 452,700	\$ 102,700	\$105,345	\$4,704	\$2,054	\$6,758	\$56,724	\$2,533	\$616	\$3,149
B	17718016	869 OCEAN DRIVE LOOP	SZAJKOWSKI JOHN J & JANET L	\$ 120,900	\$ 366,800	\$ 487,700	\$ 137,700	\$105,344.57	\$4,704	\$2,754	\$7,458	\$56,724	\$2,533	\$826	\$3,359
C	17717701	895 OCEAN DRIVE LOOP	HUEPER MARILYN	\$ 117,000	\$ 461,500	\$ 578,500	\$ 528,500	\$105,344.57	\$4,704	\$10,570	\$15,274	\$56,724	\$2,533	\$3,171	\$5,704
D	17717702	917 OCEAN DRIVE LOOP	2016 NORMAN W SCHUMACHER REVOCABLE TRUST	\$ 64,600	\$ 118,900	\$ 183,500	\$ 183,500	\$105,344.57	\$4,704	\$3,670	\$8,374	\$56,724	\$2,533	\$1,101	\$3,634
E	17717703	939 OCEAN DRIVE LOOP	IRWIN PATRICK L	\$ 53,700	\$ 71,900	\$ 125,600	\$ 75,600	\$105,344.57	\$4,704	\$1,512	\$6,216	\$56,724	\$2,533	\$454	\$2,986
F	17717704	957 OCEAN DRIVE LOOP	PFEFFER MARK E REVOCABLE TRUST	\$ 44,900	\$ 1,500	\$ 46,400	\$ 46,400	\$105,344.57	\$4,704	\$928	\$5,632	\$56,724	\$2,533	\$278	\$2,811
G	17717705	979 OCEAN DRIVE LOOP	ABBOTT FINDLAY	\$ 31,900	\$ 1,500	\$ 33,400	\$ -	\$105,345	\$4,704	\$0	\$4,704	\$56,724	\$2,533	\$0	\$2,533
H	17717706	997 OCEAN DRIVE LOOP	HOMER CITY OF	\$ 2,100	\$ -	\$ 2,100	\$ -	\$105,345	\$4,704	\$0	\$4,704	\$56,724	\$2,533	\$0	\$2,533
I	17717707	1017 OCEAN DRIVE LOOP	HOMER CITY OF	\$ 2,600	\$ -	\$ 2,600	\$ -	\$105,345	\$4,704	\$0	\$4,704	\$56,724	\$2,533	\$0	\$2,533
J	17717904	3102 LAKE ST	JUMP CHARLENE A	\$ 106,000	\$ 148,300	\$ 254,300	\$ -	\$105,345	\$4,704	\$0	\$4,704	\$56,724	\$2,533	\$0	\$2,533
K	17717903	1065 KRUETH WAY	GOODE LARRY JACK LIVING TRUST	\$ 111,500	\$ 405,100	\$ 516,600	\$ 516,600	\$105,345	\$4,704	\$10,332	\$15,036	\$56,724	\$2,533	\$3,100	\$5,632
L	17923036	1103 KRUETH WAY	KING LAWRENCE A	\$ 96,700	\$ 320,700	\$ 417,400	\$ 417,400	\$105,345	\$4,704	\$8,348	\$13,052	\$56,724	\$2,533	\$2,504	\$5,037
M	17923026	1121 SEA BREEZE CT	FRANKLIN CAMARRON JAY	\$ 73,200	\$ 181,400	\$ 254,600	\$ 254,600	\$105,345	\$4,704	\$5,092	\$9,796	\$56,724	\$2,533	\$1,528	\$4,060
N	17923028	1137 SEA BREEZE CT	LAWER DAVID A	\$ 94,000	\$ 155,200	\$ 249,200	\$ 249,200	\$105,345	\$4,704	\$4,984	\$9,688	\$56,724	\$2,533	\$1,495	\$4,028
O	17923029	1143 SEA BREEZE CT	LAWER DAVID A & BETSY	\$ 99,100	\$ 452,700	\$ 551,800	\$ 551,800					\$56,724	\$2,533	\$3,311	\$5,844
P	17923030		CUDDY JANE TRUSTEE LAWER CHILDRENS TRUST	\$ 37,600	\$ -	\$ 37,600	\$ 37,600					\$56,724	\$2,533	\$226	\$2,758
Q	17923033	1136 SEA BREEZE CT	LAWER SARAH 2012 IRREVOCABLE TRUST	\$ 62,800	\$ 145,300	\$ 208,100	\$ 208,100					\$56,724	\$2,533	\$1,249	\$3,781
R	17923027	1120 SEA BREEZE CT	LAWER SARAH 2012 IRREVOCABLE TRUST	\$ 31,300	\$ 1,500	\$ 32,800	\$ 32,800					\$56,724	\$2,533	\$197	\$2,730
S	17717807		SCHEFFEL TIM	\$ 42,400	\$ -	\$ 42,400	\$ 42,400					\$56,724	\$2,533	\$254	\$2,787
T	17717808	1054 KRUETH WAY	MATTHEWS KELLY E	\$ 38,200	\$ 455,100	\$ 493,300	\$ 443,300					\$56,724	\$2,533	\$2,660	\$5,193
U	17717614	3119 LAKE ST	TALBOTT JOSEPH C	\$ 58,200	\$ 210,700	\$ 268,900	\$ -					\$56,724	\$2,533	\$0	\$2,533
V	17717615	1002 OCEAN DRIVE LOOP	JAMES HARRY W	\$ 59,100	\$ 223,700	\$ 282,800	\$ -					\$56,724	\$2,533	\$0	\$2,533
W	17717616	984 OCEAN DRIVE LOOP	SOTELO ED	\$ 46,300	\$ -	\$ 46,300	\$ 46,300					\$56,724	\$2,533	\$278	\$2,811
X	17717610	964 OCEAN DRIVE LOOP	O'CONNOR ABIGAIL	\$ 37,900	\$ 19,100	\$ 57,000	\$ 57,000					\$56,724	\$2,533	\$342	\$2,875
Y	17717611	946 OCEAN DRIVE LOOP	HAAS ANDREW H	\$ 37,900	\$ 166,900	\$ 204,800	\$ 154,800					\$56,724	\$2,533	\$929	\$3,462
Z	17718013	811 OCEAN DRIVE LOOP	RENNER MARTIN	\$ 117,300	\$ 281,300	\$ 398,600	\$ 338,600					\$56,724	\$2,533	\$2,032	\$4,564
				\$ 1,597,100	\$ 4,233,300	\$ 5,830,400	\$ 4,086,300	\$1,474,824	\$65,851	\$50,244		\$1,418,100	\$65,851	\$26,549	

**Seawall - Armor Rock Toe Protection**

**Conceptual Cost Estimate**

5/28/2020

**Assumptions:**

Wall length = 1700 LF

Filter rock (type 2) = 75 lbs to 300 lbs (200 lb average)

Armor Stone (type 3) = 750 lb to 2250 lb (1500 lb average)

Armor Stone (type 4) = 1000 lb to 3000 lb (2000 lb average)

25% of armor rock is type 3; 75% of armor rock is type 4

Item of Work	Quantity	Quantity Unit	Unit Price	Item Cost
Mobilization/Demobilization	1	LS	\$20,000	\$20,000
Geotextile Fabric	4,722	SY	\$6	\$28,333
F&I Filter Stone (Type 2)	7,064	Tons	\$70	\$494,511
F&I Primary Armor Stone (Type 3)	1,704	Tons	\$85	\$144,821
F&I Primary Armor Stone (Type 4)	6,609	Tons	\$105	\$693,902

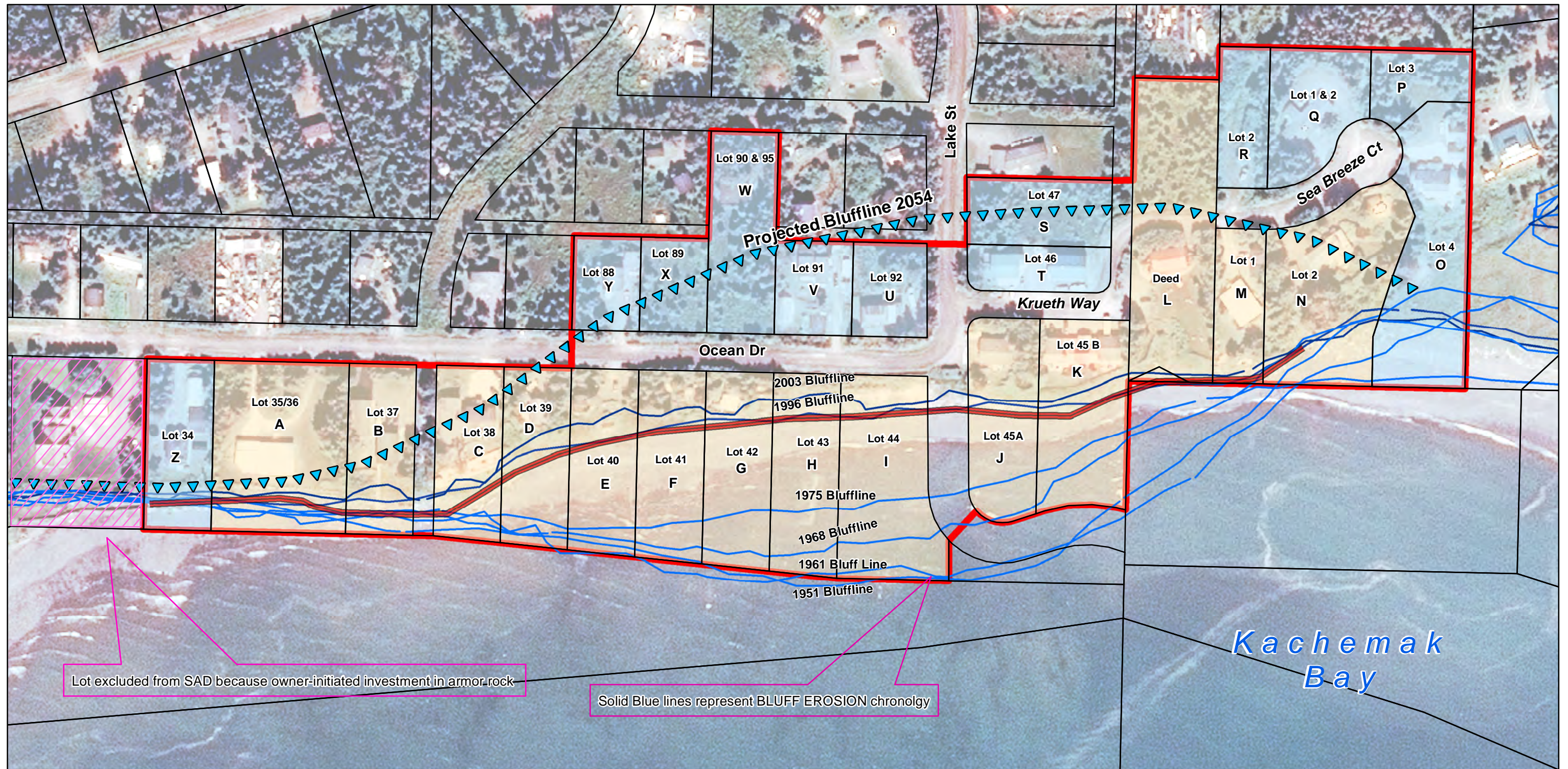
**Total Construction** **\$1,381,568**

Design \$69,078

Permitting \$10,362

Inspection \$13,816

**Total Project Cost** **\$1,474,824**



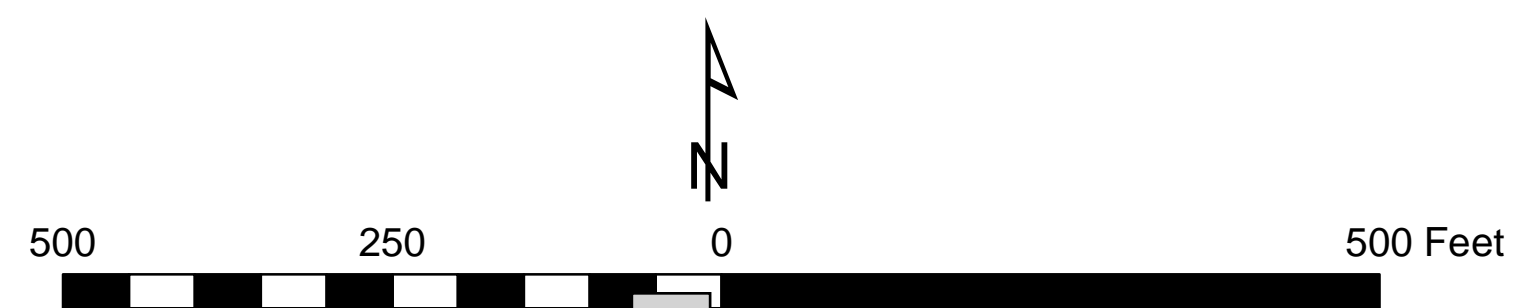
Lot excluded from SAD because owner-initiated investment in armor-rock

Solid Blue lines represent BLUFF EROSION chronology

### Legend

- ▲▲▲ Projected Bluffline 2054
- Seawall - Sheet Pile
- Original Construction LID
- Other Parcels Benefiting
- Potential SAD District Boundary

## POTENTIAL SEAWALL SPECIAL ASSESSMENT/SERVICE DISTRICT MAP



DEPT OF PUBLIC WORKS  
March 11, 2020

Disclaimer:  
It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-31**

Ordinance 20-31, An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$90,000 from the HART-Roads Fund to update the City's 1979 Drainage Management Plan.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-084 from Public Works Director as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-084 from Public Works Director as backup



1 **HOMER, ALASKA**

2 City Manager/  
3 Public Works Director

4 **ORDINANCE 20-31**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING THE 2020-2021 OPERATING BUDGET AND  
8 AUTHORIZING EXPENDITURE OF \$90,000 FROM THE HART-ROAD  
9 FUND TO UPDATE THE CITY'S 1979 DRAINAGE MANAGEMENT  
10 PLAN.

11  
12 WHEREAS, The City's 1979 Drainage Management Plan is outdated because its purpose  
13 was to analyze land development, traffic, population projections and local hydrologic  
14 conditions for a 10-year time frame, from 1978 to 1990; and

15  
16 WHEREAS, While much of the basic background in the 1979 Plan is the same, some of  
17 the real estate development trends, traffic projections and policy assumptions upon which  
18 some of the recommendations in the 1979 Plan were based, have changed; and

19  
20 WHEREAS, Other circumstances have caused drainage channels to shift, drainage water  
21 to be concentrated or have otherwise contributed, over time, to trigger adverse downstream  
22 impacts; and

23  
24 WHEREAS, The City Council at its January 2020 Planning Retreat identified as a "Large  
25 - 2<sup>nd</sup> priority" the need "to develop a comprehensive storm water management plan that  
26 provides adequate and safe drainage of storm water to protect city infrastructure and water  
27 quality"; and

28  
29 WHEREAS, The City Council adopted Resolution 17-038 on April 24, 2017 amending the  
30 Homer Accelerated Roads and Trails Program (HART) Policy Manual; and

31  
32 WHEREAS, The HART Manual identifies various criteria for projects that may be  
33 considered for HART funding; and

34  
35 WHEREAS, The criteria, which would be met by updating the 1979 Drainage  
36 Management Plan, includes:

- 37
- 38 • Improve life, safety and traffic flow
  - 39 • Correct deficiencies of existing systems
  - 40 • Correct Drainage Problems
  - 41 • Reduce maintenance costs

42 WHEREAS, It would be beneficial to have an updated Drainage Management Plan  
43 available in the event funding from an infrastructure stimulus package becomes available on  
44 the state or federal level to expand the updated Drainage Management Plan into a more  
45 comprehensive Drainage Master Plan.

46  
47 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

48  
49 Section 1. The City of Homer’s 2020-21 Operating Budget is hereby amended by  
50 appropriating \$90,000 from the HART-Roads Fund to update the 1979 drainage Management  
51 Plan.

52

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
	HART Roads	\$90,000

55

56 Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall  
57 not be codified.

58  
59 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

60  
61 CITY OF HOMER  
62  
63  
64  
65 \_\_\_\_\_  
66 KEN CASTNER, MAYOR

67  
68  
69 \_\_\_\_\_  
70 MELISSA JACOBSEN, MMC, CITY CLERK

71  
72 YES:  
73 NO:  
74 ABSTAIN:  
75 ABSENT:  
76  
77 First Reading:  
78 Public Hearing:  
79 Second Reading:  
80 Effective Date:

81  
82  
83

84 Reviewed and approved as to form:

85

86 \_\_\_\_\_

87 Rick Abboud, Acting City Manager

88

89 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_

1 HOMER, ALASKA

2 City Manager/  
3 Public Works Director

4 ORDINANCE 20-31(S)

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING THE 2020-2021 OPERATING **CAPITAL** BUDGET AND  
8 AUTHORIZING EXPENDITURE OF \$90,000 FROM THE HART-ROAD  
9 FUND TO UPDATE THE CITY’S 1979 DRAINAGE MANAGEMENT  
10 PLAN.

11  
12 WHEREAS, The City’s 1979 Drainage Management Plan is outdated because its purpose  
13 was to analyze land development, traffic, population projections and local hydrologic  
14 conditions for a 10-year time frame, from 1978 to 1990; and

15  
16 WHEREAS, While much of the basic background in the 1979 Plan is the same, some of  
17 the real estate development trends, traffic projections and policy assumptions upon which  
18 some of the recommendations in the 1979 Plan were based, have changed; and

19  
20 WHEREAS, Other circumstances have caused drainage channels to shift, drainage water  
21 to be concentrated or have otherwise contributed, over time, to trigger adverse downstream  
22 impacts; and

23  
24 WHEREAS, The City Council at its January 2020 Planning Retreat identified as a “Large  
25 – 2<sup>nd</sup> priority” the need “to develop a comprehensive stormwater management plan that  
26 provides adequate and safe drainage of storm water to protect city infrastructure and water  
27 quality”; and

28  
29 **WHEREAS, The City of Homer Capital Improvement Plan, 2020-2025 includes, as a**  
30 **priority project, a Storm Water Master Plan, at an estimated cost of \$320,000; and**

31  
32 **WHEREAS, The City Council, in 2019, received an Alaskan Clean Water Action**  
33 **stewardship grant from the Alaska Department of Environmental Conservation in the**  
34 **amount of approximately \$70,000, to begin work on a stormwater master plan; and**

35  
36 **WHEREAS, The City of Homer used these grant funds to engage HDL Engineering**  
37 **Consultants, LLC, to investigate and make general recommendations regarding the**  
38 **potential for the City to deploy “green infrastructure” to manage the City’s storm**  
39 **drainage; and**

40  
41 **WHEREAS, Elements of “green infrastructure” have been constructed as**  
42 **demonstrations at the new police station project; and**



85 ATTEST:

86

87

88 \_\_\_\_\_

89 MELISSA JACOBSEN, MMC, CITY CLERK

90

91 YES:

92 NO:

93 ABSTAIN:

94 ABSENT:

95

96 First Reading:

97 Public Hearing:

98 Second Reading:

99 Effective Date:

100

101

102

103 Reviewed and approved as to form:

104

105 \_\_\_\_\_

106 Rick Abboud, Acting City Manager

107

108 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_



## **Memorandum 20-084**

TO: MAYOR CASTNER AND HOMER CITY COUNCIL  
THROUGH: RICK ABOUD, ACTING, CITY MANAGER  
FROM: JAN KEISER, PE, JD, DIRECTOR OF PUBLIC WORKS  
DATE: JUNE 10, 2020  
SUBJECT: PROPOSAL TO UPDATE 1979 DRAINAGE MANAGEMENT PLAN

---

**I. Issue:** The Drainage Management Plan needs to be updated so it can more effectively guide storm water management in the City of Homer.

**II. Background:**

**A. The existing Drainage Management is outdated.** The purpose of the 1979 Drainage Management Plan was to (1) analyze land development, traffic, population projections and local hydrologic conditions for a 10-year time frame, from 1978 to 1990, and (2) predict what changes may needed to the City’s drainage system to address storm water issues. One of the 1979 Plan’s specific recommendations was that the Plan would be regularly reviewed and updated.

While much of the basic background in the 1979 Plan is the same, some of the real estate development trends, traffic projections and policy assumptions upon which some of the recommendations in the 1979 Plan were based, have changed. Further, other circumstances have caused drainage channels to shift, drainage water to be concentrated or have otherwise contributed, over time, to trigger adverse downstream impacts.

**B. The City Council identified storm water management as a priority issue.** At its January 2020 Planning Retreat, the City Council identified, as a “*Large – 2<sup>nd</sup> priority*”, the need “*to develop a comprehensive stormwater management plan...that provides adequate and safe drainage of storm water to protect city infrastructure and water quality...*”

**C. The City of Homer’s 2020-2025 Capital Improvement Plan includes the development of a Storm Water Master Plan.** The Drainage Management Plan proposed in the subject request is not that Master Plan. The difference is a matter

of perspective and detail. A Storm Water Master Plan views development and population growth through a longer term lens and provides a more detailed study of hydrological modeling than a Drainage Management Plan. A Drainage Management Plan focuses on (i) assessing the existing drainage infrastructure's ability to support expected flows by inventorying existing culverts and storm lines; (ii) comparing assumptions made in the previous Drainage Management with current conditions and near-term predictions; (3) updating mapping; and (iv) providing recommendations for remediating immediate concerns.

The subject Drainage Management Plan will go a long way towards addressing many of the City's most pressing drainage issues.

**D. Designated funding is available.** The City Council, on April 24, 2017, passed Resolution 17-038, which adopted the Homer Accelerated Roads and Trails Program ("HART") Manual. The HART Manual identified a set of nine criteria for projects that may be considered for HART funding. Three of these criteria are:

- Improves life, safety and traffic flow
- Corrects Drainage Problems
- Corrects deficiencies of existing systems
- Reduces maintenance costs

An updated Drainage Management Plan would include recommendations for design/construction standards and specific projects that would address these criteria.

There is currently \$5,995,992.62 in the HART-Roads Fund that could be used to fund the Drainage Management Plan update. I propose a budget of \$90,000 to procure engineering consulting services with the necessary technical expertise. Funds that are not expended from this budget will remain in the HART Fund.

**III. Proposal:** Engage an engineering consulting firm to update the 1979 Drainage Management Plan for the budget amount of \$90,000 to perform the following scope of work:

- a. Review population growth, land development, traffic flow, and other relevant statistics/patterns to update the assumptions and projections made in the 1979 Drainage Management Plan.
- b. Update the Culvert Inventory in the 1979 Drainage Management Plan.
- c. Review the City's Comprehensive Plan, most current traffic studies, the "green infrastructure" assessment report, best practices related to storm water conveyance and water quality, as well as other relevant technical information to update the following:
  - i. The Design Criteria and other recommendations made in the 1979 Drainage Management Plan, related to design/construction/maintenance of storm water drainage systems
  - ii. The policy recommendations made in the 1979 Drainage Management Plan
- d. Update the Drainage System Maps, particularly to incorporate them into the City's GIS data base.



- e. Review the City’s Road Maintenance Plan and maintenance records relating to culverts, ditches, and other drainage work and make recommendations for improving efficacy of maintenance efforts.
- f. Provide an updated list of recommended drainage improvement projects

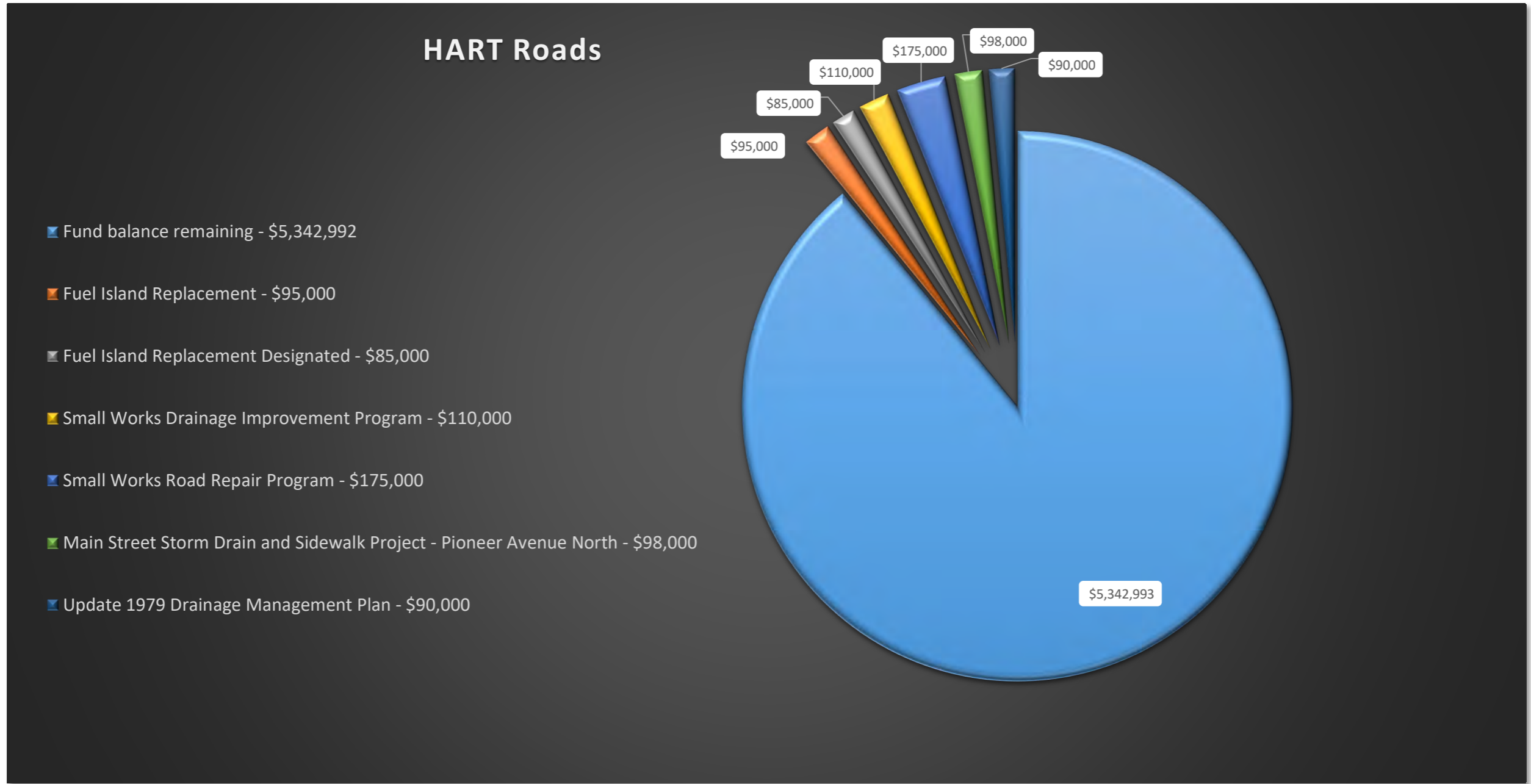
Proposed schedule:

- |   |                         |
|---|-------------------------|
| • Procure/contract engineering services | July 21- August 7, 2020 |
| • Notice to Proceed                     | August 10, 2020         |
| • Complete Phase I Work Products        | September 30, 2020      |
| • Complete Phase II Work Products       | November 30, 2020       |
| • Complete Phase III Work Products      | March 1, 2021           |
| • Project Completion                    | April, 1, 2021          |

The work would be phased so that we could start getting information to support designated projects in a timely manner.

**IV. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$90,000 from the HART-Roads Fund to update the City’s 1979 Drainage Management Plan.

	HART - Roads	Already designated in Operating Budget
<b>Fund Balance thru 3/31/20</b>	\$ 5,995,992.62	
<b>Fund balance remaining - \$5,342,992</b>	\$ 5,342,993	
Fuel Island Replacement - \$95,000	\$ 95,000	\$ 85,000.00
<b>Fuel Island Replacement Designated - \$85,000</b>	<b>\$ 85,000</b>	
Small Works Drainage Improvement Program - \$110,000	\$ 110,000	
Small Works Road Repair Program - \$175,000	\$ 175,000	
Main Street Storm Drain and Sidewalk Project - Pioneer Avenue North - \$98,000	\$ 98,000	
Update 1979 Drainage Management Plan - \$90,000	\$ 90,000	



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-32**

Ordinance 20-32, An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing Expenditure of \$98,000 from the HART-Roads Fund for the Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-085 from Public Works Director as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-085 from Public Works Director as backup

1 **HOMER, ALASKA**

2 City Manager/  
3 Public Works Director

4 **ORDINANCE 20-32**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING THE 2020 CAPITAL BUDGET AND AUTHORIZING  
8 EXPENDITURE OF \$98,000 FROM THE HART-ROAD FUND FOR THE  
9 PLANNING, DESIGN AND PERMITTING OF THE MAIN STREET  
10 STORM DRAIN AND SIDEWALK – PIONEER AVENUE NORTH  
11 PROJECT.

12  
13 WHEREAS, City Council identified, as a “Large – 2<sup>nd</sup> priority”, the need “to build sidewalk  
14 for Main Street” and building a sidewalk requires addressing the storm drain issues; and  
15

16 WHEREAS, City Council adopted Resolution 17-038, on April 24, 2017, amending the  
17 Homer Accelerated Roads and Trails Program (HART) Policy Manual; and  
18

19 WHEREAS, The HART Manual identified a set of nine criteria for projects that may be  
20 considered for HART funding; and  
21

22 WHEREAS, The criteria which would be met by the Main Street Storm Drain and  
23 Sidewalk Project include:

- 24 • Improves life, safety and traffic flow
- 25 • Corrects deficiencies of existing systems
- 26 • Completes [pedestrian] traffic circulation pattern
- 27 • Encourages economic development
- 28 • Corrects Drainage Problems
- 29 • Reduces maintenance costs

30 WHEREAS, It would be beneficial to have the Main Street Storm Drain and Sidewalk  
31 Project in a “shovel ready” condition in the event an infrastructure stimulus package becomes  
32 available on the state or federal level.  
33

34 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
35

36 Section 1. The City of Homer’s 2020 Capital Budget is hereby amended by appropriating  
37 \$98,000 from the HART-Roads Fund for the planning, design and permitting of the Main Street  
38 Storm Drain and Sidewalk Project.  
39

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
40 160-xxxx	HART Roads	\$98,000

42 Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall  
43 not be codified.

44  
45 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_,  
46 2020.

47  
48 CITY OF HOMER

49  
50 \_\_\_\_\_  
51 KEN CASTNER, MAYOR

52 ATTEST:

53  
54 \_\_\_\_\_  
55 MELISSA JACOBSEN, MMC, CITY CLERK

56  
57  
58 YES:

59 NO:

60 ABSTAIN:

61 ABSENT:

62  
63  
64 First Reading:

65 Public Hearing:

66 Second Reading:

67 Effective Date:

68  
69 Reviewed and approved as to form:

70  
71 \_\_\_\_\_  
72 Rick Abboud, Acting City Manager

71 \_\_\_\_\_  
72 Michael Gatti, City Attorney

73  
74 Date: \_\_\_\_\_

73  
74 Date: \_\_\_\_\_



## **Memorandum 20-085**

TO: Mayor Castner and Homer City Council

THROUGH: Rick Abboud, Acting City Manager

FROM: Jan Keiser, PE, JD, Director of Public Works

DATE: June 10, 2020

SUBJECT: Proposal to Fund Design for the Main Street Storm Drain and Sidewalk Project  
– Pioneer Avenue North

---

**I. Issue:** The City-owned portion of Main Street, north of Pioneer Avenue, does not have a sidewalk.

**II. Background:**

**A. The City Council identified this project as a priority issue.** At its January 2020 Planning Retreat, the City Council identified, as a “*Large – 2<sup>nd</sup> priority*”, the need “*to build sidewalk for Main Street*”. This was identified in connection with the Council’s priority to “*develop a comprehensive stormwater...implementation*” plan...that provides adequate and safe drainage of storm water to protect city infrastructure and water quality...”. This is no doubt because drainage along Main Street is provided by open ditches and thus, a condition precedent to building a Main Street Sidewalk is managing the drainage.

**B. The Main Street Sidewalk Facility – Pioneer Avenue North was listed in the City’s 2020-2025 Capital Improvement Plan.** This plan mentioned the project “was first articulated in Homer’s 2004 Non-Motorized Transportation and Trail Plan.

**C. The project will be executed in Phases.** First, we want to make sure we leverage the data we will be collecting about the condition and capacity of the existing drainage system from the Drainage Management Plan Update Project. Second, a key element of the first phase of the Main Street Storm drain/Sidewalk Project will be to estimate the cost of construction, so a reliable construction budget can be programmed later. Third, we want to get the project “*shovel ready*” as quickly as possible so we are positioned to take advantage of a federal or state infrastructure stimulus program that might become available. Finally, we propose to design a

sidewalk for both sides of Main Street, but the construction may be phased so one side is built at a time, depending upon available funding.

**D. Designated funding is available.** The City Council, on April 24, 2017, passed Resolution 17-038, which adopted the Homer Accelerated Roads and Trails Program (“HART”) Manual. The HART Manual identified a set of nine criteria for projects that may be considered for HART funding. The criteria, which would be met by the Main Street Storm Drain and Sidewalk Project include:

- Improves life, safety and traffic flow
- Corrects deficiencies of existing systems
- Completes [pedestrian] traffic circulation pattern
- Encourages economic development
- Corrects Drainage Problems
- Reduces maintenance costs

There is currently \$5,995,992.62 in the HART-Roads Fund that could be used to fund this Project. Funding for construction can be programmed later.

I propose a budget of \$98,000 to procure engineering consulting services with the necessary technical expertise. In addition, we would leverage the design work for this project with data that will be generated by the Drainage Management Plan Update Project. Funds that are not expended from either projects’ budget will remain in the HART Fund.

**III. Proposal:** Engage an engineering consulting firm for Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project – Pioneer Avenue North:

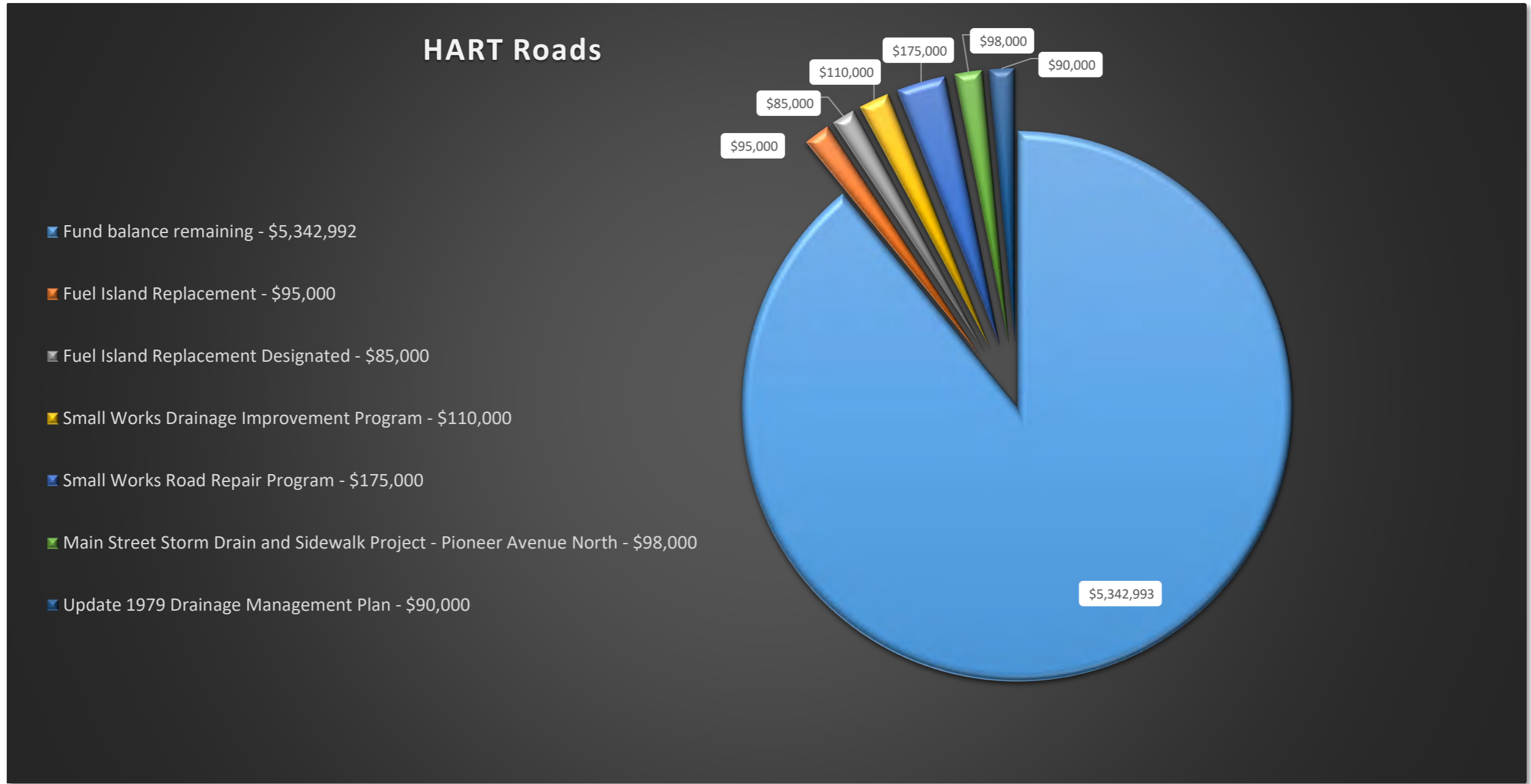
- a. Review the City’s maintenance records and otherwise evaluate the condition and efficacy of the existing storm drain system in Main Street
- b. Conduct planning and pre-design work for the storm drain and sidewalk, such as survey, etc.
- c. Prepare permitting documents
- d. Conduct public outreach
- e. Prepare “shovel-ready” design package

**IV. Proposed schedule:**

- |   |                         |
|---|-------------------------|
| • Procure/contract engineering services       | July 21- August 7, 2020 |
| • Notice to Proceed                           | August 10, 2020         |
| • Evaluate condition of existing storm system | September 1, 2020       |
| • Conduct Pre-design work                     | October 15, 2020        |
| • Conduct Public Outreach                     | November 30, 2020       |
| • “Shovel-ready” Package Complete             | December 30, 2020       |

**V. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$98,000 from the HART-Roads Fund for Planning, Design and Permitting of the Main Street Storm Drain and Sidewalk Project – Pioneer Avenue North.

	HART - Roads	Already designated in Operating Budget
<b>Fund Balance thru 3/31/20</b>	\$ 5,995,992.62	
<b>Fund balance remaining - \$5,342,992</b>	\$ 5,342,993	
Fuel Island Replacement - \$95,000	\$ 95,000	\$ 85,000.00
<b>Fuel Island Replacement Designated - \$85,000</b>	<b>\$ 85,000</b>	
Small Works Drainage Improvement Program - \$110,000	\$ 110,000	
Small Works Road Repair Program - \$175,000	\$ 175,000	
Main Street Storm Drain and Sidewalk Project - Pioneer Avenue North - \$98,000	\$ 98,000	
Update 1979 Drainage Management Plan - \$90,000	\$ 90,000	





**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-33**

An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing of \$175,000 from the HART-Roads Fund for the Small Works Road Repair Program and calling for the development of a Roads Financial Plan.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-086 from Public Works Director as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-086 from Public Works Director as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-33**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE 2020 CAPITAL BUDGET AND AUTHORIZING  
9 EXPENDITURE OF \$175,000 FROM THE HART-ROAD FUND FOR  
10 THE SMALL WORKS ROAD REPAIR PROGRAM.

11  
12 WHEREAS, At the January 2020 Planning Retreat City Council identified road  
13 improvements as a priority issue; and

14  
15 WHEREAS, Every traffic and transportation-related study the City has ever  
16 commissioned has identified the need to provide reliable access and convenient connectivity  
17 for residential, commercial and emergency traffic, which is impeded when roads are not  
18 passable by residents, business owners or emergency vehicles during certain times of the year;  
19 and

20  
21 WHEREAS, The Road Maintenance Plan will:

- 22 a. catalog the condition of City roads and drainage ways;  
23 b. provide a systematic way of  
24 1. assessing the condition of the City's roads/drainage networks; and  
25 2. documenting regular preventative maintenance activities, which are funded by  
26 the normal Operating Budget; and  
27 c. identify situations where regular preventative maintenance is not enough; that is,  
28 the conditions require more extensive repair or reconstruction.

29  
30 WHEREAS, The City has the capacity in labor and equipment to perform ordinary  
31 maintenance on road beds and surfaces; and

32  
33 WHEREAS, There are conditions that require materials, supplies or 3<sup>rd</sup> party contractor  
34 support, the costs for which are not covered in the ordinary operating budget; and

35  
36 WHEREAS, The City proposed to create a Small Works Road Repair Program to fund  
37 such spot repairs; and

38  
39 WHEREAS, The Homer City Council on April 24, 2017 passed Resolution 17-038, which  
40 adopted the Homer Accelerated Roads and Trails Program ("HART") Manual. The HART  
41 Manual identified a set of nine criteria for projects that may be considered for HART funding;  
42 and

43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83

WHEREAS, The criteria, which would be met by the Small Works Road Repair Program, include:

- Improves life, safety and traffic flow
- Corrects deficiencies of existing systems
- Corrects drainage problems
- Reduces maintenance costs

WHEREAS, The HART-Roads Fund has sufficient capital to fund a Small Works Road Repair Program.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The City of Homer’s 2020 Capital Budget is hereby amended by appropriating \$175,000 from the HART-Roads Fund to complete the Fuel Island Replacement Project.

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
160-xxxx	HART Roads	\$175,000

Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

84 First Reading:

85 Public Hearing:

86 Second Reading:

87 Effective Date:

88

89 Reviewed and approved as to form:

90

91 \_\_\_\_\_

92 Rick Abboud, Acting City Manager

93

94 Date: \_\_\_\_\_

\_\_\_\_\_

Michael Gatti, City Attorney

Date: \_\_\_\_\_



# City of Homer

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

Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907-235-3170

(f) 907-235-3145

## Memorandum 20-086

TO: Mayor Castner and Homer City Council  
THROUGH: Rick Abboud, Acting City Manager  
FROM: Jan Keiser, PE, JD, Director of Public Works  
DATE: June 16, 2020  
SUBJECT: Proposal to Fund the Small Works Road Repair Program

---

- I. **Issue:** The Public Works Department's Operating Budget covers the normal labor and equipment required to perform preventative maintenance on road beds and surfaces. However, there is not enough money in the Operating Budget to perform extraordinary repairs or reconstruction. For example, segments of some City roads, which were not built to City standards, have such extensive frost heaves, they are barely passable during break-up. The Operating Budget does not have enough money to reconstruct such segments.
  
- II. **Background:**
  - A. **The City Council identified road improvements as a priority issue.** At its January 2020 Planning Retreat, the City Council identified road improvements as a priority issue. Further, every traffic and transportation-related study the City has ever commissioned, has identified the need to provide reliable access and convenient connectivity for residential, commercial and emergency traffic. This is impeded when roads are not passable by residents, business owners or emergency vehicles during certain times of the year.
  
  - B. **We need a way to fund repair/reconstruction work of substandard road beds that goes beyond normal preventative maintenance.** The Road Maintenance Plan catalogs the condition of City roads. It provides a systematic way of (1) assessing the condition of City roads and (2) documenting regular preventative maintenance activities, which are funded by the normal Operating Budget. The Plan also helps identify situations where regular preventative maintenance is not enough; that is, the conditions require more extensive repair or reconstruction. For example, the Road Crew sometimes encounters some City roads, which are almost unpassable during break-up because of frost boils and road heaving.

Many of these case do not yet merit a full-blow capital improvement project or are awaiting the kind of complete reconstruction that a Local Improvement District is designed to provide. The Road Crew has most of the capacity, in labor and equipment, to perform the work in-house. However, we do not have the budget for materials or occasional, supplemental contractor support. In these cases, we need a “bucket” of money that can pay for select backfill, graded road base, geotextile fabric and occasional 3<sup>rd</sup> party contractor support. We propose to call this “bucket”, the Small Works Road Repair Program.

- C. Resolution 17-092(A) and Resolution 17-092(A) established a minimum set aside budget from the HART-Roads fund to be used for capital construction and maintenance of roads.** A minimum of \$550,000/year was to be set aside from sales tax revenues to fund the construction of new, and maintenance of existing, roads and trails. Of this, \$500,000/year was to be set aside for roads and \$50,000/year was to be set aside for trails. As of March 31, 2020, \$5,995,992.62 has accumulated in the HART-Roads fund. We propose to use some of this money for a Small Works Road Repair Program, which would be used for spot repairs of existing roads.

I propose a budget of \$175,000 for this program. Labor for this program would be allocated from the normal Public Works operating budget. The “bucket” from the HART Fund would pay for procurement of materials, such as culverts, filter fabric and gravel, as well as occasional supplemental 3<sup>rd</sup> party contractor support. For example, we have identified the need to dig out road segments totaling approximately 2,625 LF in various City roads. Funds that are not expended from this “bucket” would remain in the HART Fund.

- D. A Small Works Road Repair Program meets the criteria set forth in the HART Policy Manual.** The City Council, on April 24, 2017, passed Resolution 17-038, which adopted the Homer Accelerated Roads and Trails Program (“HART”) Manual. The HART Manual identified a set of nine criteria for projects that may be considered for HART funding. The criteria, which would be met by the Small Works Road Repair Program, include:

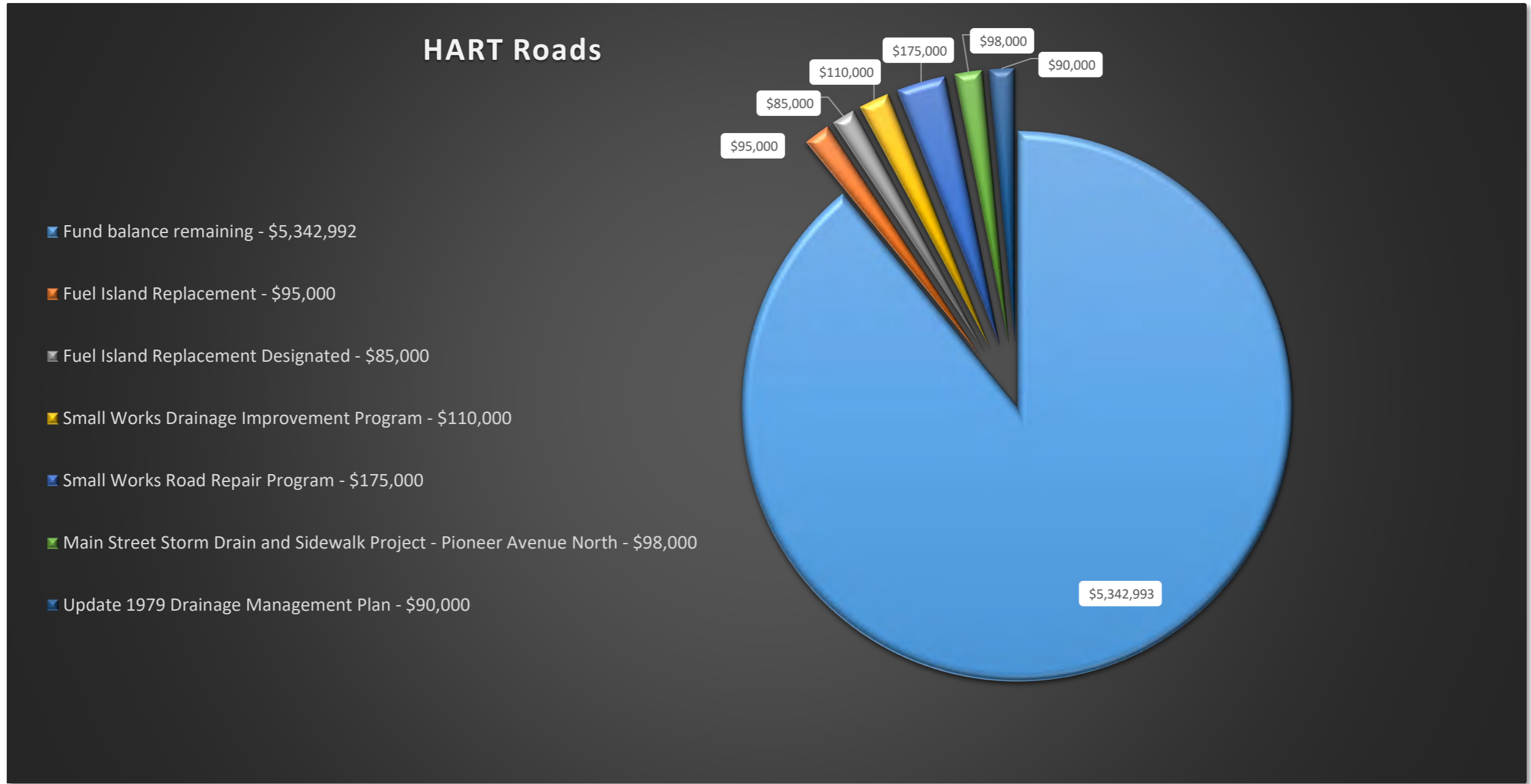
- Improves life, safety and traffic flow
- Corrects deficiencies of existing systems
- Corrects drainage problems
- Reduces maintenance costs

- III. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$175,000 from the HART-Roads Fund for the procurement of materials and supplemental contractor support for the Small Works Road Repair Program.

### Road Topping – Dig Outs

- Add gravel to Saltwater
- Emerald Place DigOut – 135 LF
- Garden Park DigOut – 150 LF
- Eagle View Drive west of Diamond Creek to Garden Park approx. 700' Digout
- Replace Cross Culvert at Garden Park
- Crossman Ridge Rd – Skyline to gate area – 1400 LF plus/minus
- Sprucewood 120' by Rogers Loop entrance
- Sprucewood 120' between 2200 and 2240
- Bay Vista and Bay Vista Court

	HART - Roads	Already designated in Operating Budget
<b>Fund Balance thru 3/31/20</b>	\$ 5,995,992.62	
<b>Fund balance remaining - \$5,342,992</b>	\$ 5,342,993	
Fuel Island Replacement - \$95,000	\$ 95,000	\$ 85,000.00
<b>Fuel Island Replacement Designated - \$85,000</b>	<b>\$ 85,000</b>	
Small Works Drainage Improvement Program - \$110,000	\$ 110,000	
Small Works Road Repair Program - \$175,000	\$ 175,000	
Main Street Storm Drain and Sidewalk Project - Pioneer Avenue North - \$98,000	\$ 98,000	
Update 1979 Drainage Management Plan - \$90,000	\$ 90,000	





**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-34**

An Ordinance of the City Council of Homer, Alaska, Amending the 2020 Capital Budget and Authorizing Expenditure of \$110,000 from the HART-Roads Fund for Small Works Drainage Improvement Program.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-087 from Public Works Director as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-087 from Public Works Director as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-34**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE 2020 CAPITAL BUDGET AND AUTHORIZING  
9 EXPENDITURE OF \$110,000 FROM THE HART-ROAD FUND FOR  
10 THE SMALL WORKS DRAINAGE IMPROVEMENT PROGRAM.

11  
12 WHEREAS, At its January 2020 Planning Retreat, the City Council identified storm water  
13 management as a “Large – 2<sup>nd</sup> priority”, specifically – the need “to develop a comprehensive  
14 storm water...implementation” plan...that provides adequate and safe drainage of storm  
15 water to protect city infrastructure and water quality...”

16  
17 WHEREAS, The Road Maintenance Plan will:

- 18 a. catalog the condition of City roads and drainage ways;  
19 b. provide a systematic way of (1) assessing the condition of the City’s roads/drainage  
20 networks and (2) documenting regular preventative maintenance activities, which  
21 are funded by the normal Operating Budget; and  
22 c. identify situations where regular preventative maintenance is not enough; that is,  
23 the conditions require more extensive repair or reconstruction.

24 WHEREAS, The City has the capacity, in labor and equipment, to perform ordinary  
25 maintenance on culverts and storm drainage, there are conditions that require materials,  
26 supplies or 3<sup>rd</sup> party contractor support, the costs for which are not covered in the ordinary  
27 operating budget; and

28  
29 WHEREAS, The City proposed to create a Small Works Drainage Improvement Program  
30 to fund such spot repairs;

31  
32 WHEREAS, The City Council adopted Resolution 17-038, on April 24, 2017, amending the  
33 Homer Accelerated Roads and Trails Program (HART) Policy Manual; and

34  
35 WHEREAS, The HART Policy Manual establishes criteria to be used for determining  
36 which projects qualify for HART-Roads funding; and

37  
38 WHEREAS, the criteria, which would be met by the Small Works Drainage Improvement  
39 Program, include:

- 40 • Improves life, safety and traffic flow  
41 • Corrects deficiencies of existing systems

- 42 • Corrects Drainage Problems
- 43 • Reduces maintenance costs

44 WHEREAS, The HART-Roads Fund has sufficient capital to fund a Small Works Drainage  
45 Improvement Program.

46  
47 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

48  
49 Section 1. The City of Homer’s 2020 Capital Budget is hereby amended by appropriating  
50 \$110,000 from the HART-Roads Fund for the Small Works Drainage Improvement Program.

51

52 <u>Account No.</u>	53 <u>Description</u>	54 <u>Amount</u>
55 160-xxxx	56 HART Roads	57 \$110,000

58 Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall  
59 not be codified.

60  
61 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_,  
62 2020.

63  
64 CITY OF HOMER

65 \_\_\_\_\_  
66 KEN CASTNER, MAYOR

67 ATTEST:

68 \_\_\_\_\_  
69 MELISSA JACOBSEN, MMC, CITY CLERK

70  
71 YES:

72 NO:

73 ABSTAIN:

74 ABSENT:

75  
76  
77 First Reading:

78 Public Hearing:

79 Second Reading:

80 Effective Date:

81

82 Reviewed and approved as to form:

83

84 \_\_\_\_\_

85 Rick Abboud, Acting City Manager

86

87 Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_



## Memorandum 20-087

TO: Mayor Castner and Homer City Council

THROUGH: Rick Abboud, Acting City Manager

FROM: Jan Keiser, PE, JD, Director of Public Works

DATE: June 16, 2020

SUBJECT: Proposal to Fund the Small Works Drainage Improvement Program

---

I. **Issue:** The Public Works Department's Operating Budget covers the normal labor and equipment required to perform preventative maintenance on road drainage systems. However, there not is not enough money in the Operating Budget to perform extraordinary repairs or reconstruction. For example, many of the culverts in the City's roads have decayed, causing drainage and road failures. The Operating Budget does not have enough money to replace such culverts.

II. **Background:**

A. **The City Council identified storm water management as a priority issue.** At its January 2020 Planning Retreat, the City Council identified, as a "Large – 2<sup>nd</sup> priority", the need "to develop a comprehensive stormwater...implementation" plan...that provides adequate and safe drainage of storm water to protect city infrastructure and water quality..."

B. **We need a way to fund repair/reconstruction work of drainage systems that goes beyond normal preventative maintenance.** The Road Maintenance Plan catalogs the condition of City roads and drainage ways. It provides a systematic way of (1) assessing the condition of the City's roads/drainage networks and (2) documenting regular preventative maintenance activities, which are funded by the normal Operating Budget. The Plan also helps identify situations where regular preventative maintenance is not enough; that is, the conditions require more extensive repair or reconstruction. For example, the Road Crew often encounters sink holes caused by decayed culverts or storm drain lines, blocked drainage ditches caused by failed private driveway culverts or exposed ditch lines that need to be hydroseeded to prevent erosion.

Many of these case do not merit a full-blow capital improvement project, because the Road Crew has most of the capacity, in labor and equipment, to perform the

work in-house. However, it does not have the budget for materials or supplemental contractor support. In these cases, we need a “bucket” of money that can pay for sections of culvert, contract hydroseeding, gravel backfill, filter fabric or construction materials required for the rehab work. We propose to call this “bucket”, the Small Works Drainage Improvement Program.

- C. Resolution 17-092(A) and Resolution 17-092(A) established a minimum set aside budget from the HART-Roads fund to be used for capital construction and maintenance of roads.** A minimum of \$550,000/year was to be set aside from sales tax revenues to fund the construction of new, and maintenance of existing, roads and trails. Of this, \$500,000/year was to be set aside for roads and \$50,000/year was to be set aside for trails. As of March 31, 2020, \$5,995,992.62 has accumulated in the HART-Roads fund. We propose to use some of this money for a Small Works Drainage Improvement Program, which would be used for spot repairs of existing drainage works.

I propose a budget of \$110,000 for this program. For example, we have identified the need to replace approximately 638 LF of 18-24 inch culvert at an estimated cost of \$62,800 for materials and approximately 170 LF of 24-36 inch storm drain line, which needs to be slip lined by a 3<sup>rd</sup> party contractor, at an estimated cost of \$39,000. A list of “hot spots” is attached.

Funds that are not expended from this bucket would remain in the HART Fund.

- D. A Small Works Drainage Improvement Program meets the criteria set forth in the HART Policy Manual.** The City Council, on April 24, 2017, passed Resolution 17-038, which adopted the Homer Accelerated Roads and Trails Program (“HART”) Manual. The HART Manual identified a set of nine criteria for projects that may be considered for HART funding. The criteria, which would be met by a Small Works Drainage Improvement Program include:
- Improves life, safety and traffic flow
  - Corrects deficiencies of existing systems
  - Corrects drainage problems
  - Reduces maintenance costs

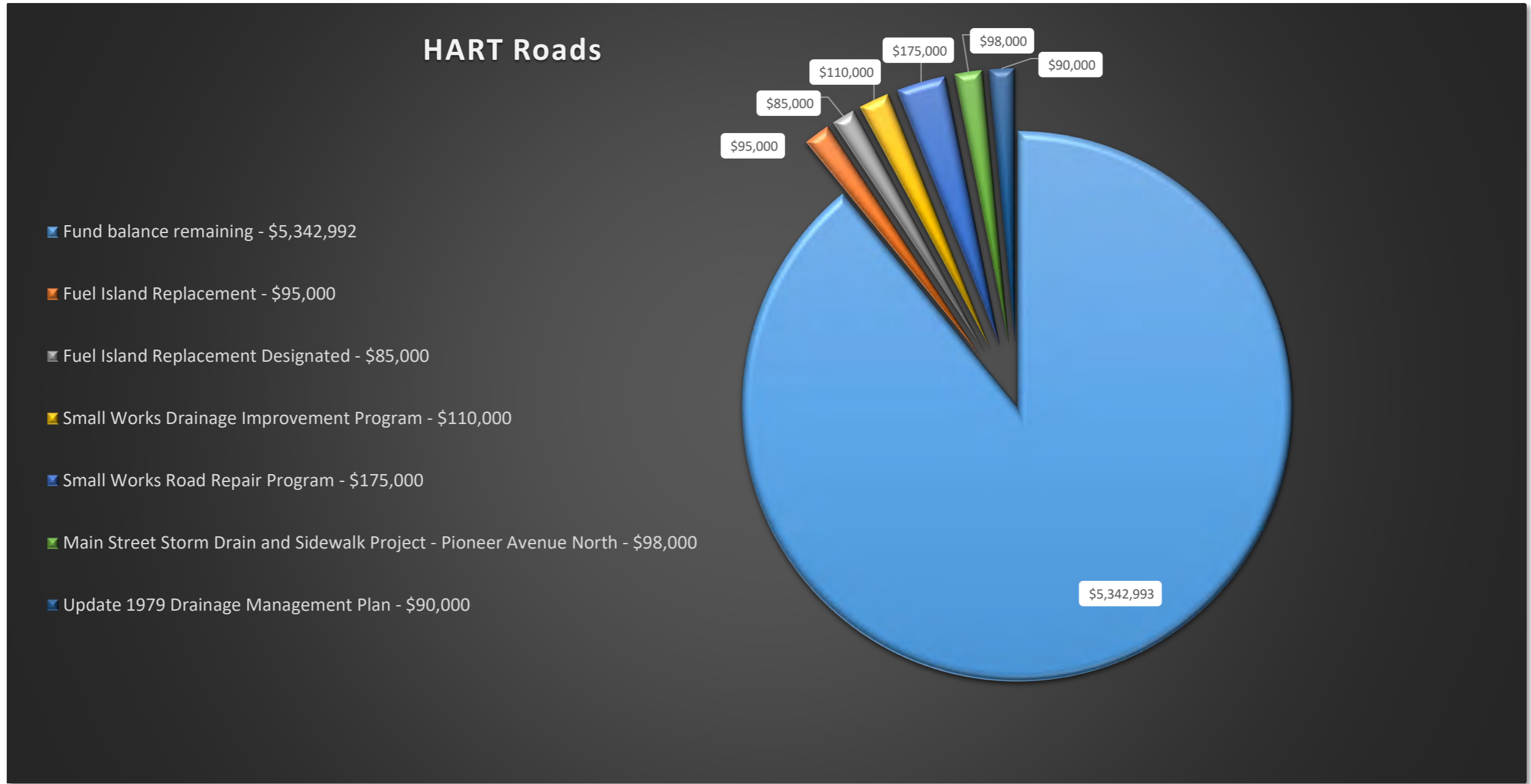
- III. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$110,000 from the HART-Roads Fund for the procurement of materials and supplemental contractor support for the Small Works Drainage Improvement Program.

### Culvert Replacements Needed

- Main/Cityview – NW SD Lateral 18"x 30'
- Main/Danview – NE SD Lateral 24"x 30'
- Main/Lee – NE SD Lateral \*\*\*Slip Lining\*\*\* 24"x 35'
- Svedlund/Fairview – NW SD Lateral 18"x 23'
- Svedlund/Lee NW SD Lateral 18"x 30'
- Svedlund – North SD terminus E Lateral 18"x 30'
- Kachemak Way/Elderberry NE SD Lateral 18"x 25'
- Kachemak Way/Elderberry NW SD Lateral 18" x 25'
- Kachemak Way/Mountainview NE SD Lateral 18"x 20'
- Kachemak Way/Mountainview NW SD Lateral 18" x 25'
- Mullikin/Soundview Cross Culvert 24"x 50'
- Islandview Cross Culvert – Plan for CIPP Lining 36"x 60'
- Clover Lane/Place Cross Culvert – Push Lining? 24"x 75' (Plus Catch Basin)
- Paradise Place cul-de-sac cross culvert – replace with 24"x 60'
- 5500 Orion Circle – Replace at cul-de-sac with 24" x 40'
- Cottonwood E of Janeview – Add 5 to 10' of pipe to the south end
- Elderberry Drive – Rotted cross culvert east of Kachemak Way 24"x 40'
- Lakeshore Drive/Douglas – Replace cross culvert 18"x 50' (currently 24")
- Ben Walters Lane – Replace cross culvert by BW Park 30"x 40' (deepen it 50')
- Ben Walters/Smoky Bay Way – Replace end sections on cross culvert
- Danview/Gavin Court Cross Culvert 24"x 55'

Danview FH Approach W of Danview 24"x 20' (currently 30')

	HART - Roads	Already designated in Operating Budget
<b>Fund Balance thru 3/31/20</b>	\$ 5,995,992.62	
<b>Fund balance remaining - \$5,342,992</b>	\$ 5,342,993	
Fuel Island Replacement - \$95,000	\$ 95,000	\$ 85,000.00
<b>Fuel Island Replacement Designated - \$85,000</b>	<b>\$ 85,000</b>	
Small Works Drainage Improvement Program - \$110,000	\$ 110,000	
Small Works Road Repair Program - \$175,000	\$ 175,000	
Main Street Storm Drain and Sidewalk Project - Pioneer Avenue North - \$98,000	\$ 98,000	
Update 1979 Drainage Management Plan - \$90,000	\$ 90,000	





**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-35**

An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$95,000 for the Planning, Design, and Permitting for the City of Homer Fuel Island Replacement Project.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction

Memorandum 20-088 from Public Works Director as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-35**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE 2020-2021 OPERATING BUDGET AND  
9 AUTHORIZING EXPENDITURE OF \$95,000 FROM THE HART-ROAD  
10 FUND TO COMPLETE THE CITY OF HOMER FUEL ISLAND  
11 REPLACEMENT PROJECT.  
12

13 WHEREAS, the Public Works Department’s budget for 2020-2021 includes \$85,000 for  
14 the cost of fuel tanks to replace the existing Fuel Island at the Public Works campus but  
15 insufficient funds were budgeted to cover other costs, including: design, tank removal,  
16 remediation of potentially contaminated soils, if required, site preparation, and a new fuel  
17 dispensing system; and  
18

19 WHEREAS, The City Council adopted Resolution 17-038, on April 24, 2017, amending the  
20 Homer Accelerated Roads and Trails Program (HART) Policy Manual; and  
21

22 WHEREAS, The HART Policy Manual establishes criteria to be used for determining  
23 which projects qualify for HART-Roads funding; and  
24

25 WHEREAS, a project to replace the City’s Fuel Island, would meet two of the criteria set  
26 forth in the HART Policy Manual, namely (1) improving safety and (2) reducing maintenance  
27 costs because the existing Fuel Island, which serves fuel to the City of Homer’s entire vehicular  
28 fleet, is 30 years old and has become a financial, environmental and safety liability for the  
29 following reasons:

- 30 a. The software system is no longer supported by any vendor and frequently goes down.  
31  
32 b. The underground fuel storage tanks are equipped with cathodic protection anodes to  
33 slow down the rate of corrosion on the tanks, which must be inspected every 3 years.  
34 The next inspection is due in 2021, at an estimated cost of \$70,000 for the inspection  
35 and new anodes. The City has been advised not to try to install new anodes because in  
36 all likelihood, the tanks are already corroded.  
37

38 WHEREAS, The HART-Roads Fund has sufficient capital to complete the Fuel Island  
39 Replacement Project.  
40

41 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
42

43            Section 1. The City of Homer's 2020-21 Operating Budget is hereby amended by  
44 appropriating \$95,000 from the HART-Roads Fund to complete the Fuel Island Replacement  
45 Project.

46	<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
47		HART Roads	\$95,000
48			
49			

50            Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall  
51 not be codified.

52  
53

54            ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

55  
56  
57  
58

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

59  
60 ATTEST:

61  
62 \_\_\_\_\_  
63 MELISSA JACOBSEN, MMC, CITY CLERK  
64

65  
66 YES:  
67 NO:  
68 ABSTAIN:  
69 ABSENT:

70  
71

72 First Reading:  
73 Public Hearing:  
74 Second Reading:  
75 Effective Date:

76

77 Reviewed and approved as to form:

78  
79

80 \_\_\_\_\_  
Rick Abboud, Acting City Manager

\_\_\_\_\_  
Michael Gatti, City Attorney

81

82 Date: \_\_\_\_\_

Date: \_\_\_\_\_

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **ORDINANCE 20-35(S)**  
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE 2020-2021 OPERATING **CAPITAL** BUDGET AND  
9 AUTHORIZING EXPENDITURE OF ~~\$95,000~~ **\$81,000** FROM THE  
10 HART-ROAD FUND **AND \$99,000 FROM MULTIPLE CARMA**  
11 **RESERVES** TO COMPLETE THE CITY OF HOMER FUEL ISLAND  
12 REPLACEMENT PROJECT.  
13

14 WHEREAS, The ~~Public Works Department's budget for 2020-2021~~ **Capital Budget**  
15 includes \$85,000 for the cost of fuel tanks to replace the existing Fuel Island at the Public Works  
16 campus but insufficient funds were budgeted to cover other costs, including: design, tank  
17 removal, remediation of potentially contaminated soils, if required, site preparation, and a  
18 new fuel dispensing system; and  
19

20 **WHEREAS, A realistic cost estimate to complete the Fuel Island Replacement**  
21 **Project, has now been developed and equals \$180,000; and**  
22

23 WHEREAS, The City Council adopted Resolution 17-038, on April 24, 2017, amending the  
24 Homer Accelerated Roads and Trails Program (HART) Policy Manual; and  
25

26 WHEREAS, The HART Policy Manual establishes criteria to be used for determining  
27 which projects qualify for HART-Roads funding; and  
28

29 WHEREAS, A project to replace the City's Fuel Island, would meet two of the criteria set  
30 forth in the HART Policy Manual, namely (1) improving safety and (2) reducing maintenance  
31 costs because the existing Fuel Island, which serves fuel to the City of Homer's entire vehicular  
32 fleet, is 30 years old and has become a financial, environmental and safety liability for the  
33 following reasons:

- 34 a. The software system is no longer supported by any vendor and frequently goes down.  
35  
36 b. The underground fuel storage tanks are equipped with cathodic protection anodes to  
37 slow down the rate of corrosion on the tanks, which must be inspected every 3 years.  
38 The next inspection is due in 2021, at an estimated cost of \$70,000 for the inspection  
39 and new anodes. The City has been advised not to try to install new anodes because in  
40 all likelihood, the tanks are already corroded.  
41

42 WHEREAS, The HART-Roads Fund has sufficient capital to complete the Fuel Island  
43 Replacement Project; and

44  
45 **WHEREAS, The City created a Capital Asset Repair and Maintenance Allowance**  
46 **Fund (“CARMA”) for “appropriation and expenditure for...major maintenance of City**  
47 **facilities...as identified and recommended by the City Manager and authorized by the City**  
48 **Council”;** and

49  
50 **WHEREAS, the CARMA Reserve Accounts have sufficient funds for the various City**  
51 **departments, which use the Fuel Island, to contribute to the replacement cost, in direct**  
52 **proportion to their percentage, based on a 3-year average, of fuel usage; and**

53  
54 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

55  
56 Section 1. The City of Homer’s 2020-21 Operating **Capital** Budget is hereby amended by  
57 appropriating \$95,000 from the HART-Roads Fund **\$180,000 as follows** to complete the Fuel  
58 Island Replacement Project.

59

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>	
	HART Roads	\$95,000	
<b>160-xxxx</b>	<b>HART Roads</b>	<b>45%</b>	<b>\$ 81,000</b>
<b>256-0378</b>	<b>Water</b>	<b>4%</b>	<b>\$ 7,200</b>
<b>256-0379</b>	<b>Sewer</b>	<b>4%</b>	<b>\$ 7,200</b>
<b>156-0385</b>	<b>Parks</b>	<b>8%</b>	<b>\$ 14,400</b>
<b>156-0393</b>	<b>Fire</b>	<b>6%</b>	<b>\$ 10,800</b>
<b>156-0394</b>	<b>Police</b>	<b>22%</b>	<b>\$ 39,600</b>
<b>456-0380</b>	<b>Port &amp; Harbor</b>	<b>11%</b>	<b>\$ 19,800</b>
	<b>100%</b>	<b>Total</b>	<b>\$180,000</b>

70

71 Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall  
72 not be codified.

73  
74 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

75  
76 CITY OF HOMER

77  
78 \_\_\_\_\_  
79 KEN CASTNER, MAYOR

80 ATTEST:

81  
82 \_\_\_\_\_  
83 MELISSA JACOBSEN, MMC, CITY CLERK

84 YES:

85 NO:

86 ABSTAIN:

87 ABSENT:

88

89

90 First Reading:

91 Public Hearing:

92 Second Reading:

93 Effective Date:

94

95 Reviewed and approved as to form:

96

97 \_\_\_\_\_

98 Rick Abboud, Acting City Manager

99

\_\_\_\_\_

Michael Gatti, City Attorney

100 Date: \_\_\_\_\_

Date: \_\_\_\_\_



## **Memorandum 20-088**

TO: Mayor Castner and Homer City Council  
THROUGH: Rick Abboud, Acting City Manager  
FROM: Jan Keiser, PE, JD, Director of Public Works  
DATE: June 10, 2020  
SUBJECT: Proposal to Fund Completion of the Fuel Island Replacement Project

---

I. **Issue:** The Public Works Department's 2020-2021 budget includes \$85,000 to purchase new fuel tanks to replace the existing Fuel Island at the Public Works campus. This does not include sufficient funds to complete other elements of the project. We request the ability to proceed with that project in the interests of public and employee safety as well as environmental sustainability.

II. **Background:**

A. The existing Fuel Island, which serves fuel to the City of Homer's entire vehicular fleet, includes two underground fuel storage tanks, two fuel dispensing pumps, and a software system that turns the pumps on/off as well as keeps track of fuel usage, by user. This combination of equipment is 30 years old and has become a financial, environmental and safety liability.

First, the software system is no longer supported by any vendor. When it goes down, the system will not dispense fuel. We are being increasingly challenged to keep it operating. When it does dispense fuel, we can't always be sure whose account it's being charged to.

Second, the underground fuel storage tanks are equipped with cathodic protection anodes to slow down the rate of corrosion on the tanks. These anodes must be inspected every three years by a 3<sup>rd</sup> party inspector. The inspector determines whether the anodes need replacement and otherwise assesses the condition of the tanks. Because Homer soils are so acidic and corrosive, we always need new anodes. The next inspection is due in 2021, at an estimated cost of \$70,000 for the inspection and new anodes. Further, Coffman Engineers, the consulting company, which produced the design for the original cathodic protection, told us they do not recommend trying to replace the anodes because in all likelihood, the tanks are already corroded.

The City's 2020-2021 budget includes \$85,000 for the Fuel Island Replacement Project, but we have learned this is only enough to cover procurement of the fuel storage tanks themselves. It is not enough to finish the project; we still need design, tank removal, site preparation and a new fuel dispensing system. Further, it does not include the cost to test for or remediate any potentially contaminated soils. The updated cost estimate for a complete Fuel Island Replacement Project is \$180,000. Since \$85,000 has already been budgeted, we request an additional \$95,000.

(Note: The Fuel Island Replacement Project would involve above-ground fuel storage tanks, which would eliminate the potential for corrosion and soils contamination as well as enable the system to be relocated, in the event the Public Works campus was ever relocated outside the Tsunami Inundation Zone.)

**B. Designated funding is available.** The City Council, on April 24, 2017, passed Resolution 17-038, which adopted the Homer Accelerated Roads and Trails Program ("HART") Manual. The HART Manual identified a set of nine criteria for projects that may be considered for HART funding. The criteria, which would be met by the Fuel Island Replacement Program, include:

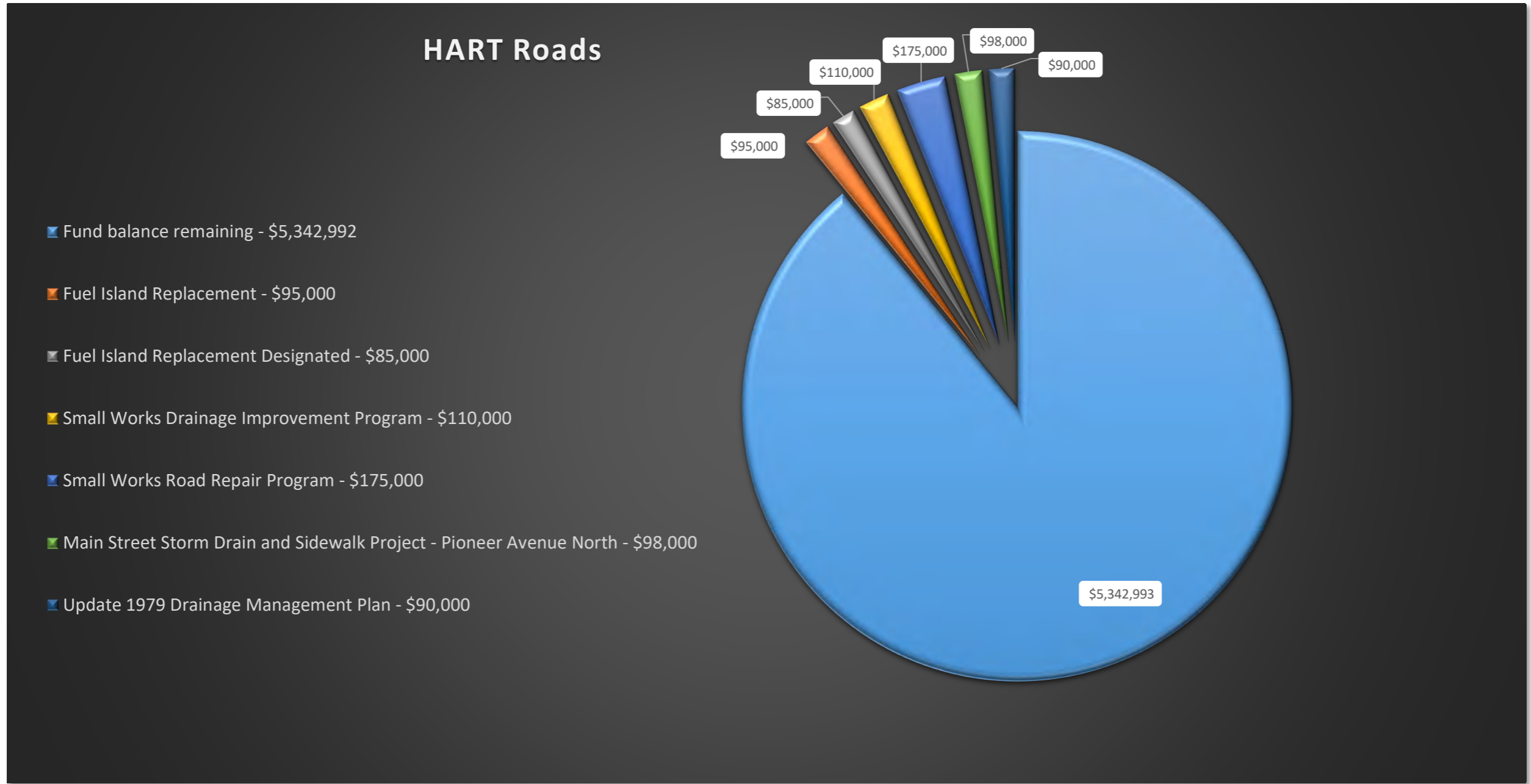
- Improves life, safety and traffic flow
- Reduces maintenance costs

There is currently \$5,995,992.62 in the HART-Roads Fund that could be used to fund the completion of the Fuel Island Replacement Project. I propose a budget of \$95,000 to cover the planning design and permitting of the new Fueling System. Unused funds would remain in the HART-Roads Fund.

**III. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$95,000 from the HART-Roads Fund for the planning, design and permitting of the Fuel Island Replacement Project.



	HART - Roads	Already designated in Operating Budget
<b>Fund Balance thru 3/31/20</b>	\$ 5,995,992.62	
<b>Fund balance remaining - \$5,342,992</b>	\$ 5,342,993	
Fuel Island Replacement - \$95,000	\$ 95,000	\$ 85,000.00
<b>Fuel Island Replacement Designated - \$85,000</b>	<b>\$ 85,000</b>	
Small Works Drainage Improvement Program - \$110,000	\$ 110,000	
Small Works Road Repair Program - \$175,000	\$ 175,000	
Main Street Storm Drain and Sidewalk Project - Pioneer Avenue North - \$98,000	\$ 98,000	
Update 1979 Drainage Management Plan - \$90,000	\$ 90,000	



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-36**

An Ordinance of the City Council of Homer, Alaska, Amending the 2020-2021 Operating Budget and Authorizing Expenditure of \$36,000 from the HART-Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-089 from Public Works Director as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing an Second Reading
  - a. Memorandum 20-089 from Public Works Director as backup

**CITY OF HOMER  
HOMER, ALASKA**

City Manager/  
Public Works Director

**ORDINANCE 20-36**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING THE 2020-2021 OPERATING BUDGET AND  
AUTHORIZING EXPENDITURE OF \$36,000 FROM THE HART-TRAILS  
FUND FOR THE SMALL WORKS TRAILS MAINTENANCE PROGRAM  
AND CALLING FOR THE DEVELOPMENT OF A TRAILS PROGRAM, TO  
INCLUDE A TRAILS FINANCIAL PLAN.

WHEREAS, The City Council adopted Resolution 17-038, on April 24, 2017, amending the  
Homer Accelerated Roads and Trails Program (HART) Policy Manual; and

WHEREAS, The HART Policy Manual establishes criteria to be used for determining  
which trail projects qualify for HART-Trails funding; and

WHEREAS, The HART Policy Manual identifies a process for nominating and selecting  
trails for funding by the HART-Trails fund, but the process doesn't provide for a financial plan;  
and

WHEREAS, A Trails Program, is needed to assess the condition of existing trails and  
identify maintenance needs as well as the desirability and feasibility of new trail construction;  
and

WHEREAS, The Trails Program should include a Trails Financial Plan that programs the  
use of HART-Trail funds for trails maintenance and construction in a mindful and financially  
sustainable manner; and

WHEREAS, Some of Homer's Trails require some immediate attention due to deferred  
maintenance and high usage; and

WHEREAS, The HART-Trails Fund has sufficient capital to fund a Small Works Trails  
Maintenance Program, while the more comprehensive Trails Program and Financial Plan is  
being developed.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

41            Section 1. The City of Homer’s 2020-21 Operating Budget is hereby amended by  
42 appropriating \$36,000 from the HART-Trails Fund to support a Small Works Trails Maintenance  
43 Program.

44

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
165-0375	HART Trails	\$36,000

47

48            Section 2. A Trails Program based on the criteria and the trails nomination/selection  
49 process set forth in the HART-Trails Policy Manual, shall be developed and adopted by  
50 resolution. The Trails Program shall include a Trails Financial Plan.

51

52            Section 3. This is a budget amendment ordinance, is not permanent in nature, and shall  
53 not be codified.

54

55

56

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_, 2020.

57

58

CITY OF HOMER

59

60

61

\_\_\_\_\_  
KEN CASTNER, MAYOR

62

ATTEST:

63

64

65

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

66

67

YES:

68

NO:

69

ABSTAIN:

70

ABSENT:

71

72

First Reading:

73

Public Hearing:

74

Second Reading:

75

Effective Date:

76

77

Reviewed and approved as to form:

78

79

\_\_\_\_\_  
Rick Abboud, Acting City Manager

\_\_\_\_\_  
Michael Gatti, City Attorney

80

81

Date: \_\_\_\_\_

Date: \_\_\_\_\_

82



43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84

Section 1. The City of Homer's 2020 ~~Operating~~ **Capital** Budget is hereby amended by appropriating \$36,000 from the HART-Trails Fund to support a Small Works Trails Maintenance Program.

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
165-0375- <del>xxxx</del>	HART Trails	\$36,000

Section 2. A Trails Program based on the criteria and the trails nomination/selection process set forth in the HART-Trails Policy Manual, shall be developed and adopted by resolution. The Trails Program shall include a Trails Financial Plan.

Section 3. This is a budget amendment ordinance, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Rick Abboud, Acting City Manager

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## Memorandum 20-089

TO: Mayor Castner and Homer City Council

THROUGH: Rick Abboud, Acting City Manager

FROM: Jan Keiser, PE, JD, Director of Public Works

DATE: June 16, 2020

SUBJECT: Proposal to Fund the Small Works Trails Maintenance Program

---

I. **Issue:** We propose to (1) systematize a Trails Program, with accompanying Trails Financial Plan as well as (2) create a Small Works Trails Maintenance Program for Homer's trails, funded out of the HART-Trails Fund.

II. **Background:**

A. **Resolution 17-092(A) and Resolution 17-092(A) established a minimum set aside budget from the HART-Trails fund to be used for capital construction and maintenance of trails.** A minimum of \$550,000/year was to be set aside from sales tax revenues to fund the construction of new, and maintenance of existing, roads and trails. Of this, \$500,000/year was to be set aside for roads and \$50,000/year was to be set aside for trails. As of March 31, 2020, \$674,618.94 has accumulated in the HART-Trails fund. We propose to use some of this money for a Small Works Trails Maintenance Program, which would be used for spot repairs or minimal enhancements of existing trails.

B. **The City Council adopted the HART Policy Manual.** The HART Policy Manual identifies a set of nine criteria for projects that may be considered for HART funding, which could apply to maintenance of existing trails. The criteria, which would be met by the Small Works Trails Maintenance Program, include:

- Improves life, safety and traffic flow
- Corrects deficiencies of existing systems
- Completes traffic circulation pattern
- Encourages economic development
- Corrects Drainage Problems
- Reduces maintenance costs

C. **A systematic Trails Program and Trails Financial Plan needed.** While the Policy Manual identifies a basic system for nominating and selecting trail projects that are eligible for

HART funds, there is no provision for a trails financial plan. And, the Manual doesn't specifically address how levels of effort for maintenance will be gauged.

A system is needed to assess (1) the condition of existing trails and identify maintenance needs as well as (2) the desirability and feasibility of new trail construction. Such a system would be used to program the use of HART-Trail funds in a mindful and financially sustainable manner. Groundwork for this effort has already been laid by the Parks, Art, Recreation and Culture Advisory Commission. We will follow up on that work to systematize the process and develop an accompanying Trails Financial Plan.

**D. In the meantime, some of Homer's existing trails need immediate attention.** Trails, over time, deteriorate – they lose their tread, suffer from drainage issues, become overgrown with brush, etc. The City's existing budget allocated \$25,000 from the HART-Trails Fund to the General Fund. However, this was not allocated as a line item dedicated for trails maintenance. The reality is that we spend more than \$25,000/year in normal trail maintenance activities – snow removal, sanding, sweeping and mowing, so that allocation was quickly absorbed.

There is a line item of \$12,444 in the Parks Budget for labor for trails maintenance, but this isn't enough to do substantive work, such as: build up tread, address drainage issues, cut brush, replace signage, etc. For this work, we need to purchase filter fabric, acquire gravel base and occasionally engage 3<sup>rd</sup> party contractor support.

We propose to create a Small Works Trails Maintenance Program, specifically funded by the HART-Trails Fund that can be used to perform substantive maintenance work. For example, immediate attention is needed on the following trails:

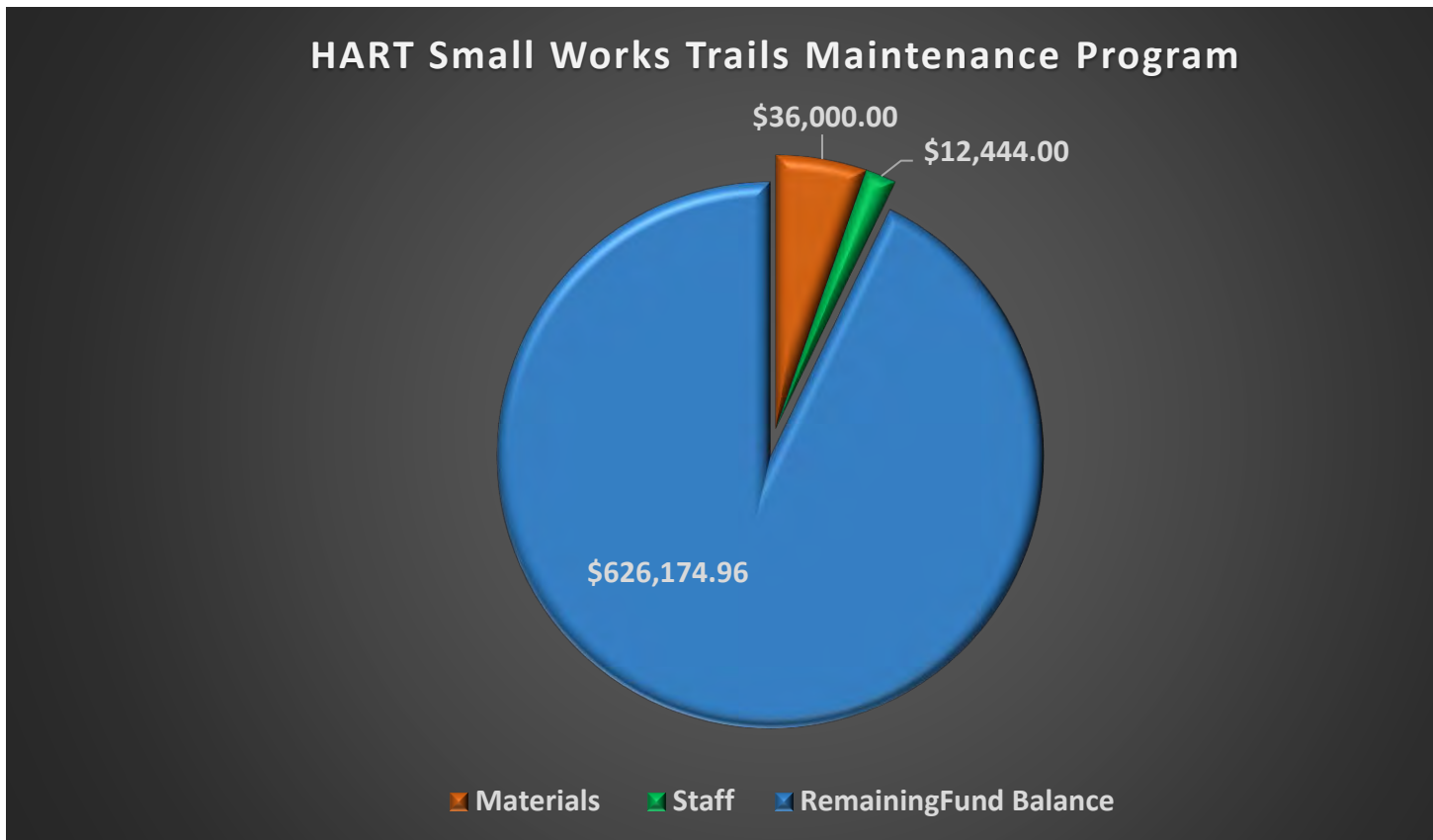
- Poopdeck Trail, segment #1– Retreading – needs filter fabric and gravel
- Poopdeck Trail – segment #2 (Land Trust Ext.) – Drainage– needs pipe & aluminum grating
- Reber Trail – Brush cutting – needs 3<sup>rd</sup> party contractor support

**E. Dedicated funding is available.** There is currently \$674,618.94 in the HART-Trails Fund that could be used to fund the Small Works Trails Maintenance Program. I propose an initial budget of \$36,000 for this program. Funds that are not expended from this “bucket” would remain in the HART Fund.

**III. Action Recommended:** That the City Council pass the proposed ordinance authorizing expenditure of \$36,000 from the HART-Trails Fund for the Small Works Trails Maintenance Program and calling for the development of a Trails Program, to include a Trails Financial Plan.

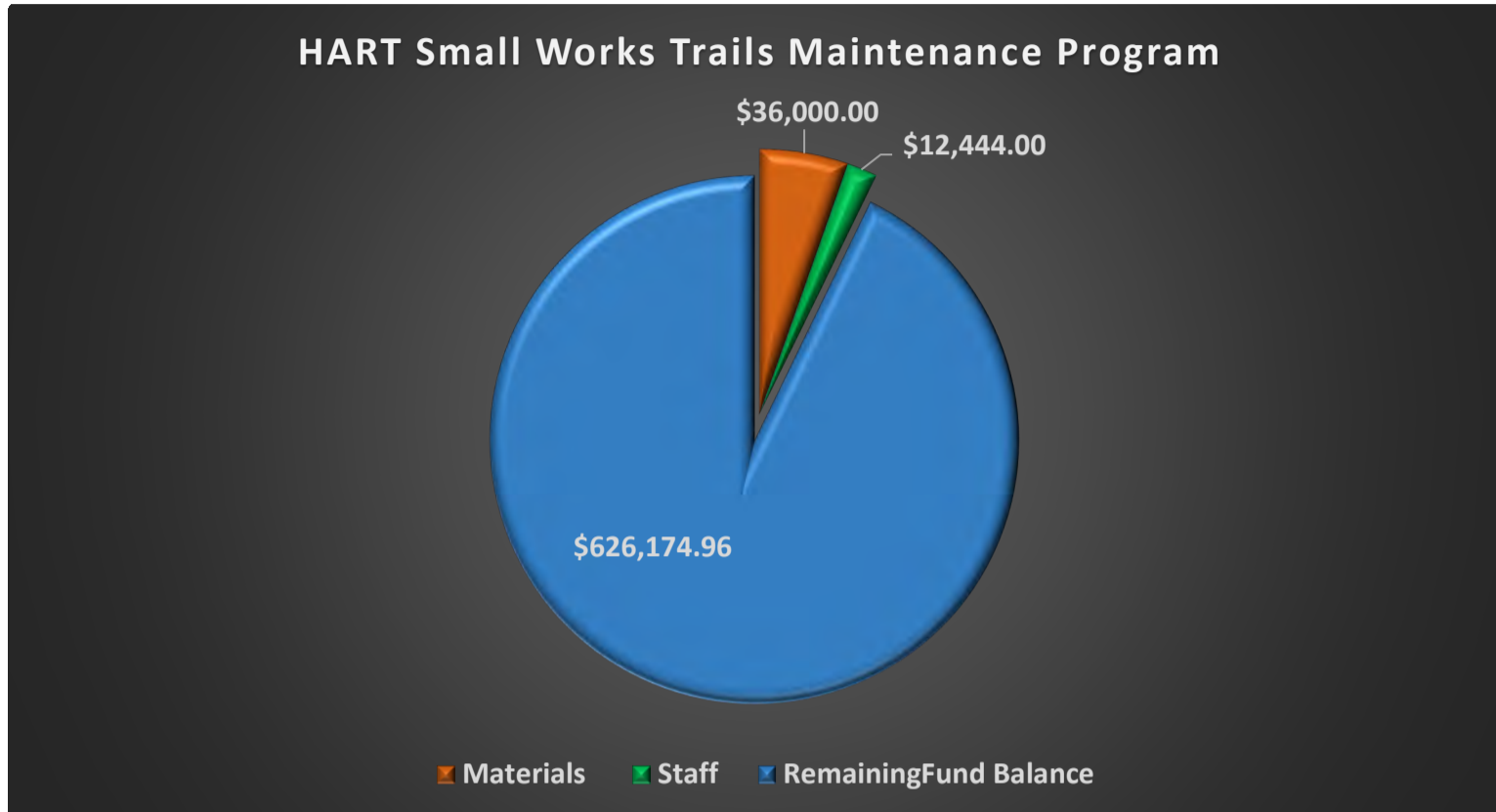


	HART - Trails	Money dedicated to trails maintenance in the past
<b>Fund Balance thru 3/31/20</b>	\$ 674,618.94	
<b>Small Works Trails Maintenance Program</b>		\$ -
Materials	\$ 36,000.00	
Staff	\$ 12,444.00	
RemainingFund Balance	\$626,174.96	





	HART - Trails	Money dedicated to trails maintenance in the past
<b>Fund Balance thru 3/31/20</b>	\$ 674,618.94	
<b>Small Works Trails Maintenance Program</b>		\$ -
Materials	\$ 36,000.00	
Staff	\$ 12,444.00	
RemainingFund Balance	\$626,174.96	



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-37**

Ordinance 20-37, an Ordinance of the City Council of Homer, Alaska Extending the Moratorium on Applications for Professional Offices and Medical Clinics in the Residential Office District and Directing the Planning Commission to Make a Recommendation to the City Council for the Creation of a Medical District in the Vicinity of the South Peninsula Hospital that was established in Ordinance 19-49(S)(A) to September 15, 2020.

Sponsor: Smith

1. City Council Regular Meeting June 22, 2020 Introduction
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading

**CITY OF HOMER  
HOMER, ALASKA**

Smith

**ORDINANCE 20-37**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA EXTENDING THE MORATORIUM ON APPLICATIONS FOR PROFESSIONAL OFFICES AND MEDICAL CLINICS IN THE RESIDENTIAL OFFICE DISTRICT AND DIRECTING THE PLANNING COMMISSION TO MAKE A RECOMMENDATION TO THE CITY COUNCIL FOR THE CREATION OF A MEDICAL DISTRICT IN THE VICINITY OF THE SOUTH PENINSULA HOSPITAL THAT WAS ESTABLISHED IN ORDINANCE 19-49(S)(A) TO SEPTEMBER 15, 2020.

WHEREAS, The 2018 Homer Comprehensive Plan Land Use Recommendations Map identifies areas in the Residential Office District south of the South Peninsula Hospital be considered for a future medical district; and

WHEREAS, The 2018 Homer Comprehensive Plan Land Use Chapter Goal 1, Objective B recommends updating the zoning map to reflect a desired pattern of growth; and

WHEREAS, Medical District planning has been on the Planning Commission agenda and is expected to be completed in the near future; and

WHEREAS, A moratorium on the acceptance of non-residential conditional use permits will allow the area under consideration for a medical district to remain consistent during the planning process

NOW THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. That the uncodified law of the City of Homer is amended to include the following:

A moratorium on issuing non-residential conditional use permits for the area displayed in Attachment A shall be in extended until September 15, 2020.

The City will not accept any additional conditional use permit applications that are subject to this moratorium. This does not apply to those conditional use permit applications that have been previously received and/or approved.

42 Section 2. The Planning Commission is directed to work with the neighborhood and  
43 produce recommendations regarding the creation of a medical district by September 15, 2020.  
44 The recommendations should come in the form of a draft ordinance and a memo explaining  
45 the recommendations and process followed to develop them.

46  
47 Section 3: This ordinance is of a temporary nature and shall not be included in the  
48 City Code.

49  
50 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_\_\_\_ DAY OF  
51 \_\_\_\_\_, 2020.

52  
53 CITY OF HOMER

54  
55 \_\_\_\_\_  
56 KEN CASTNER, MAYOR

57  
58 ATTEST:

59  
60 \_\_\_\_\_  
61 MELISSA JACOBSEN, MMC, CITY CLERK

62  
63  
64 YES:

65 NO:

66 ABSTAIN:

67 ABSENT:

68  
69 First Reading:

70 Public Hearing:

71 Second Reading:

72 Effective Date:

73  
74 Reviewed and approved as to form:

75  
76 \_\_\_\_\_  
77 Rick Abboud, Acting City Manager

76 \_\_\_\_\_  
77 Michael Gatti, City Attorney

78  
79 Date: \_\_\_\_\_

78  
79 Date: \_\_\_\_\_

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-39**

An Ordinance by the City Council of Homer, Alaska, Amending the FY 2020 Capital Budget to Appropriate \$20,680 to Support the Additional Assistance Provided by Alaska Municipal League during the COVID 19 Public Health Emergency.

Sponsor: Mayor

1. City Council Regular Meeting June 22, 2020 Introduction
  - a. Memorandum 20-093 from Mayor as backup
2. City Council Regular Meeting July 27, 2020 Public Hearing and Second Reading
  - a. Memorandum 20-093 from Mayor as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Mayor

4 **ORDINANCE 20-39(A)**

5  
6 AN ORDINANCE BY THE CITY COUNCIL OF HOMER, ALASKA,  
7 ~~AMENDING THE FY 2020 CAPITAL BUDGET TO APPROPRIATE~~  
8 **APPROPRIATING** \$20,680 TO SUPPORT THE ADDITIONAL  
9 ASSISTANCE PROVIDED BY ALASKA MUNICIPAL LEAGUE DURING  
10 THE COVID 19 PUBLIC HEALTH EMERGENCY **FROM THE CITY'S**  
11 **COVID-19 FUND**  
12

13 WHEREAS, Alaska Municipal League (AML) is a non-profit impacted by this crisis with  
14 unanticipated costs that were not budgeted in FY2020; and  
15

16 WHEREAS, AML has been working to augment the capacity and assist municipalities  
17 throughout the COVID 19 Health crisis by providing support of public health response and  
18 management and economic relief for residents and businesses; and  
19

20 WHEREAS, The requested amount of support will be used to benefit the City of Homer  
21 in the development of programs by AML for CARES Act compliance, implementing a hot line for  
22 accounting and legal questions on the CARES Act; ensure social distancing and sanitation  
23 measures at upcoming events; investiture in additional crisis communications for FY21  
24 outreach; support National League of Cities (NLC) and National Association of Counties (NACo)  
25 outreach and advocacy for increased local funding and support.  
26

27 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
28

29 Section 1: Amending the 2020 Capital Budget **Appropriation from the COVID-19**  
30 **Fund as follows:**  
31

32 Expenditure

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
	AML Additional Assistance Support	\$20,680

33  
34  
35  
36

37 Section 2: This ordinance is a budget ordinance and shall not be codified.  
38

39 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_,  
40 2020.

41 CITY OF HOMER  
42



43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form.

\_\_\_\_\_  
Rick Abboud, Acting City Manager

Date:\_\_\_\_\_

\_\_\_\_\_  
KEN CASTNER, MAYOR

\_\_\_\_\_  
Michael Gatti, City Attorney

Date:\_\_\_\_\_



# City of Homer

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

Office of the Mayor

491 East Pioneer Avenue  
Homer, Alaska 99603

[mayor@ci.homer.ak.us](mailto:mayor@ci.homer.ak.us)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 20-093

TO: HOMER CITY COUNCIL  
FROM: MAYOR CASTNER  
DATE: JUNE 4, 2020  
SUBJECT: ALASKA MUNICIPAL LEAGUE APPROPRIATION

---

AML has sent us an invoice for \$20,680 as our share of funding necessary to fulfill the League's obligation to its members in three areas:

- 1) Covid-19 work taken on in assisting with CARES Act authorization, initiation and interpretations of the various mandates and directives, grant/reimbursement compliance guidance, accounting/bookkeeping advice, general dissemination of information, and legal counsel, and;
- 2) Revenue shortfalls from delays in the efficient collection of remote sales tax due to the novel Coronavirus pandemic, and;
- 3) Revenue shortfalls caused by an anticipated decrease in attendance and sponsorship due to travel and health concerns emanating from increased mixing and the risk of viral infection.

Nils has provided his budget and cost allocations, which is attached. 40% can be considered a cost caused by the COVID-19 response, and can be taken from the funds provided and appropriated in Ordinance 20-25. That would be \$8,272 which should be immediately available.

Homer is a community that is benefiting from the remote sales tax collection program and 30% of the AML request is slated to cover lost revenues. That would be \$6,204 and I will sponsor an ordinance at the next meeting to fund that from an appropriate fund that maintains an accounting trace. While our current COVID-19 related aid has restrictions from being used to replace lost revenues, there have been suggestions that future appropriations may allow those applications.

The remaining 30% is for a prudent view of the lost revenues from reduced participation at the remaining 2020 gatherings. I will include a similar amount in the ordinance mentioned above to cover our share of that projected shortage.

AML has been a terrific partner and information hub. They have risen to the occasion during this pandemic, in not only providing help and assistance to the members, but in also providing

a unified municipal voice to the Dunleavy Administration and Alaska State Legislature. This is money well spent .

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager

4 **RESOLUTION 20-054**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 SUPPORTING EFFORTS OF THE ALASKA MUNICIPAL LEAGUE,  
8 ACKNOWLEDGING THE SIGNIFICANT AMOUNT OF STAFF TIME,  
9 AND ORGANIZATIONAL SUPPORT TO MEMBERS THROUGH THE  
10 COVID-19 PUBLIC HEALTH EMERGENCY AND APPROVING THE  
11 REQUESTED CONTRIBUTION FROM THE CITY.  
12

13 WHEREAS, Alaska Municipal League (AML) has been working to assist municipalities  
14 throughout the COVID-19 health crisis; and  
15

16 WHEREAS, One of the allowable expenditures of CARES Act funding is in support of  
17 organizations that are impacted by the public health emergency or are providing services in  
18 support of or response to the COVID-19 crisis; and  
19

20 WHEREAS, Granting funds to AML is an expense that benefits both AML and its  
21 members; and  
22

23 WHEREAS, AML is a nonprofit impacted by the COVID-19 crisis, with unanticipated costs  
24 that were not budgeted for in FY20 and that will continue to be impacted in FY21; and  
25

26 WHEREAS, As a member service organization, AML can augment the capacity of local  
27 governments and provide real value in support of public health response and management,  
28 and economic relief for residents and businesses; and  
29

30 WHEREAS, The requested grant amount is \$20,680 and AML will use the funds to:

- 31 • Invest in the Remote Sales Tax program to further bring down fees and recruit  
32 new members,
- 33 • Ensure social distancing and additional hygiene and sanitation measures at  
34 upcoming events,
- 35 • Develop a shared service program in support of CARES Act compliance,  
36 reporting, and grants,
- 37 • Implement a CARES Act hotline for accounting and legal questions to be  
38 answered,
- 39 • Expand support of AMLIP and AML-JIA as they respond to the economic impact,
- 40 • Invest in additional crisis communications for FY21-public outreach, local  
41 government value, and





ONE SEALASKA PLAZA, SUITE 200 • JUNEAU, ALASKA 99801  
TEL (907) 586-1325 • FAX (907) 463-5480 • WWW.AKML.ORG

Member of the National League of Cities and the National Association of Counties

### **Statement of Need**

AML has devoted a significant amount of staff time and organizational resources to support members through this public health emergency. While the last two months have been challenging, we're glad to have been able to play some role that's been helpful to our members. We know, too, that this public health emergency and economic crisis will continue. We've begun planning now for how to continue this support through FY21 and beyond. A lot of that will mean shoring up our current capacity and investing in additional measures – staff and outreach – that augment member capacity and support members.

### **Request of Members**

One of the very clear allowable expenditures of CARES Act funding is in support of organizations that are impacted by the public health emergency or are providing services in support of or response to this crisis. Granting funds to AML during this time, we believe, is a justifiable expense that benefits both AML and members. We've created this request for supplemental fees that you can treat as optional (but hope that you respond positively to), to be paid for from CARES Act funding as you are able. None of these funds will be used for lobbying purposes. We've estimated our total needs and pro-rated them across members. You can choose to follow this format for granting purposes or come up with a flat amount that is consistent with your budget and other community needs.

### **What AML will do with these funds:**

- Invest in the Remote Sales Tax program to further bring down fees and recruit new members
- Ensure social distancing and additional hygiene and sanitation measures at upcoming events
- Develop a shared service program in support of CARES Act compliance, reporting, and grants
- Implement a CARES Act hotline for accounting and legal questions to be answered
- Expand our support of AMLIP and AML-JIA as they respond to the economic impact
- Invest in additional crisis communications for FY21 – public outreach, local government value
- Support NLC and NACo outreach and advocacy for increased local funding and support

### **Justification**

AML is a nonprofit impacted by the COVID-19 crisis, with unanticipated costs that were not budgeted for in FY20 and that will continue to be impacted in FY21. At the same time, as a member-service organization, we can augment the capacity of local governments and provide real value in support of public health response and management, and economic relief for residents and businesses. Investments that AML makes during this time lower the costs of doing business for members and ultimately Alaska communities. These actions would not otherwise be necessary without the public health and economic crisis.

**Note, for budget purposes:** The AML Annual Local Government Conference will be dedicated to the Costs of COVID – Crisis Management and Recovery. We would argue that this is an allowable expenditure for participation by members, which CARES Act funding may be used for.



ALASKA MUNICIPAL LEAGUE  
 One Sealaska Plaza, Suite 200  
 Juneau, AK 99801

# Invoice

DATE	INVOICE ...
5/15/2020	1

Bill To:  
 City of Homer  
 491 East Pioneer Ave.  
 Homer, AK 99603

P.O. NO.	DUE DATE
	07/1/2020

ITEM	DESCRIPTION	AMOUNT
COVID-19 Response	COVID-19 Supplemental Request <ul style="list-style-type: none"> <li>• Crisis Communications</li> <li>• CARES Act Counsel</li> <li>• Bookkeeping &amp; Grant Compliance</li> <li>• Increased Member Support</li> </ul> <p><i>FY21 Membership Invoices will be sent out as usual in late June.</i></p> <p>Please make check payable to:            Alaska Municipal League</p>	\$20,680.00
Thank you for your prompt payment. Please direct any billing questions to Shawn Myers at 907-586-1325		<b>Total</b> \$20,680.00

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-45**

An Ordinance of the City Council of Homer, Alaska Appropriating \$4,031,326.50 in CARES Act Funds from the State of Alaska and Providing for Administrative Flexibility in the Management of these Funds.

Sponsor: Lord/Aderhold

1. City Council Regular Meeting July 27, 2020 Introduction
  - a. Memorandum 20-110 from Interim City Manager as backup



**CITY OF HOMER  
HOMER, ALASKA**

Lord/Aderhold

**ORDINANCE 20-45**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
APPROPRIATING \$4,031,326.50 IN CARES ACT FUNDS FROM THE  
STATE OF ALASKA AND PROVIDING FOR ADMINISTRATIVE  
FLEXIBILITY IN THE MANAGEMENT OF THESE FUNDS.

WHEREAS, The State of Alaska received over \$1.5 billion in federal funding under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, with \$562.5 million directed by the Governor and the Alaska Legislature to Alaska's municipalities for direct relief designed to help meet each community's unique needs and costs associated with coping with the novel coronavirus, COVID-19; and

WHEREAS, The City of Homer's total allocation is \$7,899,085.29, which was authorized for receipt under Resolution 20-051; and

WHEREAS, The funds allocated to the City of Homer will be distributed by the state in three payments:

- 1) \$3,867,758.79
- 2) \$2,015,663.25 on or about July 1, 2020
- 3) \$2,015,663.25 on or about October 1, 2020; and

WHEREAS, The City of Homer must expend 80% of the first distribution (equal to \$3,094,207) before the second portion of the allocation is distributed to the City and this requirement is also applicable to the second distribution where the City must expend 80% (equal to \$1,612,530.60) before the City receives its third and final distribution; and

WHEREAS, the first allotment of \$3,867,758.79 was appropriated via Ordinance 20-25(S) on June 8, 2020, as follows:

- A) \$3,000,000 is appropriated to the Small Business Economic Relief Grant Program (SBERG), per the policy outlined in Resolution 20-057.
- B) \$90,000 is appropriated to pay for the initial administrative costs, including additional personnel and direct expenses (including public outreach), of the small business grant program.
- C) \$130,000 is appropriated to reimburse the City's advance of emergency funding that was used to meet the demands of the first few weeks of COVID-19 response and altered municipal operations.

- 42 D) \$445,000 is appropriated to repay the City for approved staffing expenses associated  
43 with the COVID-19 state mandates and closures and operations of the City’s emergency  
44 operations center and coordination with other agencies and organizations through a  
45 unified command.  
46 E) The balance is to be placed in a dedicated account to be kept ready for additional  
47 COVID-19 related expenses through additional appropriation by the Homer City  
48 Council.

49  
50 WHEREAS, In addition to small businesses, Homer-based nonprofit organizations,  
51 households within the City of Homer, nonprofits and businesses that provide social services to  
52 Homer residents related to the pandemic, childcare providers in the City of Homer, and South  
53 Peninsula Hospital are in immediate need of fiscal relief due to the COVID-19 pandemic and  
54 actions taken as a result to protect public health; and  
55

56 WHEREAS, CARES Act funds may be used for expenses associated with the provision of  
57 economic support in connection with the COVID-19 health emergency, including expenditures  
58 related to the provision of grants to businesses, nonprofits, households, and hospitals that  
59 suffered negative impacts as a result of public health mandates related to COVID-19; and  
60

61 WHEREAS, South Peninsula Hospital (SPH), a critical care hospital that operates in the  
62 City of Homer, has partnered with the City of Homer during the COVID-19 pandemic response  
63 including participating in the City’s Unified Command and has been financially impacted  
64 through measures such as temporarily closing many hospital services in response to statewide  
65 health mandates, preparing to safely receive Covid-19 patients through modifications to the  
66 building and equipping staff with personal protective equipment, and conducting COVID-19  
67 testing at the hospital and at pop-up locations on the Homer spit and elsewhere on the  
68 southern Kenai Peninsula at the hospital’s expense; and  
69

70 WHEREAS, SPH has expended funds to prepare for pandemic response while  
71 simultaneously losing revenue due to temporarily stopping services; and  
72

73 WHEREAS, The Alaska Municipal League (AML) is a non-profit of which the City is a  
74 member and, as outlined in Ordinance 20-39(A), has also been impacted by the pandemic;  
75

76 WHEREAS, CARES Act funds may also be used to reimburse the City for expenses related  
77 to municipal operations such as material and service costs including capital expenses and  
78 personnel costs that are a direct result of the COVID-19 response, including the added  
79 administrative costs associated with substantial associated financial management and  
80 oversight; and  
81

82 WHEREAS, The City Manager will present Homer City Council with a resolution or  
83 resolutions detailing how CARES Act funds allocated to the City will be used for municipal  
84 operations that are a direct result of the COVID-19 response and mitigation; and  
85 WHEREAS, The Homer City Council established the Small Business Economic Relief Grant  
86 (SBERG) Program policy through Resolution 20-057; and

87  
88 WHEREAS, Resolution 20-0XX establishes policies for a Nonprofit Economic Relief Grant  
89 Program (NERG), Household Economic Relief Grant Program (HERG), Social Services Economic  
90 Relief Grant Program (SoSERG), and Childcare Business Economic Relief Grant Program  
91 (CBERG); and

92  
93 WHEREAS, The expenses associated with these additional COVID-19 economic relief  
94 programs were not accounted for in the FY20-21 budget, but the City needs to respond  
95 financially to the economic hardships caused by the COVID-19 health mandates during the  
96 period March 2020 to December 2020.

97  
98 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
99

100 Section 1. The Homer City Council hereby accepts and appropriates the second and  
101 third payments of municipal CARES Act funding in the amount of \$4,031,326.50, at the time  
102 that the funds become available from the State of Alaska and the City has expended 80% of  
103 previous distributions, to be used as follows:

- 104
- 105 A) \$222,537 is appropriated to pay for City material and service expenses including  
106 capital expenses that qualify for reimbursement under the CARES Act and are  
107 approved by the Homer City Council projected for the next 60 days.
  - 108 B) \$108,312 is appropriated to fund COVID-19 related personnel costs projected over  
109 the next 60 days. The additional personnel and direct expenses (including public  
110 outreach) of the grant programs outlined in this ordinance have been approved and  
111 funded under Section 1. B. of Ord. 20-25(S).
  - 112 C) \$1,000,000 is appropriated to the Household Economic Relief Grant Program per the  
113 policy outlined in Resolution 20-071.
  - 114 D) \$1,250,000 is appropriated to the Nonprofit Economic Relief Grant Program per the  
115 policy outlined in Resolution 20-071.
  - 116 E) \$200,000 is appropriated to the Social Services Economic Relief Grant Program per  
117 the policy outlined in Resolution 20-071.
  - 118 F) \$150,000 is appropriated to the Childcare Business Economic Relief Grant Program  
119 per the policy outlined in Resolution 20-071.
  - 120 G) \$200,000 is appropriated to South Peninsula Hospital for expenses incurred in  
121 response to the COVID-19 pandemic.

- 122 H) \$20,680 is appropriated to Alaska Municipal League for expenses incurred and  
123 anticipated in response to the COVID-19 pandemic.  
124 I) The balance is to be placed in a dedicated account to be kept available for  
125 additional Covid-19 related expenses such as municipal operations through  
126 additional appropriation by the Homer City Council.

127  
128 Revenue:

129	<u>Description</u>	<u>Amount</u>
130		
131	FY 2020 CARES Act Municipal Assistance	\$2,015,663.25
132	FY 2020 CARES Act Municipal Assistance	\$2,015,663.25
133		

134 Transfer:

135	<u>Description</u>	<u>Amount</u>
136		
137	COVID 19 Response Fund	\$2,015,663.25
138	COVID 19 Response Fund	\$2,015,663.25
139		

140 Section 2. Unspent funds appropriated from the first distribution (\$3,867,758.79) may  
141 be reallocated to the uses outlined in Section 1 to allow the City to expend 80% of the first  
142 distribution to attain eligibility for the second distribution through this administrative  
143 flexibility.

144  
145 Section 3. A \$50,000 portion of the \$90,000 appropriated from the first distribution  
146 under Ordinance 20-25(S) to pay for the initial administrative costs, including additional  
147 personnel and direct expenses (including public outreach) of the small business grant program  
148 has been reallocated for the purpose of hiring a CARES Act Program Coordinator.

149  
150 Section 4. This ordinance is a budget ordinance only, is not permanent in nature and  
151 shall not be codified.

152  
153 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

154  
155 CITY OF HOMER

156  
157 \_\_\_\_\_  
158 KEN CASTNER, MAYOR

159  
160 ATTEST:  
161 \_\_\_\_\_  
162 \_\_\_\_\_

163 MELISSA JACOBSEN, MMC, CITY CLERK

164

165 YES:

166 NO:

167 ABSTAIN:

168 ABSENT:

169

170 First Reading:

171 Public Hearing:

172 Second Reading:

173 Effective Date:

174

175 Reviewed and approved as to form.

176

177

178 \_\_\_\_\_  
Rick Abboud, Interim City Manager

179

180 Date: \_\_\_\_\_

181

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_



## City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

### Memorandum

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 23, 2020  
SUBJECT: Funding allocations of Ord. 20-45

---

Through Ord. 20-25(S), \$3,665,000 of the first distribution of CARES Act dollars was appropriated. This left a remaining balance of \$202,758.79 that can be used for additional COVID-19 related expenses. The ordinance currently before Council appropriates \$ 3,151,529 from the second and third disbursements, leaving a remaining balance of \$879,797.50 that can be used for additional COVID-19 related expenses.

I recommend leaving the combined balance of \$1,082,556.29 unencumbered and moving forward with the proposed allocations listed under Section 1 of Ordinance 20-45. Municipal operations including materials, services, and personnel costs have been projected for the next 60 days, however there will be costs that can be recovered with Cares Act funds after this time period. Additionally, all new economic relief grant programs will have a designated application period for community members to apply for funding. Keeping a shorter timeline for applications to be received will help the City assess if additional funding is needed due to high demand for a particular program. In which case, Council can either appropriate the unencumbered balance or Administration can flex any remaining funds from the first disbursement to assist the City in expending 80% so that the second disbursement may be received.

Addressing and responding to the pandemic requires flexibility for unforeseen circumstances, of which availability of funds is key.

**From:** Angela Hinnegan <ahinnegan@sphosp.org>  
**Sent:** Monday, June 15, 2020 2:56 PM  
**To:** Rachel Friedlander <rfriedlander@ci.homer.ak.us>  
**Cc:** Rick Abboud <RAbboud@ci.homer.ak.us>; Elizabeth Walton <ewalton@ci.homer.ak.us>; Ryan Smith <RSmith@sphosp.org>  
**Subject:** RE: SPH and CARES/City of Homer

Good afternoon Rachel, thank you for reaching out to us to clarify our request. We are grateful for our partnership with the City of Homer and the Kenai Peninsula Borough and hope to continue that partnership beyond this emergency health event.

Since our letter to the City of Homer, our response efforts and funding requests continue to evolve. Although we know we have a financial shortfall, it has been difficult to pinpoint until we know how this virus will affect our local community and our hospital operations. What we know now is this:

- We received a final distribution from HHS. There will be no additional assistance from HHS to help cover our COVID response efforts.
- The Kenai Peninsula Borough has generously offered to allow us to apply for a grant of \$400,000 for our Category B expenses (PPE/Overtime/Alternate care site/Alternate testing site/testing supplies/Infection Control supplies) from their CARES Act Municipal Funds.
- Due to our new funding sources, the Hospital has \$523,000 in unfunded COVID-19 expenditures as of the date of this email. Due to a spike in COVID-19 activity on the peninsula, and significantly increased testing sites and volumes, this gap continues to grow.

We realize that the City council wishes to help as many businesses and individuals in the community as possible and we support that initiative as well. Please know that the Hospital comes to the City with no set dollar amount in mind but what the Council feels is appropriate. Here are some examples of expenditures for which we do not have a funding source:

- |  |           |
|--|-----------|
| • Long-term Care Unit COVID-19 consulting/planning/mitigation  | \$49,000  |
| • Payroll for Planning, Mitigation and Testing (unfunded portion only)   | \$393,000 |
| • Technology – Telehealth application for contactless appointments<br>(we requested a telehealth grant from the FCC, however it was not awarded) | \$51,000  |
| • Supplies – Other   | \$4,800   |
| • Ventilation Improvements (unfunded portion only)   | \$5,700   |
| • Alternate Care Site (unfunded portion only)  | \$19,000  |

As you can see, even \$100,000-\$200,000 could assist the hospital with a large portion of these costs. If the City would like to wait to assist the Hospital with funding from the second or third distribution, we are agreeable to that – although we could ask that the performance period for allowable expenditures be backdated to March 2020.

Again, thank you for your message and I welcome the opportunity to discuss this with you further. Please don't hesitate to reach out.

Kindest,

Angela

Angela Hinnegan, CPA  
Chief Financial Officer  
South Peninsula Hospital  
4300 Bartlett Street  
Homer, AK 99603  
907-235-0395 ph  
907-394-2081 cell  
[ahinnegan@sphosp.org](mailto:ahinnegan@sphosp.org)

**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-46**

An Ordinance of the City Council of Homer, Alaska Promoting Natural Gas as a Cleaner Heating Fuel and Amending Homer City Code Title 7 Vehicles and Traffic, Chapter 7.16 Operating, Stopping or Parking of Motor Vehicles in Beach Areas Prohibited-Exceptions, by Deleting Section 7.16.020(b).

Sponsor: Evensen

1. City Council Regular Meeting July 27, 2020 Introduction



**CITY OF HOMER  
HOMER, ALASKA**

Evensen

**ORDINANCE 20-46**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
PROMOTING NATURAL GAS AS A CLEANER HEATING FUEL AND  
AMENDING HOMER CITY CODE TITLE 7 VEHICLES AND TRAFFIC,  
CHAPTER 7.16 OPERATING, STOPPING OR PARKING OF MOTOR  
VEHICLES IN BEACH AREAS PROHIBITED – EXCEPTIONS, BY  
DELETING SECTION 7.16.020(b)

WHEREAS, Bishop’s Beach Park and Bishop’s Beach Parking Lot were updated with infrastructure in 2002, 2014 and 2016 to provide ample parking, trail, and facility support to a centrally located beach access; and

WHEREAS, Much of the tourism economy of Homer is associated with ecologically rich resources of Kachemak Bay, which include the Bishop’s Beach system and its attractions; and

WHEREAS, Despite restrictions of HCC 19.08.030 unauthorized overnight camping at Bishop’s Beach and associated destruction to driftwood-bearing berms has recently occurred with neither enforcement nor penalty; and

WHEREAS, Vehicular accidents and those involving ATVs have taken place along Bishop’s Beach, resulting in injury and even death; and

WHEREAS, Trend of increased vehicular traffic upon and heavy usage of the Bishop’s Beach system has led to a decline in its intertidal resources; and alarming reductions to natural habitat and biodiversity have occurred; and

WHEREAS, Historically Bishop’s has also been one of several beaches in the area where residents may gather coal for heating; and

WHEREAS, With intentions of coal gathering, Ordinance 16-13 amended HCC Title 7 to allow motor vehicles to freely access and otherwise operate upon this beach going westward from the Bishop’s Beach Parking Lot; and

WHEREAS, City of Homer has gone to great lengths to bring in and establish natural gas as a City-wide utility, which offers new benefit to citizens via a cleaner, more efficient form of heating fuel; and

42 WHEREAS, Comparatively bituminous coals of Lower Cook Inlet offer an outdated and  
43 “dirty” form of heating fuel; these coals may contain naturally high contents of uranium and  
44 mercury; and burning of coals may release toxin-infused ash and vapors; and

45  
46 WHEREAS, Availability of coal at nearby Mariner Beach offers public access by motor  
47 vehicle to gather unrestricted quantities of coal and negates the need for duplicate access at  
48 Bishop’s Beach; and

49  
50 WHEREAS, Encouragement of natural gas usage, as a highly efficient form of heating  
51 fuel, should be promoted not only by utility infrastructure but also by policy; and

52  
53 WHEREAS, Unintended consequences of motor vehicles to the Bishop’s Beach system  
54 have been realized and the decline of natural resources that are critical to Homer’s economy  
55 should be reversed, if possible; and

56  
57 WHEREAS, Open beach access that promotes usage in safe and sustainable ways is  
58 desirable for citizens and stakeholders.

59  
60  
61 NOW, THEREFORE, The City of Homer Ordains:

62  
63 Section 1. Homer City Code Section 7.16.020 Operating, stopping or parking of motor  
64 vehicles in beach areas prohibited – Exceptions is hereby amended to delete item b. as follows:

65  
66 7.16.020 Operating, stopping or parking of motor vehicles in beach areas prohibited –  
67 Exceptions.

68 a. Except as provided in subsections (b) through (d) of this section, no person  
69 may operate, stop or park a motor vehicle within or upon any beach area.

70  
71 ~~b. A person may operate, stop or park a motor vehicle within and upon the beach~~  
72 ~~area east of a line extending south from the southern end of a line extending~~  
73 ~~south from the southern end of the vacated easement formally known as~~  
74 ~~Shirlene Circle, and within and upon the beach area west of Bishops Beach Park~~  
75 ~~Access.~~

76  
77 **b.** A person may operate, stop or park a motor vehicle within and upon the  
78 beach area between the south end of Mariner Park beach to the east end of the  
79 seawall from October 1st through March 31st solely for the purpose of gathering  
80 sand and coal.

81  
82 ~~d~~ **c.** An owner of property immediately adjacent to a beach area may operate,  
83 stop and park a motor vehicle within or upon a beach area as is reasonably

84 necessary to maintain the owner’s property, in accordance with the terms of a  
85 permit issued for that purpose by the Chief of Police.

86  
87 e **d.** Nothing in this section permits a person to operate, stop or park a motor  
88 vehicle within or upon privately owned property in a beach area without the  
89 permission of the property owner.

90  
91 Section 2. This ordinance is of a permanent and general character and shall be included  
92 in Homer City Code.

93  
94 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_,  
95 2020.

96  
97 CITY OF HOMER  
98  
99 \_\_\_\_\_  
100 KEN CASTNER, MAYOR

101 ATTEST:  
102  
103 \_\_\_\_\_  
104 MELISSA JACOBSEN, MMC, CITY CLERK

105  
106 YES:  
107 NO:  
108 ABSTAIN:  
109 ABSENT:  
110  
111 First Reading:  
112 Public Hearing:  
113 Second Reading:  
114 Effective Date:

115  
116 Reviewed and approved as to form.

117  
118 \_\_\_\_\_  
119 Rick Abboud, Interim City Manager  
120  
121 Date: \_\_\_\_\_

117  
118 \_\_\_\_\_  
119 Michael Gatti, City Attorney  
120  
121 Date: \_\_\_\_\_



# City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum 20-109

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 17, 2020  
SUBJECT: Backup Information Concerning the City's Beach Policy

PARCAC reviews the City of Homer's Beach Policy every two years as part of their Commission activities. The next scheduled review of the document is November 2020. Should Council wish to revisit vehicular use on Homer beaches either sooner than what is scheduled or with a new management approach, a resolution of the City Council providing direction to PARCAC would be appropriate. Under *HCC 2.60.040 Duties and responsibilities of the Commission*, the Commission acts in an advisory capacity on matters involving public beaches. The City's Beach Policy currently in effect can be found online here: [https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/city\\_clerk039s\\_office/page/6550/beach\\_policy\\_042516.pdf](https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/city_clerk039s_office/page/6550/beach_policy_042516.pdf). This policy was developed in consultation with PARCAC; an abbreviated history of how this policy came to be is provided below.

### History:

In June 2001, the Beach Policy Task Force made final recommendations to the City. These recommendations included limitations on where vehicles could travel on Homer's beaches, recognition of the importance of beach and storm berms, and new rules about driftwood harvesting. At the time, these were very large changes for public beach use and behavior. The recommendations were formatted into a Beach Policy document adopted by Council under Resolution 2001-44(A). Other actions included amending Homer City Code Title 7 regarding vehicles on beach areas, definitions, and the harvest of driftwood.

The 2001 policy was then reviewed in 2005 by PARCAC. From 2014 to 2016 under Council's direction, PARCAC again reviewed and made revisions to the beach policy in a yearlong public process. There was general public consensus that coal gathering was important, so Mariner Park Beach is open in the winter (only) for coal gathering.



Red = No vehicles

Yellow = Vehicles only under the terms of HCC 7.16,  
Seasonal coal gathering



There was also consensus that if the eastern portion of Bishops' Beach were to be closed, then the western portion should be open both for coal gathering and to provide the ability to drive to Anchor Point or out the beach (as people have done here since the mining and homestead era). A gate was installed to block cars from traveling east to Beluga Slough.

Vehicles are allowed west from Bishop's Beach Park access, and prohibited to the east.

For the Kachemak Drive Area, it is still legal to drive on the beach, but there are no public access points. The state placed a gate at the top of the airport, and a key is available for land owners by request. Using the state access point also entails trespass on private property. It is not often used.



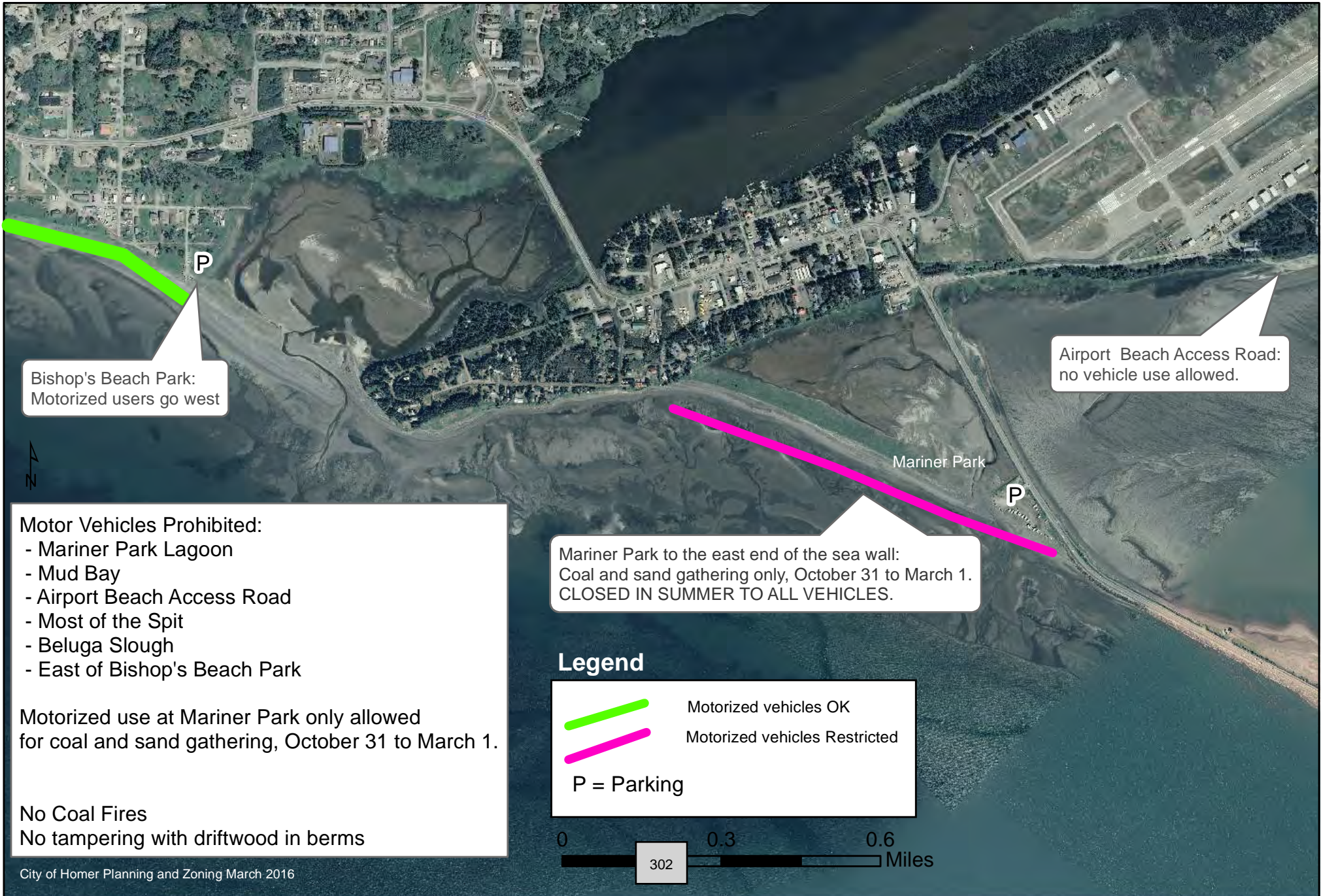
Below is a selected history of the 2014-2016 process.

[https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/memo/4851/memo\\_15-102\\_beach\\_policy.pdf](https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/memo/4851/memo_15-102_beach_policy.pdf)

[https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/memo/8904/memo\\_16-031\\_beach\\_policy\\_kbcha\\_legal\\_memo.pdf](https://www.cityofhomer-ak.gov/sites/default/files/fileattachments/memo/8904/memo_16-031_beach_policy_kbcha_legal_memo.pdf)

# Where Can I Drive?

**Problems? Call Homer Police Dept at 235-3150.  
Violators can be fined.**



**ORDINANCE REFERENCE SHEET**  
**2020 ORDINANCE**  
**ORDINANCE 20-47**

An Emergency Ordinance of the City Council of Homer, Alaska Authorizing Additional Expenditures in the Amount of \$357,579 for Expenses Related to COVID-19 for Personnel Costs and Material and Service Costs.

Sponsor: City Manager

1. City Council Regular Meeting July 27, 2020 Introduction
  - a. Memorandum 20-113 from Interim City Manager as backup
  - b. Memorandum 20-114 from Interim City Manager as backup

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager

4 **ORDINANCE 20-47**

5  
6 AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF HOMER,  
7 ALASKA AUTHORIZING ADDITIONAL EXPENDITURES IN THE  
8 AMOUNT OF \$330,849 FOR EXPENSES RELATED TO COVID-19 FOR  
9 PERSONNEL COSTS AND MATERIAL AND SERVICE COSTS

10  
11 WHEREAS, On Friday, March 13, 2020, the President of The United States of America  
12 declared a national emergency due to COVID-19; and

13  
14 WHEREAS, On March 11, 2020, the Governor of the State of Alaska issued a Public Health  
15 Disaster Emergency Declaration for COVID-19; and

16  
17 WHEREAS, On March 18, 2020, the Mayor of the City of Homer declared a Local Health  
18 Emergency due to COVID-19; and

19  
20 WHEREAS, Preparing and responding to COVID-19 requires available funding as the City  
21 did not anticipate or budget for these expenditures; and

22  
23 WHEREAS, Eligible expenditures incurred as a result of preparing and responding to  
24 COVID-19 are reimbursable through funding provided through the Coronavirus Aid, Relief, and  
25 Economic Security (CARES) Act; and

26  
27 WHEREAS, The appropriations made by Council under Ord. 20-25(S) are almost  
28 depleted yet there are still immediate material costs, services, and personnel costs the City can  
29 cover through the CARES Act now and into the future; and

30  
31 WHEREAS, Projections concerning municipal operations for the next 60 days  
32 demonstrate the need for \$108,312 in personnel costs and \$222,537 in material and service  
33 costs.

34  
35 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

36  
37 Section 1: The FY 2020 budget is hereby amended by appropriating funds in the amount  
38 of \$330,849 from the General Fund Fund Balance for the purpose of COVID-19 preparation and  
39 response:

40  
41 

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
100-0100	COVID 19 Response Fund	\$330,849



43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80

Section 2. The \$330,849 expense to the General Fund Fund Balance will be reimbursed by either reallocating the first disbursement of CARES Act funds under Ord. 20-25(S) or through the second disbursement as ordained under Ordinance 20-45.

Section 3. This ordinance is a budget ordinance only, is not permanent in nature and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_ day of \_\_\_\_\_, 2020.

CITY OF HOMER

\_\_\_\_\_  
KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form.

\_\_\_\_\_  
Rick Abboud, City Manager

\_\_\_\_\_  
Michael Gatti, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# City of Homer

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

Finance Department

491 East Pioneer Avenue  
Homer, Alaska 99603

[finance@cityofhomer-ak.gov](mailto:finance@cityofhomer-ak.gov)

(p) 907-235-8121

(f) 907-235-3140

## Memorandum 20-113

TO: Mayor Castner and Homer City Council  
THROUGH: Rick Abboud, Acting City Manager  
FROM: Elizabeth Walton, Finance Director  
DATE: July 22, 2020  
SUBJECT: Update on COVID-19 Related Personnel Costs

---

The purpose of this memo is to provide an update on our existing appropriation for COVID-19 related personnel costs.

Ordinance 20-25(S) appropriated \$445,000 for approved staffing expenses associated with COVID-19 response. This appropriation was derived by including those expenses approved in Emergency Ordinance 20-24 (Memo 20-065 provides detail), totaling \$255,000 and “budgeted” personnel costs presented in a memorandum included in council’s laydown packet for the meeting on May 26<sup>th</sup> totaling just shy of \$190,000. Together these two estimations equate to the \$445,000 appropriated in Ordinance 20-25(S).

This admission was included in the laydown packet detailing the budgeted personnel costs:

This category is a moving target and a determination still remains on how to utilize CARES funding to cover budgeted personnel costs.

There have been numerous interpretations of the language in municipalities across the State, with some stating that the CARES funding can be used to fully cover the budgeted labor costs associated with first responders. Others are interpreting the language very tightly and are using CARES funding to cover labor costs only if the employee experienced a “substantially different” job.

This still remains to be a sticking point with CARES Act funding and is subject to interpretation. The appropriation has been broken down below, with the factoring in of utilizing CARES funding for reimbursement of employee regular time. If council no longer wishes to utilize CARES funding for such reimbursement, then those expenses can simply be backed out and the appropriation adjusted accordingly.

Update of the appropriation set forth in Ord 20-25(S):

Appropriation	\$445,000
Unbudgeted Personnel thru PPE 5/10	(\$141,162)
Budgeted Personnel thru PPE 5/10	(\$160,529)
<b>Remaining after PPE 5/10</b>	<b>\$143,309</b>
Unbudgeted Personnel PPE 5/24 – 7/5	(\$69,045)
Budgeted Personnel PPE 5/24 – 7/5	(\$64,276)
<b>Remaining after PPE 7/5</b>	<b>\$9,988</b>

Breakdown of projected unbudgeted personnel costs for next 60 days:

Standby	\$0
Overtime	\$32,145
<u>Emergency Hires</u>	<u>\$26,838</u>
Total Projection	\$58,983

Breakdown of projected budgeted personnel costs for next 60 days:

Full Time Regular	\$56,068
Part Time Regular	\$3,249
<u>Quarantine</u>	<u>\$0</u>
Total Projection	\$59,317

Total Projected Personnel Costs: \$118,300

Appropriation Remaining: \$9,988

**Additional Funding Requested: \$108,312**

Recommendation: Approve additional appropriation of \$108,312 to fund COVID-19 related personnel costs for the next 60 days.



# City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum 20-114

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 22, 2020  
SUBJECT: Additional Funding Necessary for COVID 19 Preparation and Response

Aside from personnel costs outlined in Finance Director Walton's accompanying memo, Emergency Ordinance 20-45 is requesting \$222,537 for City material and service expenses including PPE/cleaning supplies, software/software equipment, and retrofitting City facilities. The breakdown for this request is as follows:

PPE/Cleaning Supplies	\$47,963
Software/Software Equipment	\$750
Materials	\$60,593
Retrofitting City Facilities	\$75,661
Services	\$23,000
10% contingency minus remaining balance of Ord. 20-22 (\$6,226.79)	\$14,570
<b>Total</b>	<b>\$222,537</b>

There are other outstanding City needs requested by departments as a result of COVID-19. These will be brought forward before Council at a later date.



# City of Homer

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

491 East Pioneer Avenue  
Homer, Alaska 99603

(p) 907-235-8121

(f) 907-235-3140

## Memorandum

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 24, 2020  
SUBJECT: City Manager's Report for July 27 City Council Meeting

---

### **SBERG Update**

Enclosed please find a memo containing information provided by SBERG Program Manager Mastey regarding the program, applications, and grantees. In the interest of spending down the first distribution of Cares Act dollars to fund other City/community needs in response to COVID-19, there has been the suggestion (as incorporated in legislation before the body) to give administrative flexibility to apply other program and municipal expenses to the first distribution. Finance Director Walton has contacted the auditors at BDO to explore this possibility. Depending on their response, the City may have to pass another ordinance reappropriating the unspent funds of the first disbursement so that they may be used for other needs.

### **Cares Act Program Administrator Hired**

Through Emergency Ordinance 20-41, Council authorized the use of Cares Act funding to hire a Cares Act Program Coordinator. I am pleased to welcome Sara Perman to the City to assist us in this effort. Sara has a background in resource development and public policy. She focuses on program development and administration, and applies her legislative background to her research. She has served as a grants administrator/community liaison for the Atwood Foundation and a legislative aide to representatives in the Alaska State Legislature. Among other duties, her main responsibilities for the City include: prepare grant applications and supporting documentation for grant programs by City Council; work with Finance to track and analyze grant programs and project budgets; and perform research, analysis, and prepares reports on City's CARES Act Program. All new grant programs established by Council will be under her purview and as these programs go online, additional staff support may be necessary to ensure efficient, timely response to the public and administrative management of paperwork and expense tracking.

### **FEMA Public Assistance Notice, Updated US Treasury CARES Act Documents**

The City received notice that its Request for Public Assistance submitted for the COVID-19 Response federal disaster has been put on hold for 90 days. This is a result of Condition 2 outlined in the enclosed notice. As of now, the City has not claimed costs for reimbursement under FEMA. I have reattached the May 21, 2020 memo provided by Special Projects and Communications Coordinator Carroll, which discusses the FEMA Public Assistance opportunity and compares it to CARES. One suggestion for reimbursement under FEMA could be overtime expenditures from regular employees incurred as a result of the pandemic. I look forward to working with Council in discussing the use of both FEMA and CARES Act funding opportunities. As an aside, the US Treasury released an updated guidance document dated June 30, 2020 and updated FAQ document dated July 8, 2020 to provide more clarification in the usability of CARES Act dollars, which are enclosed for reference.

### **RAVN Update**

According to the Los Angeles Business Journal, Float Shuttle, an LA-based air commuter service, was the successful bidder of most of RavnAir Alaska and Pen Air assets. The company intends to focus its efforts on freight and cargo in light of COVID-19 and will shift to commuter services once the pandemic eases. Their bid included “six planes, some terminal leases and two Federal Aviation Administration certificates” however the Homer Terminal lease was not picked up. Attorney Sleeper is following this issue closely and has advised staff to look out for a notice of rejection that would trigger some sort of claim which we can file for lost revenues.

**Raising a Glass in Recognition of Excellent Performance for City’s Water System, PW Water Usage/Campground Stats**

Our team at Public Works has done it again, this time taking the positive recognition received last year for the City’s Water System (Ursa Minor status) and upping it to the highest tier. I am pleased to announce the State Department of Environmental Conservation has awarded the City with Ursa Major status in Water System Excellence for 2019. As mentioned in the attached June 18<sup>th</sup> memo addressed to Superintendent Cook, “Your demonstrated expertise and dedication to safety and health is an excellent benefit to your community. Thank you for your ongoing efforts to provide safe drinking water to those served by your water system.” This recognition is definitely something to raise a glass of Homer tap water to.

Public Works has also provided water usage and campground stats for the month of June:

*June Water Usage per Year (in million gallons)*

2020	21.052
2019	23.378
2018	19.495
2017	19.633
2016	20.922

*June Campground Statistics*

	<u>2019</u>	<u>2020</u>	<u>Delta</u>
Visitors	4227	3425	-19%
Camping Events	2290	1746	-24%
Revenue	\$45,867	\$34,987	-24%

The above information is being presented in an effort to assess some of the different ways COVID may be impacting City operations.

**Seawall Armor Rock Project on State Fiscal Year (SFY) 2021 Project Priority List, Corps Application for Permit**

The City received noticed (enclosed) that the Seawall Armor Rock project has been included on the State Fiscal Year (SFY) 2021 Project Priority List for financing through the Alaska Drinking Water Fund. The State Revolving Fund Program is initiating the review process for the loan application submitted on June 15, 2020. This financing opportunity was authorized by Resolution 20-058, *Authorizing the Application for a ADEC/DWF Loan*. The loan would cover “placing armor rock in front of the existing deteriorating seawall to protect existing water and sewer mains from erosion” and the City has requested \$1,644,000 to complete this work on behalf of the property owners. Prior to public comment, ADEC ranked Homer’s project as number 9 out of 17 for second quarter funding on the state’s FY21 project priority list. If the City is approved for the loan, staff will review the terms and come back before Council for approval to enter into an agreement with the State if it’s in the best interest of the City. In conjunction with applying for the loan, the City has also submitted a permit application to the Army Corps of Engineers as their approval is necessary in order to complete this capital improvement project to “protect the toe of the existing Seawall from erosion, which would eliminate the potential for catastrophic failure, significantly reduce maintenance costs, and extend wall life.”

### **PFD Garnishments for Minor Offenses**

Per IT Manager Poolos, the Department of Revenue, Permanent Fund Dividend Division (PFD) collected \$11,893 on the July 1<sup>st</sup> payments out of \$17,665 the City submitted for garnishment. It is unclear if the amount received on July 1<sup>st</sup> was a direct deposit with the potential for paper checks to be issued a couple weeks later. PFD has 4 more payments on the amended schedule, but there is no distinction about direct deposits vs paper checks.

### **All About Roads**

The Public Works Department has produced the *City of Homer Road Assessment Report – Summer 2020 (enclosed)* in-house, modeled after something the City of Soldotna hired out for about \$200,000 in consultant services. Information from this report will guide work completed through the Small Works Road Repair Program. Public Works will be looking at poorly-rated roads to see what staff can do to improve them. When a particular road's rating has gone up, that will be an indication that progress has been made. Staff are now working on a trails version of this report.

Also enclosed is a creative, informational billing insert regarding rights-of-way clearing that was included in the Homer News, water/sewer billings, and is on the Public Works webpage as part of a public outreach effort to educate and inform the community of maintenance activities associated with the removal of vegetation located in rights-of-way. Notice for this work was published the beginning of June and staff developed this more illustrative insert to compliment that initial announcement. These outreach efforts align with the newly adopted code *HCC 11.36.040 Public Notice* adopted through Ord. 20-26.

### **City of Homer Wins Again: Homer Steps Up! 2020**

For the 4<sup>th</sup> year in a row, the City of Homer team has won the large-team division of the Homer Steps Up! community walking competition. This annual event encourages us to work together with the common goal to literally keep moving forward. I'd like to thank HR Director Browning, South Peninsula Hospital, and all partnering organizations that organize this event.

### **Enclosures:**

1. July Employee Anniversaries
2. July 24, 2020 Small Business Economic Relief Program (SBERG) Program Update -7/20/20 memo
3. June 18, 2020 State Public Assistance COVID-19 Response Follow-Up Memo
4. May 21, 2020 FEMA memo from Special Projects and Communications Coordinator Carroll
5. June 30, 2020 US Treasury Updated Guidance Document
6. July 8, 2020 US Treasury Updated FAQ Document
7. ADEC Ursa Major 2020 Recognition
8. July 22, 2020 State DEC memo concerning Alaska Drinking Water Fund
9. City of Homer Road Assessment Report – Summer 2020
10. ROW Billing Insert
11. Special Covid-19 Edition: Small Business Relief Information provided by Rep. Vance



# City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL  
FROM: Andrea Browning  
DATE: July 27, 2020  
SUBJECT: July Employee Anniversaries

---

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

<b>John Wythe,</b>	<b>Public Works</b>	<b>29</b>	<b>Years</b>
<b>Lori Sorrows,</b>	<b>Finance</b>	<b>21</b>	<b>Years</b>
<b>Dan Olsen,</b>	<b>Public Works</b>	<b>19</b>	<b>Years</b>
<b>Julie Engebretsen,</b>	<b>Planning</b>	<b>18</b>	<b>Years</b>
<b>Rick Abboud,</b>	<b>Planning</b>	<b>12</b>	<b>Years</b>
<b>Dave Welty,</b>	<b>Public Works</b>	<b>12</b>	<b>Years</b>
<b>David Bernard,</b>	<b>Library</b>	<b>9</b>	<b>Years</b>
<b>Jason Hoffman,</b>	<b>Public Works</b>	<b>5</b>	<b>Years</b>
<b>Clinton Scritchfield,</b>	<b>Police</b>	<b>2</b>	<b>Years</b>
<b>Jason Hanenberger</b>	<b>Public Works</b>	<b>1</b>	<b>Year</b>
<b>Mark Kirko</b>	<b>Fire</b>	<b>1</b>	<b>Year</b>





# City of Homer

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

491 East Pioneer Avenue  
Homer, Alaska 99603

(p) 907-235-8121

(f) 907-235-3140

## Memorandum

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 24, 2020  
SUBJECT: Small Business Economic Relief Program (SBERG) Program Update -7/20/20

---

Information provided by Jody Mastey, CARES Act Local Implementation Manager.

As of July 20, 2020:

### 211 TOTAL APPLICATIONS

161 online

50 paper

### 126 TOTAL APPROVED APPLICATIONS - \$378,000 TOTAL GRANTS AWARDED

07.06.20 68 applications have been approved and turned into the Finance Department

07.13.20 58 applications have been approved and turned into the Finance Department

07.20.20 38 applications have been approved and turned into the Finance Department

### 17 APPLICATIONS PENDING

Reasons pending: Not on KPB list of registered businesses (3); Charter Boat Business - Claims slip for Physical address on Application and Business License records business outside City Limits (2); W9's need current date, signed or provided with application (3); General Questions on Application (3); Not on KPB list of registered businesses but provided filing with "Request to pre-file No Sales tax" box checked (2); Business License records business outside City Limits (4)

### 17 APPLICATIONS DENIED

Reasons denied: Reports non-taxable sales to KPB (5); Not on KPB registered business lists (3); New business (1); Business part of larger organization outside City limits (1); Outside City limits (7)

### 11 APPLICATIONS VOIDED

Voids due to duplicate application or incorrect information on application

### CHALLENGES

- 1) Business who physically have a businesses in Homer but are part of an LLC or Corporation who records their physical address outside of city limits and the Homer businesses are not licensed independently.
- 2) Charter boat businesses who list their slip number as their physical address in Homer but business license records physical address outside city limits. If I approve applications for this industry, how do I apply this same model to adventure tourism. I have had conversions with business owners who use the

harbor as a spring board for their client's and adventure in the bay, collect city sales but are licensed outside of city limits.

### **COMPLAINTS**

- 1) Medical Industry - Business are not eligible. They do not collect sales tax
- 2) Sub contractors - Business are not eligible. They do not collect sales tax
- 3) Fishing charter businesses who use a larger charter company to collect and record sales tax. Businesses do record taxable sales.

### **BUSINESS WHO ARE NOT ON THE KENAI PENINSULA BOROUGH PROVIDED LIST**

It is Ms. Mastey's understanding that businesses who are actively working with the Borough regarding sales tax collection should be eligible for the SBERG Grant. She currently does not have a method of verifying this information. It would be helpful to have a contact person with the KPB sales tax division to verify provided sales tax reports from businesses or authorization to accept and approve any business who provides documentation.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Military and  
Veterans Affairs**

Division of Homeland Security and  
Emergency Management

P.O. Box 5750  
JBER, AK 99505-0800  
Main: 907.428.7000  
Fax: 907.428.7009  
ready.alaska.gov

June 18, 2020

Elizabeth Walton, Finance Director  
City of Homer  
491 East Pioneer Avenue  
Homer, AK 99603

Re: Public Assistance COVID-19 Response Follow up  
Disaster: DR-4533-AK, COVID-19 Response  
Applicant Name: City of Homer

Certified Mail: 9171 9690 0935 0248 4418 91

Ms. Walton:

The Division of Homeland Security and Emergency Management (DHS&EM) is sending you this certified letter because either:

- 1) We have made several unsuccessful attempts to contact the City of Homer in order to follow up on the Request for Public Assistance (RPA) submitted for the COVID-19 Response federal disaster;

OR

- 2) We have been in contact with you but the City of Homer to date has no known costs to claim under the Federal Emergency Management Agency (FEMA) Public Assistance program

In order to reduce unnecessary contact efforts on our part and yours, we will set aside your RPA for 90 days. It will be the responsibility of the City of Homer to contact DHS&EM to request any further assistance under the FEMA Public Assistance program. If you have expenses for the COVID-19 disaster within the 90-day period, contact me at the number below for further instructions.

Ms. Walton  
June 18, 2020  
Page 2 of 2

If you have any questions, please contact Jonathan Zeppa your assigned Division Representative, at (907) 428-7052 or by email at [jonathan.zeppa@alaska.gov](mailto:jonathan.zeppa@alaska.gov).

Sincerely,



Jonathan Zeppa  
State Public Assistance Branch Chief



## Memorandum

TO: Mayor Castner and Homer City Council  
THROUGH: Marvin Yoder, Interim City Manager  
FROM: Jenny Carroll, Special Projects and Communications Coordinator  
DATE: May 21, 2020  
SUBJECT: FEMA DR-4533 Public Assistance Grant Training Information

The City of Homer registered and is eligible for a Public Assistance (PA) DR-4533 grant. Since March, the City has completed FEMA documentation in anticipation of this grant opportunity. For example, FEMA ICS 213 forms have been filled out to purchase needed resources while FEMA ICS 214 Activity Log forms have been filled out by staff documenting COVID-19 related hours. I attended a teleconference training on FEMA Public Assistance grants under the COVID-19 Presidential Disaster Declaration DR-4533 on May 15, 2020. The training was led by State Public Assistance Officer Duane Ruch and gave an overview of how to apply for funding.

Below is a brief summary of the PA program to help you as you develop a funding strategy to recoup COVID-19 costs. "Applicant" is synonymous with "City of Homer."

### **FEMA PA Grant:**

**Reimburses Emergency Protective Measures costs** incurred from January 20, 2020 to end of declared disaster. FEMA covers 75% of reimbursable costs; State covers 25% of reimbursable costs for eligible activities under Category B and Z; donated resources count toward 25% State cost share. This means municipalities will be reimbursed 100% for all FEMA **approved/eligible** expenses and do not have to provide a match.

**Activities Eligible Under Category B (Emergency Protective Measures (EMP))** eliminate or lessen immediate threats to lives, public health, or safety. Required as a result of COVID-19, located within the designated area and the legal responsibility of an eligible Applicant.

**Examples:** EOC-related costs, Medical care and transport, Supplies and commodities, including medical supplies, PPE, and other equipment, Dissemination of information to the public, Security, law enforcement, barricades and fencing, Temporary facilities and Evacuation and sheltering. FEMA can cover non-Congregate Sheltering costs (for first responders, health care workers, homeless families with 1 member who tested positive, and at risk homeless individuals who require isolation) under the Statewide approval from April 17-May 17. Jurisdictions must inform DHS&EM if sheltering needs will extend past May 17<sup>th</sup> for additional FEMA approval.

**Activities Eligible Under Category Z (PA Management):** Up to 5% of applicant's total award is available for reimbursing applicant's personnel costs resulting from administering the PA grant, including programmatic meetings, creating PA claims, preparing correspondence, reviewing PWs, collecting copying, filing, or submitting documents to support a claim, and training.

**Ineligible Costs:** Costs associated with setting up for remote telework, loss of revenue, increased operating costs of a facility or providing a service due to or after a disaster, regular staff time associated with COVID-19 unless that position was reassigned to a different position to address COVID-19, and surveys for damage.

FEMA will also evaluate how materials and services were procured and can deny or not fully cover an expense if proper procurement procedures were not followed.

**Application process:**

- Applicant identifies EMPs, develops project worksheets, manages projects and provides documentation to justify costs.
- State manages the program, provides technical assistance, approves application and audits project worksheets prior to payment receipt.
- FEMA determines eligibility for applicant, work, costs and ensures guidelines are met.

**Two levels of Projects:**

**Small Projects:** \$3,300 - \$131,000. Small project funding is based on estimated costs, if actual costs are not yet available. Payment is final, made on the basis of the initial approved amount, whether estimated or actual. No overrun adjustment. I believe Federal cost share is paid when the project worksheet is written and approved.

**Large Projects:** Over \$131,000. Final amount based on actual eligible costs. Can do over or under run adjustment.

Streamline method for large projects allows applicant to apply directly through FEMA grants portal. State reviews application to limit Federal requests for more information, which can cause time delays.

- Create project worksheets, base projected costs on costs incurred to date.
- Build out Category B projects that will be paid out over long period of time.

After an initial grant has been awarded and obligated, FEMA and the State will work with the Applicant to ensure state/federal laws are followed with all documentation and process requirements, and update project information as needed before the grant is closed. Applicants must retain records for three years after grant closeout in the event FEMA wants to audit the project. Below details close out process:

- Document the who, what, where, when, why and cost documentation (invoices, timesheets, billings, activity/equipment logs, etc.) State has developed Summary Forms to document costs. Applicant will have to get final costs and documentation in by 60 days after the end date of the emergency.
- Track progress of open projects on quarterly basis until Disaster is ended.
- Close out Category B projects.
- Audit of Category B projects, then close out Category Z.

FEMA rep does not know a lot about CARES Act, but gave the following comparison for helping develop a strategy for funding COVID-19 expenses:

CARES Act

Not sure of eligible activities or documentation requirements but likely simpler, more flexible than FEMA

Funding given up front

Funds not expended by Dec 30 deadline recouped by Feds

Covers Payroll costs associated with COVID-19

FEMA Public Assistance

In-depth documentation required  
Better the documentation=maximum reimbursement

FEMA PA funding reimburses costs from Jan 20, 2020  
Funding of Small grants is quickest method; Large grants more detailed and extend to end of COVID-19 disaster declaration

Reimbursables accrue over course of disaster event; payment takes a while

For regular employees, covers only Overtime with COVID-19 EPM, not regular time unless employee is reassigned (like PIOs who were reassigned to EOC from their regular positions).

I am available to answer questions, or find answers to questions you may have about whether to or how to move forward with FEMA PA funding as part of your strategy. I also have the various grant guidance forms and documentation forms in the event the City decides to move forward with the FEMA PA funding source.

**Coronavirus Relief Fund**  
**Guidance for State, Territorial, Local, and Tribal Governments**  
**Updated June 30, 2020<sup>1</sup>**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.<sup>2</sup>

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

***Necessary expenditures incurred due to the public health emergency***

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

***Costs not accounted for in the budget most recently approved as of March 27, 2020***

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the

---

<sup>1</sup> This version updates the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020”.

<sup>2</sup> See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

***Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020***

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period, but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.



This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

### ***Nonexclusive examples of eligible expenditures***

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
  - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
  - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
  - Costs of providing COVID-19 testing, including serological testing.
  - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
  - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
  - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
  - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
  - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
  - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
  - Expenses for public safety measures undertaken in response to COVID-19.
  - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
  - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
  - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
  - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
  - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
  - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
    - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
    - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
    - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
  6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria.

***Nonexclusive examples of ineligible expenditures<sup>3</sup>***

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.<sup>4</sup>
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

---

<sup>3</sup> In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

<sup>4</sup> See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

**Coronavirus Relief Fund  
Frequently Asked Questions  
Updated as of July 8, 2020**

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).<sup>1</sup> Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

**Eligible Expenditures**

***Are governments required to submit proposed expenditures to Treasury for approval?***

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

***The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?***

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

***The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?***

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

---

<sup>1</sup> The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

***May a State receiving a payment transfer funds to a local government?***

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

***May a unit of local government receiving a Fund payment transfer funds to another unit of government?***

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

***Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?***

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

***Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?***

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

***Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?***

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

***Are States permitted to use Fund payments to support state unemployment insurance funds generally?***

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

***Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?***

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

***The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?***

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

***In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?***

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

***If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?***

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

***May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?***

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

***May Fund payments be used for COVID-19 public health emergency recovery planning?***

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

***Are expenses associated with contact tracing eligible?***

Yes, expenses associated with contract tracing are eligible.

***To what extent may a government use Fund payments to support the operations of private hospitals?***

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

***May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?***

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

***May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?***

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

***Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?***

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

***May recipients create a “payroll support program” for public employees?***

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?***

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

***May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?***

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

***The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?***

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

***The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?***

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

***May Fund payments be used to assist impacted property owners with the payment of their property taxes?***

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

***May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?***

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

***Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?***

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

***The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?***

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

***The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?***

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?***

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

***Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?***

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.



***Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?***

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

***May a State impose restrictions on transfers of funds to local governments?***

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

***If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?***

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

***May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?***

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

***Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?***

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

***May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?***

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

***May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?***

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

***May recipients use Fund payments to provide loans?***

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

***May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?***

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

***May funds be used to satisfy non-federal matching requirements under the Stafford Act?***

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

***Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?***

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

***May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?***

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

***May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?***

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to

the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

***May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?***

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

***The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?***

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

***May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?***

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

**Questions Related to Administration of Fund Payments**

***Do governments have to return unspent funds to Treasury?***

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

***What records must be kept by governments receiving payment?***

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

***May recipients deposit Fund payments into interest bearing accounts?***

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

***May governments retain assets purchased with payments from the Fund?***

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

***What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?***

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

***Are Fund payments to State, territorial, local, and tribal governments considered grants?***

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

***Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?***

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Are Fund payments subject to other requirements of the Uniform Guidance?***

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?***

Yes. The CFDA number assigned to the Fund is 21.019.

***If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?***

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-

specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

***Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?***

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

***If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?***

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Environmental Conservation

DIVISION OF WATER  
Capacity Development and Operator Certification Program

P.O. Box 111800  
Juneau, Alaska 99811-1800  
Main: 907.465.1139  
Fax: 907.465.5177

Todd Cook  
3575 Heath Street  
Homer, AK 99603

June 18, 2020

Dear Mr. Cook,

On behalf of the Department of Environmental Conservation (DEC), we want to congratulate the Homer (PWSID 240456) on achieving Ursa Major status in Water System Excellence for 2019! The work your system has done to demonstrate stellar compliance with both the Drinking Water and Operator Certification Programs has not gone unnoticed.

The Water System Excellence Award is a coordinated effort between ADEC's Drinking Water Program and the Capacity Development and Operator Certification Program to recognize exceptional performance. Drinking Water systems are evaluated for their efforts during the award year and recognized in one of two tiers – Ursa Major and Ursa Minor. The Homer met the following criteria:

Ursa Major: Maintain 4 quarters of Operator Certification compliance and have no open, unresolved, or incurred Drinking Water violations during the award year.

While DEC focuses on assisting system owners and operators with achieving and maintaining compliance, the responsibility for complying with the regulations lies with the system. Your demonstrated expertise and dedication to safety and health is an excellent benefit to your community. Thank you for your ongoing efforts to provide safe drinking water to those served by your water system.

Sincerely,

Handwritten signature of Cindy Christian in cursive.

Cindy Christian  
Drinking Water Program Manager

Handwritten signature of Martin Suzuki in cursive.

Martin Suzuki  
Operator Certification Program Manager

Enclosure:  
Ursa Major Certificate



July 22, 2020

Rick S. Abboud, Acting City Manager  
City of Homer  
491 E. Pioneer Avenue  
Homer, AK 99603

Dear Mr. Abboud:

The project listed below has been included in the State Fiscal Year 2021 (SFY21) Alaska Drinking Water Fund (ADWF) Project Priority List. The complete Project Priority List can be found online at: <https://dec.alaska.gov/water/technical-assistance-and-financing/state-revolving-fund/intended-use-plans/>.

Score	Project Name	Assistance Amount
76	Seawall Armor Rock	\$1,644,000

We have received the loan application that was signed on June 15, 2020. The application review process has been initiated

The SRF Program looks forward to working with you to provide this important infrastructure improvement. If I can answer any questions about the process, please feel free to contact me at [peggy.ulman@alaska.gov](mailto:peggy.ulman@alaska.gov).

Sincerely,

Peggy Ulman  
SRF Program Coordinator

cc: Carey S. Meyer, City Engineer  
Elizabeth S. Walton, Finance Director

City of Homer

# Road Assessment Report

Summer 2020

City of Homer Public Works Department  
7-20-2020



# Table of Contents

Executive Summary .....	2
Introduction.....	3
Methodology .....	4
Results .....	8

## Tables

Table 1 .....	8
Table 2 .....	8
Table 3 .....	10
Table 4 .....	10

## Figures

Figure 1 .....	5
Figure 2 .....	6
Figure 3 .....	9
Figure 4 .....	9
Figure 5 .....	11
Figure 6 .....	11
Figure 7 .....	12
Figure 8 .....	12
Figure 9 .....	13
Figure 10 .....	13

## Appendices

Appendix A - Maps

Appendix B – Paved Road Assessment Tables

Appendix C – Gravel Road Assessment Tables

Appendix D – PASER Road Assessment Manuals

## Executive Summary

Data collection and record keeping are necessary for producing and maintaining organized and efficient work processes. A data-driven and systematic process for identifying road deficiencies will help the City of Homer identify and achieve short and long term maintenance goals by generating evidenced-based action plans for prioritizing tasks and guiding budgeting decisions. Additionally, having quantifiable data regarding the City's infrastructure will help educate, demonstrate accountability to, and build credibility with the City's executive leadership, elected officials and the public.

This Report describes the road assessment process developed by the City of Homer Public Works Department in the summer of 2020. The process included the following steps:

- a. Researching best practices related to road assessment models;
- b. Adapting a selected model to Homer conditions;
- c. Conducting a field review of actual road conditions;
- d. Compiling the data into an assessment report, complete with findings and ratings of Homer's road conditions;
- e. Integrating the ratings into the City's existing GIS maps;
- f. Preparing this Road Assessment Study; and
- g. Using the Study to program road maintenance tasks.

A result of the process is a system of methods and standards, which can be used to regularly assess road conditions. This system can be used as a tool to plan and explain road maintenance work.

## Introduction

The City of Homer's crew of heavy equipment operators maintain fifty miles of roads within the City of Homer. Of that total, 29 miles are gravel roads and 21 miles are paved roads. Regular road maintenance duties include (a) snow removal and sanding in the winter; and (b) ditch clearing, corridor brushing, crack sealing, patching, grading and dust control in the summer and shoulder seasons. Maintenance procedures and requirements differ, depending on road type – gravel or paved. For example, crack sealing is a paved road repair, while grading is a routine maintenance duty for the City's gravel roads.

As winter road maintenance is devoted to snow removal and sanding, maintenance that directly affects road structural conditions occurs in the summer and shoulder seasons. For example, grading and dust control of gravel roads takes place in early summer, just after the ground has thawed. Crack sealing of paved roads takes place in mid-summer, when it's dry. Brush cutting and ditch cleaning of all roads takes place in late summer, because these activities are less weather dependent. The record of what maintenance activities are conducted on what roads is largely anecdotal, rather than documented.

An annual or biannual road condition inventory, based on a systematic road assessment strategy, with detailed spatial information will provide a documented record of deficiencies, repairs, and progress. This will enable road maintenance activities to be budgeted for and planned with greater efficiency. It will also allow crews to conduct training and preparedness activities more mindfully in the event of employee turnover.

The road condition assessment data was largely collected by and integrated with the City's web-based, GPS-enabled Geographic Information System (GIS) by the City's GIS Technician, Aaron Yeaton. In the future, updates to the road condition assessment survey will be made by the road maintenance crews utilizing the same system. This will allow for mobile and spatially accurate data gathering that can be updated with real time immediacy. When needed, this information could be disseminated in maps and tables to other Public Works and City of Homer employees. Having evidenced- based information in this format will also allow the City to engage in more proactive public outreach – to educate the community about road maintenance activities.

## Methodology

Two methods were used in the assessment process. Method 1 utilized GPS and a Geographic Information System (GIS) to thoroughly map road deficiencies, to documented observations about road conditions while walking along the roads. This data was later analyzed to evaluate and rate overall road condition. Initially, the goal was to walk all fifty miles of Homer’s roads throughout the summer for a close, highly detailed evaluation of the City’s roads. While this method did create detailed data, it was time-consuming. Further, the data indicated that many of Homer’s roads had similar problems, so the high level of detail was not the most efficient use of time. To expedite the process, Method 2, where the roads were evaluated from a vehicle, was used.

Method 2 involved a “pencil and clipboard” assessment while driving along the roads with a member of the City’s road maintenance crew. It was accomplished much more quickly and with the added assistance of an experienced road maintenance expert, it generated a detailed and accurate summation of road conditions.

Both methods relied on the criteria set forth in the Pavement Surface Evaluation and Rating (PASER) model developed by the Transportation Information Center, University of Wisconsin – Madison.<sup>1</sup> There is a separate PASER manual for paved roads and for gravel roads. The PASER manuals guided the quantification of road conditions and provided important insights into the process of (a) conducting objective road assessment data and (b) documenting ratings of road conditions.

The PASER model doesn’t specifically address brush and tree obstructions, which are important issues in the City of Homer. The criteria in the PASER model were augmented to include vegetation as an element of road corridor conditions. Yet, to maintain fidelity with PASER’s quantification methods, which mostly focuses on road surface conditions, the assessment of vegetation and corridor conditions did not overly impact the final road condition ratings.

### Method 1

Gravel roads were first assessed. This choice was made so that springtime breakup conditions endemic to many of Homer’s gravel roads, could be evaluated prior to grader maintenance. Ninety-six roads totaling 21 miles were inventoried using a web-interfaced Trimble R2 GPS device and associated base station. With 3-inch accuracy, affording detailed assessment and mapping of road deficiencies, two-thirds of the gravel roads were walked and inventoried in GIS – Method 1. The remaining third of the gravel roads was mapped using GPS and GIS but while driving – Method 2. Time was of the essence because of the need to record gravel road conditions ahead of advancing grader maintenance. This quicker assessment undoubtedly left out some deficiency details, particularly regarding culverts, but the overall condition of roads was nevertheless mapped adequately.

Generally, gravel road conditions can change rapidly due to environmental factors and recent maintenance activities. Because of this, the PASER model recommends that gravel road assessment be based on major factors rather than detailed surface conditions. The five main surface conditions and defects for gravel roads are:

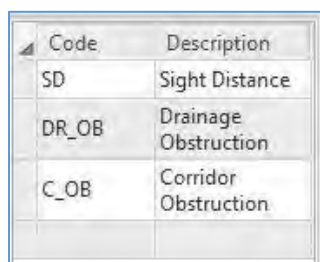
1. crown condition,
2. drainage,
3. gravel layer,
4. surface deformation, and
5. surface defects.

---

<sup>1</sup> The City of Soldotna uses the PACER Model for its Road Maintenance Plan.

These categories provide the basis for quantifying overall road condition. Spring breakup conditions, as a seasonal inevitability, were included in the “surface deformation” category. According to the PASER model, “surface deformations” are limited to washboarding, potholes and ruts, but not the kind of seasonal frost-heaving some Alaskan roads experience. This is probably because the original Pacer criteria were developed in Wisconsin where it is unlikely the ground shifts as dynamically as it does in Alaska.

Prior to field work, a series of GIS feature classes applicable to PASER’s road deficiency categories were created in a Geodatabase to be used for mapping road conditions. For example, polygon features were made to represent breakup conditions, polyline features to represent sub-standard ditches, and point features to represent vegetation obstructions. These features were given added specificity by applying “domains”, or coded descriptions, within their attribute tables. For example, for vegetation obstructions, a domain was created to describe the nature of the obstruction in the form of a drop down menu, as shown in the figure below.



Code	Description
SD	Sight Distance
DR_OB	Drainage Obstruction
C_OB	Corridor Obstruction

*Figure 1: Domains assigned to vegetation obstruction feature*

Having such fields in the Attribute Tables facilitated data gathering in the field. A “Notes” field was also added to the Attribute Table to further augment basic attribute information. For instance, a “features condition” could be rated with considerable detail by added notes such as severe, moderate, etc. This gave us the opportunity to add historic notes about a particular road – for example, whether it was built to City standards or not.

When taking measurements, the GPS device interfaces with the GIS “Collector” App, which is a cloud-based platform that hosts editable maps used for taking field measurements. The Collector App records location, counts, lengths, areas, dates, as well as any notes and posts them to the City’s GIS organizational account in real time. Once features are collected the maps were uploaded locally onto a desktop to ArcGIS Pro for further analysis and editing of symbology.

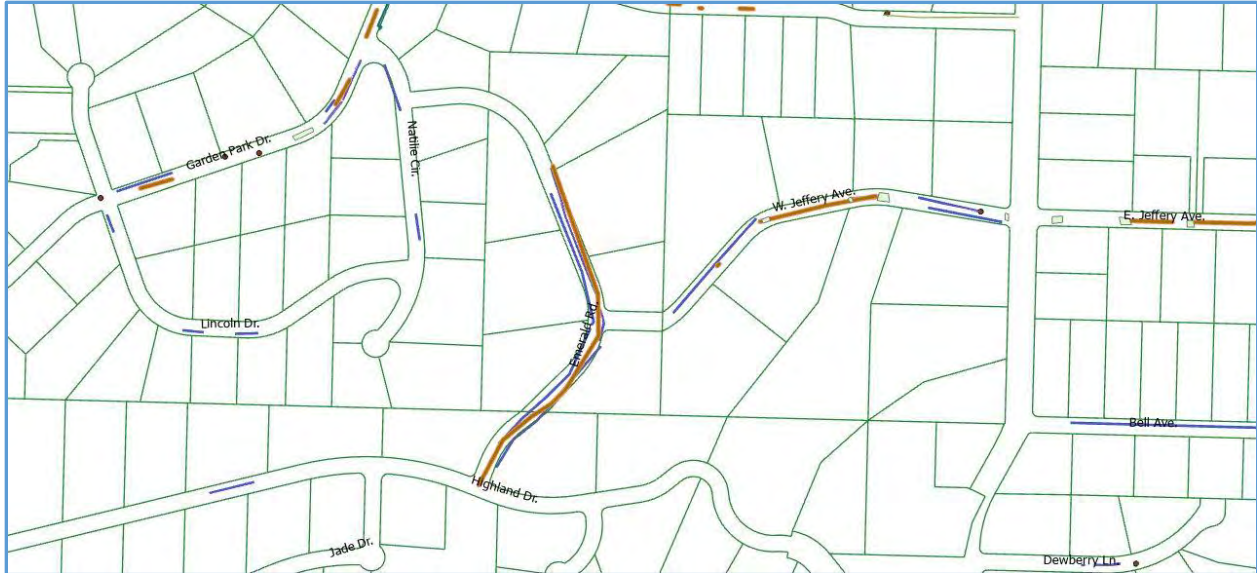


Figure 2: Gravel road deficiencies mapped in a GIS. Different symbology represent different deficiencies: i.e. breakup, potholes, and shallow ditches.

Analysis of mapped features in ArcGIS Pro allowed close evaluation of the counts, lengths and areas of road deficiencies. This information was compared to individual road length, thereby providing close approximation of overall road condition for rating purposes. Each deficiency category (surface conditions, and defects listed by PASER) was then given an averaged value ranging from poor to excellent. The values were weighted based on comparisons of road condition segments. For example if a small length of a long road was experiencing severe breakup, but the remainder of the road was in fair condition, the overall value for surface deformation was ranked from “fair to moderate”.

PASER ratings for gravel roads range from 1 – 5; with “1” being a road in failed condition, “5” being excellent. Ultimately, the ratings are prescriptive in nature; meaning each rating corresponds to the level of maintenance the road needs. If a rating of “5” is given, the road has been recently constructed and needs no maintenance, whereas a road with a rating of “1” requires complete reconstruction. To produce a final rating for a particular road, the scores in the individual deficiency categories were averaged to produce an overall rating. The final ratings were exported from ArcGIS attribute tables into Excel formats to produce finished tables.

## Method 2

The City’s paved roads were assessed using Method 2, the drive-along method. The roads were evaluated by directly applying the PASER model’s paved roads criteria. Before the field survey began, the criteria were inserted into an Excel table. These categories involved assessment of the following conditions:

1. surface defects,
2. surface deformation,
3. cracks,
4. patches, and
5. potholes.

Since drainage isn’t as crucial a factor to paved road surfaces as it is for gravel roads, the PASER model does not use it as a standalone category. To maintain as comprehensive a survey as possible, a drainage category was added to the PASER model. As with the gravel road assessments, we added a vegetation category, which, as with

the gravel road assessments, did not overly effect the final road rating so as to maintain the integrity of the PASER model's quantification methods.

Over the course of several days, the team, including the City's GIS Technician and an experienced road maintenance operator, drove along the City's paved roads to observe, evaluate and rate them. They routinely stopped to more closely examine defects and deformities. Adding the expertise of a seasoned road maintenance operator proved invaluable in making comprehensive assessments more quickly.

Because paved roads are not typically subject to the same type of rapid changes that gravel roads are, the ratings for paved roads tend to be more nuanced. Condition categories have more variables to consider. For example, the category of "surface deformation" includes rutting, distortion – rippling and shoving, settling, and frost heave. The condition of "cracking" includes there are longitudinal, transverse, slippage, reflection, block and alligator cracking. Final road conditions ranged from 1 to 10, with "1" meaning "failed" and "10" meaning "excellent". The ratings encompassed varying degrees of poor, fair, good and excellent. Like the gravel road assessments, final paved road ratings were based on averaging the values of the condition categories. And, as with the gravel road assessments, ratings are based on road maintenance needs.

# Results

## Gravel Roads

The majority of gravel roads fall into the “Fair” category (rating – 3), with the next numerous being “Good” (rating 4). A considerable number of roads fall into the “Poor” category (rating – 2). The “fair” and “poor” rated roads mostly comprise those of the annexation area. These roads were not constructed to City standards and inherently have structural issues and alignment problems. The “excellent” ratings are roads that have been constructed within the last year. A “failed” rating was applied to Crossman Ridge Road, due to severe breakup issues. The major deficiencies contributing to a less than good rating were poor gravel layer and breakup issues.

Table 1

GRAVEL					
Rating	1	2	3	4	5
Descrp.	Failed	Poor	Fair	Good	Excellent
# Roads	1	35	60	50	3

### RATINGS ARE RELATED TO NEEDED MAINTENANCE OR REPAIR

- Rating 5** Newly constructed road. Excellent crown and drainage. No maintenance required.
- Rating 4** Good crown and drainage. Routine maintenance.
- Rating 3** Roadway shows traffic effects. Needs regrading, minor ditch maintenance, and spot gravel application.
- Rating 2** Road needs additional aggregate layer, major drainage improvements.
- Rating 1** Travel is difficult. Complete rebuilding required.

Table 2: PASER rating descriptions for gravel roads





*Figure 3: Severe Breakup area on Sprucewood Dr.*



*Figure 4: Extensive Breakup down the length of Eagle Pl.*

As stated previously, local road condition issues, particularly breakup-related subsidence and boiling, are not reflected in PASER's rating criteria. Interpolation of PASER criteria were made to suit local conditions. Therefore springtime breakup was a major factor in evaluating gravel road surface deformities. Even though these inferences were made, the basic evaluation process outlined by PASER was valuable and applicable for rating Homer's gravel roads.

**Paved Roads**

Overall, Homer’s paved roads are in better condition than the gravel roads. The majority of paved roads fell into the lower “Good” category (Rating 6), followed by the upper “Good” category (Rating 7) and then “Fair” (Ratings 4 & 5). Of the Hundred plus paved roads in the community, only 8 rated in the two “Poor” categories.

PAVED										
Rating	1	2	3	4	5	6	7	8	9	10
Descrp.	Failed	Very Poor	Poor	Fair	Fair	Good	Good	Very Good	Excellent	Excellent
# Roads	0	4	4	3	7	44	33	9	1	4

Table 3

Surface rating	Visible distress*	General condition/treatment measures
<b>10</b> Excellent	None.	New construction.
<b>9</b> Excellent	None.	Recent overlay. Like new.
<b>8</b> Very Good	No longitudinal cracks except reflection of paving joints. Occasional transverse cracks, widely spaced (40' or greater). All cracks sealed or tight (open less than 1/4").	Recent sealcoat or new cold mix. Little or no maintenance required.
<b>7</b> Good	Very slight or no raveling, surface shows some traffic wear. Longitudinal cracks (open 1/4") due to reflection or paving joints. Transverse cracks (open 1/8") spaced 10' or more apart, little or slight crack raveling. No patching or very few patches in excellent condition.	First signs of aging. Maintain with routine crack filling.
<b>6</b> Good	Slight raveling (loss of fines) and traffic wear. Longitudinal cracks (open 1/4"–1/2"), some spaced less than 10'. First sign of block cracking. Slight to moderate flushing or polishing. Occasional patching in good condition.	Shows signs of aging. Sound structural condition. Could extend life with sealcoat.
<b>5</b> Fair	Moderate to severe raveling (loss of fine and coarse aggregate). Longitudinal and transverse cracks (open 1/2") show first signs of slight raveling and secondary cracks. First signs of longitudinal cracks near pavement edge. Block cracking up to 50% of surface. Extensive to severe flushing or polishing. Some patching or edge wedging in good condition.	Surface aging. Sound structural condition. Needs sealcoat or thin non-structural overlay (less than 2").
<b>4</b> Fair	Severe surface raveling. Multiple longitudinal and transverse cracking with slight raveling. Longitudinal cracking in wheel path. Block cracking (over 50% of surface). Patching in fair condition. Slight rutting or distortions (1/2" deep or less).	Significant aging and first signs of need for strengthening. Would benefit from a structural overlay (2" or more).
<b>3</b> Poor	Closely spaced longitudinal and transverse cracks often showing raveling and crack erosion. Severe block cracking. Some alligator cracking (less than 25% of surface). Patches in fair to poor condition. Moderate rutting or distortion (1" or 2" deep). Occasional potholes.	Needs patching and repair prior to major overlay. Milling and removal of deterioration extends the life of overlay.
<b>2</b> Very Poor	Alligator cracking (over 25% of surface). Severe distortions (over 2" deep). Extensive patching in poor condition. Potholes.	Severe deterioration. Needs reconstruction with extensive base repair. Pulverization of old pavement is effective.
<b>1</b> Failed	Severe distress with extensive loss of surface integrity.	Failed. Needs total reconstruction.

Table 4: PASER rating description for paved roads



*Figure 5:  
Extensive  
Alligator  
cracking  
and Rutting  
on Ohlsen  
Ln.*



*Figure 6:  
Longitudinal  
cracking at  
shoulder indicative  
of failing subgrade.  
Tulin Terrace*

The vast majority of paved roads have minor to moderate longitudinal and lateral cracking that is maintainable with annual crack sealing. Most roads have minor surface defects, most notably ravelling, which is a condition where pavement material deteriorates exposing the aggregate. Among the roads meriting reconstruction are Ohlsen Lane, Tulin Terrace Blvd. and Woodside Ave. These roads have extensive alligator cracking, rutting and potholes; deformities that indicate the road structure itself, not just the pavement surface, is failing. Many roads have minor rutting. Although the PASER model considers rutting to be a surface deformity caused by sub-surface settling, in the case of Homer, rutting is mostly due to studded tire use. Nevertheless, as rutting compromises sheeting of water from crown to shoulder, it was a contributing factor in road rating.

## Vegetation

A significant aspect of this assessment outside the PASER criteria involved inventorying vegetation obstructions. As the road crew annually brushes out road corridors to an extent reasonable for proper maintenance, the areas of alder, perennial grasses, etc. within the corridor were generally disregarded during this assessment. Exceptions were made when these obstructions impeded sight distance or the establishment of drainage ditches. These situations often occur in cases where the road is not aligned with the right-of-way. In some cases, the road is so far off center, the edge of the road practically grazes the outer boundary of the right-of-way. In such cases, the road crew does its best to maintain a reasonably brush-free corridor to enable snow plowing, ditching and other essential maintenance activities. However, this is not always possible.

Corridor obstructions, such as large spruce, located inside the right-of-way were mapped in Method 1 or made note of in Method 2. These obstructions often impede operator maintenance during snow removal and ditching. Roads that have notable vegetation impediments are Easy Street, Mountain Park Street, and Race Road. Vegetation ratings are available in the master spreadsheets located in the Appendices. Landowner concern for the vegetation fronting their property, often makes problem tree removal a sensitive issue.



*Figure 7: Tree, well inside right of way, scarred from grader during snow removal*



*Figure 8: Tree limbs within roadway*

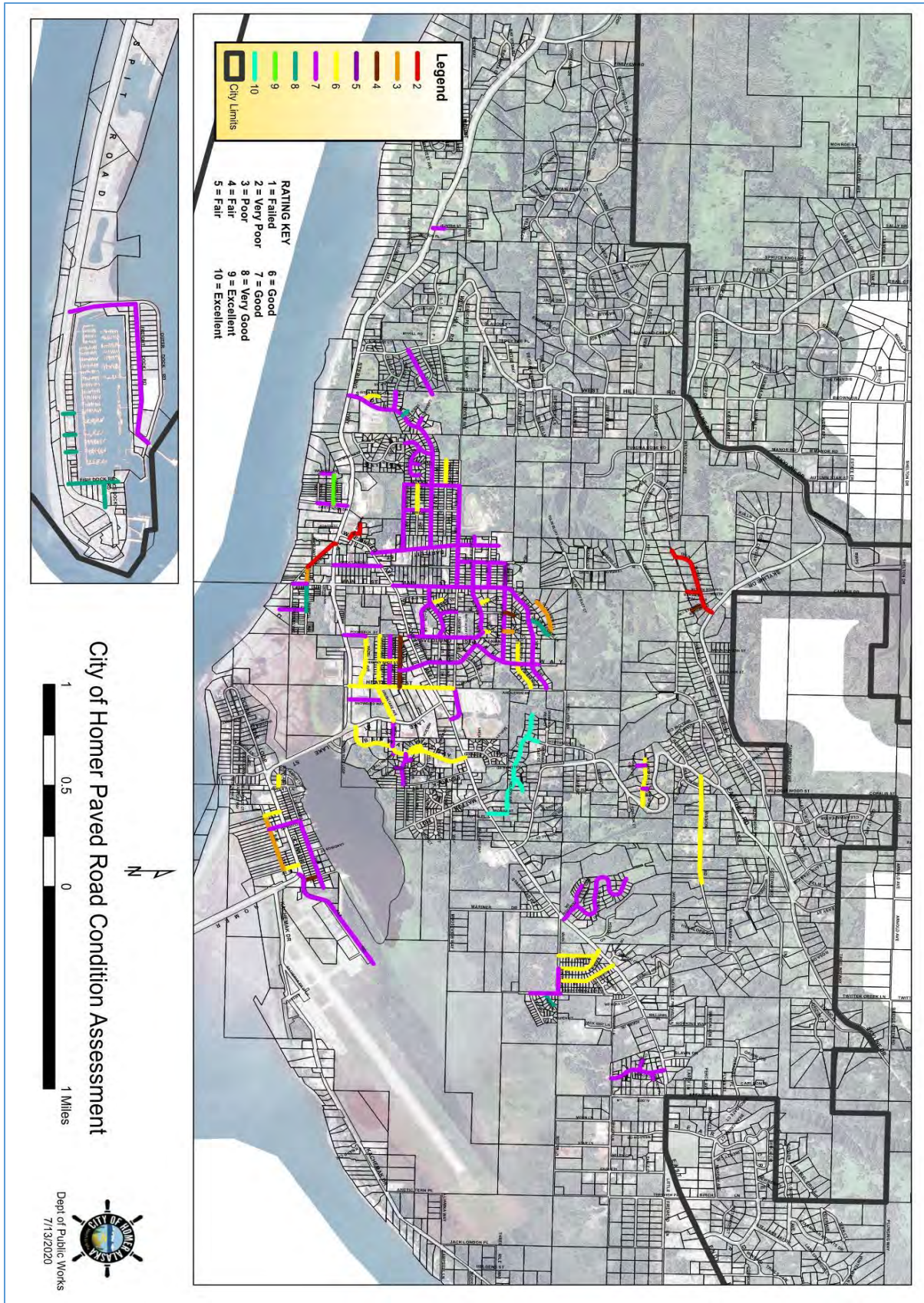


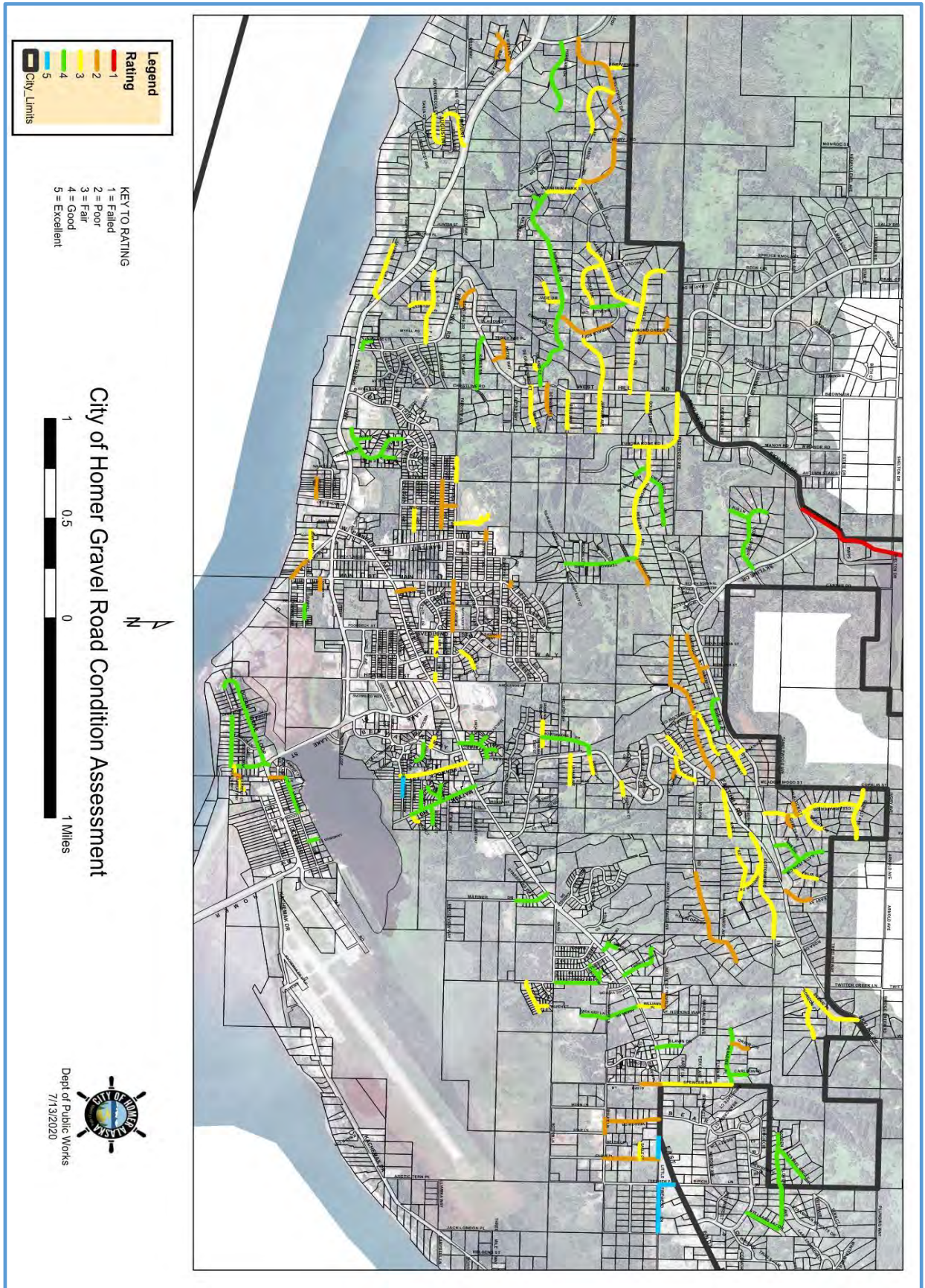
*Figure 9: Alder, routinely hedged, yet impeding ditch establishment due to road misalignment*



*Figure 10: Spruce trees in corridor preventing proper ditch establishment*

## Appendix A - Maps







## **Appendix B – Paved Road Assessment Tables**

PAVED ROAD INFO			ROAD SURFACE CONDITION					VEG	RATING
STREET	TYPE	ANNEXED	SURFACE DEFECTS	SURFACE DEFORMATION	CRACKS	PATCHES & POTHOLES	DRAINAGE	VEGETATION	1:FAILED 2:VERY POOR 3:POOR 4:FAIR 5:FAIR 6:GOOD 7:GOOD 8:VERY GOOD 9:EXCELLENT 10:EXCELLENT
A St.	Paved		Minor	Minor	Severe	Minor			4 Moderate
B St.	Paved		Minor	Minor	Moderate	Minor			6 Moderate
Bay Ave.	Paved		Moderate	Moderate	Severe	Moderate			3 Minor
W. Bayview Ave.	Paved		Minor	Minor	Severe	Moderate			5 None
E. Bayview Ave.	Paved		Minor	Minor	Moderate	None			6 Moderate
Bayview Ct.	Paved		Minor	Severe	Severe	Minor			3 None
Beluga Pl.	Paved		Minor	Minor	Minor	None			7 None
Ben Walters Ct.	Paved		Minor	Minor	Minor	Minor			7 None
Ben Walters Ln.	Paved		Minor	Minor	Moderate	None			6 None
Bonanza Ave.	Paved		Minor	Minor	Minor	Minor			5 None
W. Bunnell Ave.	Paved		Moderate	Moderate	Severe	Moderate			3 None
Calhoun Ct.	Paved		Minor	Moderate	Moderate	Minor			4 Minor
Cattenden Dr.	Paved		Moderate	Minor	Minor	Minor			7 None
Nielson Cir.	Paved		Moderate	Minor	Moderate	Minor			6 Minor
Clover Pl.	Paved		Minor	None	Minor	None			7 None
Clover Ln.	Paved		Minor	Minor	Minor	None			7 Minor
East Hill Rd.	Paved		Minor	None	Minor	None			7 Minor
Ice Dock Rd.	Paved		None	None	None	None			8 None
FAA Rd.	Paved		Minor	Minor	Moderate	Minor			6 None
E. St.	Paved		Minor	Minor	Moderate	Moderate			6 None
Grubstake Ave. East	Paved		Minor	Minor	Minor	None			7 None
Daybreeze Ct.	Paved		Minor	Minor	Minor	None			7 None
Calamari Ct.	Paved		Minor	Minor	Minor	None			7 None
Sea Plane Ct.	Paved		Minor	Minor	Minor	Minor			6 None
El Sario Ct.	Paved		Minor	Minor	Moderate	None			6 None
Elderberry Ct.	Paved		Minor	Minor	Moderate	None			6 None
Elderberry Dr.	Paved		Minor	Minor	Moderate	None			6 None
W. Fairview Ave.	Paved		Minor	None	Minor	None			7 None
Freight Dock Rd.	Paved		Minor	None	None	None			7 None
Frisbee Ct.	Paved		None	None	None	None			8 None

Gravel\_Roads\_Table

PAVED ROAD INFO			ROAD SURFACE CONDITION					VEG	RATING
STREET	TYPE	ANNEXED	SURFACE DEFECTS	SURFACE DEFORMATION	CRACKS	PATCHES & POTHOLES	DRAINAGE	VEGETATION	1:FAILED 2:VERY POOR 3:POOR 4:FAIR 5:FAIR 6:GOOD 7:GOOD 8:VERY GOOD 9:EXCELLENT 10:EXCELLENT
Gavin Ct.	Paved		Minor	Minor	Moderate	None		None	6
Hazel Ave	Paved		Minor	Minor	Moderate	Minor	6	None	6
Herdon Dr.	Paved		Minor	Minor	Moderate	None	6	Minor	7
Hillview Pl.	Paved		Minor	Minor	Minor	None	7	Moderate	7
E. Danview Ave.	Paved		Minor	Minor	Moderate	None	5	None	7
Larkspur Ct.	Paved		Minor	Minor	Moderate	None	6	Moderate	6
N. Larkspur Cir.	Paved		Minor	Minor	Minor	None	7	Moderate	7
S. Larkspur Cir.	Paved		Minor	Minor	Minor	None	7	Moderate	7
Lakeside Ct.	Paved		Minor	Minor	Minor	None	7	None	7
Lakeside Dr.	Paved		Minor	Minor	Minor	None	7	None	7
Lakeside Cir.	Paved		Moderate	Minor	Minor	None	5	None	5
Pine Terrace Cir.	Paved	YES	Moderate	Moderate	Severe	None	2	Minor	2
Smoky Bay Way	Paved		Minor	Minor	Moderate	None	6	None	7
Rochelle Rd.	Paved		Minor	Minor	Minor	Minor	6	None	6
Sabrina Rd.	Paved		Minor	Minor	Minor	Minor	6	None	6
Silka Rose Cir	Paved		Minor	Minor	Minor	Minor	6	None	6
Spruce Terrace Cir.	Paved	YES	Moderate	Moderate	Moderate	None	4	None	4
Svedlund Cir	Paved		Minor	Minor	Moderate	Moderate	6	None	6
Svedlund St.	Paved		Minor	Minor	Moderate	Minor	6	None	7
Tamara St.	Paved		Minor	Minor	Moderate	Minor	6	Minor	6
Towne Heights Ln.	Paved		None	None	None	None	8	None	8
Tulin Terrace Blvd.	Paved	YES	Moderate	Moderate	Severe	Moderate	2	Moderate	2
Waddell St.	Paved		None	None	Minor	None	9	None	9
Woodside Ave.	Paved		Moderate	Severe	Severe	Moderate	2	None	2
Freight Dock Rd.	Paved		Minor	None	Minor	None	7	None	7
Harbor Entrance Roads	Paved		Minor	None	None	None	8	None	8
Harbor Entrance Roads	Paved		Moderate	None	None	Moderate	7	None	7
Harbor Entrance Roads	Paved		Moderate	None	None	Minor	7	None	7
Fish Dock Rd.	Paved		None	None	None	None	8	None	8
Lakeshore Dr.	Paved		Minor	Minor	Moderate	Minor	6	None	7
Douglas Pl.	Paved		Minor	None	Minor	None	6	None	7
Douglas Pl.	Paved		Minor	None	Minor	None	6	None	7
Forest Glenn Dr.	Paved		Minor	Minor	Minor	Minor	7	None	7

Gravel\_Roads\_Table

PAVED ROAD INFO			ROAD SURFACE CONDITION					VEG	RATING
STREET	TYPE	ANNEXED	SURFACE DEFECTS	SURFACE DEFORMATION	CRACKS	PATCHES & POTHOLES	DRAINAGE	VEGETATION	1:FAILED 2:VERY POOR 3:POOR 4:FAIR 5:FAIR 6:GOOD 7:GOOD 8:VERY GOOD 9:EXCELLENT 10:EXCELLENT
W. Danview Ave.	Paved		Minor	None	Moderate	None		None	7
W. Danview Ave.	Paved		Minor	None	Moderate	None		None	7
Rangeview Ave.	Paved		Minor	Minor	Moderate	None		None	6
Galhoun St.	Paved		Minor	Minor	Moderate	None		None	7
Lee Dr.	Paved		Minor	Minor	Moderate	None		None	7
Mark White Ave.	Paved		Minor	Minor	Minor	None		None	7
Mission Rd.	Paved		Minor	Minor	Moderate	None		Minor	6
Fairview Ave.	Paved		Minor	Minor	Minor	None		None	7
E. Bunnell Ave.	Paved		Minor	None	None	None		None	8
Main St.	Paved		Minor	Minor	Minor	None		None	6
Heath St.	Paved		Minor	Minor	Moderate	Minor		None	5
Heath St.	Paved		Minor	Minor	Moderate	Minor		None	5
Mountain View Dr.	Paved		Minor	Minor	Moderate	None		None	6
Klondike Ave.	Paved		Moderate	Moderate	Moderate	Moderate		None	4
Kachemak Way	Paved		Minor	Minor	Minor	None		None	7
Soundview Ave.	Paved		Minor	Minor	Moderate	None		None	6
Barlett St.	Paved		Minor	Minor	Minor	None		None	6
Spruceview Ave.	Paved		Minor	None	Moderate	Minor		None	6
Mulliken St.	Paved		Minor	Minor	Minor	None		None	7
Shelly Ave.	Paved		Minor	Minor	Minor	None		None	7
Talen Ln.	Paved		Minor	None	None	None		None	8
Cabana Ct.	Paved		Minor	Minor	Minor	None		None	6
Compass Dr.	Paved		Minor	Minor	Minor	None		None	7
Candlelight Ct.	Paved		Minor	Minor	Minor	None		None	7
Craftsman Rd.	Paved		Minor	Minor	Minor	None		None	7
Kachemak Way	Paved		Minor	Minor	Minor	None		None	7
Hunter St.	Paved		Minor	Minor	Minor	None		None	7
Early Spring St.	Paved		Minor	Minor	Minor	None		None	7
Snowbird St.	Paved		Minor	None	Minor	None		None	7
Grubstake Ave.	Paved		Minor	Minor	Moderate	None		None	5
Main St.	Paved		Minor	Minor	Minor	None		None	6
Eric Ln.	Paved		Minor	Minor	Minor	None		None	8
Craftsman Rd.	Paved		Minor	Minor	Minor	None		None	7

PAVED ROAD INFO			ROAD SURFACE CONDITION					VEG	RATING
STREET	TYPE	ANNEXED	SURFACE DEFECTS	SURFACE DEFORMATION	CRACKS	PATCHES & POTHOLES	DRAINAGE	VEGETATION	1:FAILED 2:VERY POOR 3:POOR 4:FAIR 5:FAIR 6:GOOD 7:GOOD 8:VERY GOOD 9:EXCELLENT 10:EXCELLENT
Greatland St.	Paved		Minor	None	Minor	Minor	8	None	7
Lucky Shot St.	Paved		Minor	Minor	Minor	Minor	6	Minor	6
Noview	Paved		Minor	Minor	Minor	Minor	7	None	7
Ronda S.	Paved		None	None	None	None	10	None	10
Nelson Ave.	Paved		None	None	None	None	10	None	10
South Slope Dr.	Paved		None	None	None	None	10	None	10
Father Dean Ct.	Paved		None	None	None	None	10	None	10
Wright St.	Paved		Minor	Minor	Moderate	None	6	None	7
Noview Ave.	Paved		Minor	Minor	Minor	Minor	6	None	6
Island View Ct.	Paved		Minor	Moderate	Severe	None	3	None	3
Hohe St.	Paved		Minor	Minor	Moderate	None	6	None	7
Poopdeck St.	Paved		Minor	Minor	Moderate	None	7	None	7

Gravel\_Roads\_Table

## **Appendix C – Gravel Road Assessment Tables**

GRAVEL ROAD			ROAD SURFACE CONDITIONS				VEGETATION CONDITIONS		RATING	
STREET	TYPE	ANNEX	CROWN	DRAIN AGE	GRAVEL LAYER	SURFACE DEFORMATION	SURFACE DEFECTS	VEG	VEGETATION NOTES	1:FAILED 2:POOR 3:FAIR 4:GOOD 5:EXCELLENT
Adams Dr.	Gravel		Good	Good	Good	None	None	None		4
Alder Ln.	Gravel		Poor	Fair	Poor	Moderate	None	None		2
April Pl.	Gravel		Good	Good	Good	None	None	None		4
Aspen Ct.	Gravel		Fair	Fair	Fair	Minor	None	Minor	Routine Brushing	3
Aspen Ln.	Gravel		Fair	Fair	Fair	Minor	None	Minor	Ditch Obst	3
Aurora Ct.	Gravel		Good	Good	Good	None	None	None		4
Barnett Pl.	Gravel		Good	Fair	Fair	None	None	None		3
Bay Ridge Rd.	Gravel	YES	Fair	Good	Fair	Minor	None	None		3
Bay Vista Ct.	Gravel		Fair	Poor	Poor	Moderate	Moderate	None		2
Bay Vista Pl.	Gravel		Fair	Poor	Poor	Minor	None	None		2
Bell Ave.	Gravel	YES	Fair	Fair	Fair	Minor	None	None		3
Beluga Cir.	Gravel		Good	Good	Good	None	None	None		4
Beluga Ct.	Gravel		Good	Good	Good	None	None	None		4
Camptground Rd.	Gravel		Fair	Fair	Fair	None	None	None		3
Carlson Pl.	Gravel	YES	Good	Good	Good	None	None	None		4
Carriage Ct.	Gravel		Good	Good	Good	None	None	None		4
Clearwater Dr.	Gravel	YES	Good	Fair	Good	Minor	None	None		3
Cook Way	Gravel		Good	Good	Good	None	None	None		4
Cottonwood Ln.	Gravel	YES	Fair	Good	Poor	Moderate	Minor	None		3
Cozy Cove Dr.	Gravel		Good	Good	Good	None	None	None		4
Crestwood Cir.	Gravel	YES	Good	Good	Good	Minor	None	None		4
Crossman Ridge Rd.	Gravel	YES	Poor	Poor	Poor	Severe	None	None		1
Dehel Ave.	Gravel		Poor	Poor	Fair	Minor	None	None		2
Dewberry Ln.	Gravel		Poor	Fair	Poor	Minor	None	None		2
Diamond Creek Pl.	Gravel	YES	Fair	Fair	Poor	Moderate	None	None		2
Dons Dr.	Gravel	YES	Good	Fair	Good	None	None	None		4
E. Bunnell Ave.	Gravel		Good	Good	Good	None	None	None		4
E. Fairview Ave.	Gravel		Poor	Poor	Poor	Severe	None	None		2
E. Jeffery Ave.	Gravel	YES	Fair	Fair	Good	Moderate	None	None		3
Eagle Court	Gravel		Fair	Fair	Fair	Minor	Minor	None		3
Eagle Pl.	Gravel		Poor	Poor	Poor	Severe	None	Moderate		2

Gravel\_Roads\_Table

STREET	TYPE	ANNEX	CROWN	DRAIN	GRAVEL	SURFACE DEFORMA	SURFACE DEFECTS	VEG	VEGETATION	1:FAILED 2:POOR 3:FAIR 4:GOOD 5:EXCELLENT
Eagle View Dr.	Gravel	YES	Good	Good	Poor	Moderate	None	Minor	Routine Brushing/1 spruce Spruce within entire	3
Easy St.	Gravel	YES	Fair	Poor	Fair	Minor	None	Severe	maintenance corridor	2
Emerald Rd.	Gravel	YES	Fair	Poor	Poor	Severe	None	None		2
Felix Cir.	Gravel	YES	Good	Fair	Good	None	None	Moderate	Spruce Obst	3
Fireweed Ave.	Gravel	YES	Fair	Fair	Poor	Severe	None	None	Bad Breakup	2
Forest Glenn Dr.	Gravel		Good	Good	Good	None	None	None		4
Forget Me Not Ln.	Gravel	YES	Good	Fair	Fair	Minor	None	None		3
Garden Park Dr.	Gravel	YES	Good	Fair	Fair	Moderate	None	None		3
Glacier View Ct.	Gravel	YES	Good	Poor	Good	Minor	None	None		3
Glenview St.	Gravel		Good	Good	Good	None	None	None		4
Goldberry Ct.	Gravel	YES	Fair	Fair	Fair	None	None	None		3
Golden Plover Ave.	Gravel		Good	Good	Good	None	None	None		4
Hanson Ave.	Gravel		Poor	Poor	Poor	Minor	None	Minor		2
Heidi Ct.	Gravel		Good	Good	Good	Minor	Minor	None		4
Hidden Way	Gravel		Poor	Poor	Poor	Moderate	Moderate	Moderate		2
Highland Dr.	Gravel		Good	Good	Good	Minor	None	None		4
Highland Dr.	Gravel		Fair	Fair	Fair	Moderate	None	None		2
Hightlook Ct.	Gravel		Good	Fair	Good	None	None	None		3
Hilfair Ct.	Gravel		Good	Good	Good	None	None	None		3
Hillside Pl.	Gravel		Fair	Fair	Fair	Minor	None	None		4
Horizon Ct.	Gravel		Fair	Poor	Fair	Minor	None	Moderate	Row Misaligned crowding road	3
Hornaday Parking Ave	Gravel		Fair	Fair	Fair	None	None	None		3
Iris Ct.	Gravel		Good	Poor	Good	None	None	None	No Drainage at CuldeSac	3
Jack Gist Ln.	Gravel		Good	Good	Good	None	None	None		4
Jade Dr.	Gravel		Fair	Fair	Poor	Moderate	None	None		3
Jakes Little Fireweed	Gravel	YES	Good	Poor	Good	None	None	Severe	alders prevent ditch establishment	2
Janeview Dr.	Gravel	YES	Good	Fair	Good	Minor	None	Minor	SD Obst's	3
Jennifer Pl.	Gravel		Good	Good	Good	Minor	Minor	None		3

Gravel\_Roads\_Table



STREET	TYPE	ANNEX	CROWN	DRAIN AGE	GRAVEL LAYER	SURFACE DEFORMA TION	SURFACE DEFECTS	VEG	VEGETATION NOTES	1:FAILED 2:POOR 3:F AIR 4:GOOD 5:EXCELLENT
Jenny Way	Gravel		Good	Fair	Fair	None	None	None		3
Judy Rebecca Ct.	Gravel		Fair	Fair	Fair	Minor	None	None		3
Kalalock Ct.	Gravel	YES	Poor	Fair	Poor	Moderate	None	Moderate	Spruce/Alder	2
Kestrel Circle	Gravel		Good	Good	Good	None	None	None		4
Kia Ln.	Gravel		Good	Good	Good	None	None	Minor	SD Obst	4
Kramer Ln.	Gravel		Good	Good	Good	Minor	None	None		4
Krueth Way	Gravel		Good	Poor	Good	None	None	None		3
Lake St.	Gravel		Good	Good	Good	None	None	None		4
Lakeshore Dr. (W)	Gravel		Good	Good	Good	None	None	Minor		4
Lampert Ln.	Gravel		Good	Poor	Good	Severe	None	None		2
Lampert Ln.	Gravel		Good	Good	Good	Minor	None	None		4
Landing St.	Gravel		Good	Good	Good	None	None	None		4
Latham Ave.	Gravel		Fair	Good	Poor	Moderate	None	None		3
Lee Dr.	Gravel		Poor	Fair	Poor	None	None	None		3
Lincoln Dr.	Gravel	YES	Good	Good	Fair	None	None	None		3
Linda Ct.	Gravel		Good	Good	Good	Minor	None	None		4
Little Fireweed Ln.	Gravel		Excellent	Good	Excellent	None	None	None		5
Little Fireweed Ln.	Gravel		Good	Good	Good	None	None	None		4
Lupine Ct.	Gravel		Good	Fair	Good	Minor	None	None		3
Mariner Dr.	Gravel		Fair	Good	Good	Good	None	None		4
Mariner Dr.	Gravel		Fair	Fair	Fair	Minor	None	None		3
Mattox Rd.	Gravel		Good	Good	Good	Minor	None	None		4
Meadow Dr.	Gravel		Poor	Poor	Fair	Moderate	None	None		2
Miller Ln.	Gravel		Fair	Fair	Fair	Moderate	None	None		3
Mission Rd.	Gravel	YES	Fair	Poor	Poor	Moderate	None	Minor	Routine Brushing	2
Mount Augustlin Dr.	Gravel		Fair	Fair	Poor	Moderate	None	Minor	Routine Brushing Spruce well within	3
Mountain Park Street	Gravel		Good	Fair	Good	Minor	None	Moderate	corridor	3
N. Glacier View Ct.	Gravel	YES	Good	Fair	Good	None	None	None		3
Natile Cir.	Gravel	YES	Good	Fair	Good	None	None	None		4
Noview Ave.	Gravel		Fair	Poor	Good	None	None	None		3
Ocean Drive Lp.	Gravel		Good	Fair	Good	None	None	Minor	Spruce	4
Ohlson Ln.	Gravel		Poor	Poor	Poor	Moderate	None	None		2
Orion Cir.	Gravel	YES	Poor	Good	Poor	Minor	Minor	None		2
Palinbrush Ct.	Gravel	YES	Fair	Poor	Fair	Severe	None	Moderate	Spruce&SD Obst	2

Gravel\_Roads\_Table

STREET	TYPE	ANNEX	CROWN	DRAIN AGE	GRAVEL LAYER	SURFACE DEFORMATION	SURFACE DEFECTS	VEG	VEGETATION NOTES	1: FAILED 2: POOR 3: FAIR 4: GOOD 5: EXCELLENT
Painbrush St.	Gravel	YES	Poor	Poor	Poor	Moderate	None	Moderate	Spruce obst	2
Paradise Pl.	Gravel	YES	Good	Good	Good	Minor	None	None		4
Pennock St.	Gravel		Good	Fair	Good	Minor	None	Moderate		3
Pine View Rd.	Gravel	YES	Fair	Fair	Fair	None	None	None		3
Pleasant Way	Gravel		Poor	Poor	Poor	None	None	Moderate		2
Poppy Cir.	Gravel		Good	Good	Good	None	None	None		4
Queets Cir.	Gravel	YES	Fair	Good	Poor	Moderate	None	None		2
Quinnall Ave.	Gravel	YES	Good	Fair	Fair	None	None	Minor	Spruce Obst/SD	3
Race Rd.	Gravel	YES	Good	Good	Poor	Moderate	None	None		3
Race Rd.	Gravel	YES	Good	Good	Poor	Moderate	None	None		3
Rainbow Ct.	Gravel		Fair	Poor	Poor	Minor	None	Severe		3
Rainbow Pl.	Gravel		Poor	Poor	Poor	Moderate	None	None		2
Rangview Ave.	Gravel		Fair	Good	Poor	Severe	None	Severe		2
Rangview Ave.	Gravel		Fair	Fair	Poor	Severe	None	None		2
Reber Rd.	Gravel		Good	Fair	Good	None	None	None		4
Ridgeaway Ct.	Gravel	YES	Good	Fair	Good	None	None	Moderate	Ditch Obst	4
Rosebud Ct.	Gravel	YES	Fair	Poor	Fair	Moderate	None	None		3
Rosewood Cir.	Gravel	YES	Good	Good	Good	Minor	None	Minor	SD Obst	4
S. Park Cir.	Gravel	YES	Good	Good	Good	Minor	None	None		4
Saltwater Dr.	Gravel		Fair	Good	Poor	Moderate	None	Minor		3
Scenic Pl.	Gravel	YES	Fair	Fair	Fair	Minor	None	None		3
Sea Breeze Ct.	Gravel		Good	Poor	Good	None	None	Moderate		3
Seascape Dr.	Gravel		Fair	Poor	Fair	None	None	None	Severe ROW Misalignment	2
Shannon Ct.	Gravel		Good	Good	Good	None	None	None		4
Shannon Ln.	Gravel		Good	Good	Good	None	None	None		4
Shelford St.	Gravel		Poor	Poor	Poor	Poor	None	Moderate		2
Shirley Ct.	Gravel		Good	Good	Good	Minor	None	None		4
Skagit Cir.	Gravel		Fair	Fair	Fair	Fair	None	None		3
Slavin Dr.	Gravel	YES	Good	Fair	Good	None	None	None		4
South Slope Dr.	Gravel		Good	Good	Good	None	None	Minor	Routine Brushing	4
Spencer Dr.	Gravel	YES	Good	Poor	Good	None	None	Severe	Row Misalignnd crowding road	3
Spruce Cir.	Gravel	YES	Fair	Poor	Poor	Moderate	None	None		2
Spruce Ln.	Gravel		Poor	Poor	Poor	Moderate	None	None		2

Gravel\_Roads\_Table

STREET	TYPE	ANNEX	CROWN	DRAIN AGE	GRAVEL LAYER	SURFACE DEFORMATION	SURFACE DEFECTS	VEG	VEGETATION NOTES	1:FAILED 2:POOR 3:FAIR 4:GOOD 5:EXCELLENT
Spurwood Dr.	Gravel	YES	Good	Poor	Poor	Severe	None	None		2
Stellers Jay	Gravel		Good	Good	Good	Minor	None	None		4
Tasmania East	Gravel		Good	Good	Poor	None	None	Minor	Routine Brushing	3
Tasmania West	Gravel		Good	Fair	Poor	None	None	Minor	Routine Brushing	3
Terriview Pl.	Gravel		Excellent	Excellent	Excellent	None	None	None		5
Thompson Dr.	Gravel		Good	Fair	Good	None	None	Minor	Brush in Travelway	4
Tilon Ct.	Gravel		Good	Good	Good	None	None	None		4
Tundra Rose Rd.	Gravel	YES	Good	Fair	Good	Moderate	None	Minor	Routine Brushing	3
Uminski Ct.	Gravel		Good	Fair	Good	None	None	Minor		4
Upland Ct.	Gravel		Good	Fair	Poor	None	None	None		3
Virginalyn Way	Gravel		Excellent	Excellent	Excellent	None	None	None		5
W. Cityview Ave.	Gravel		Fair	Poor	Poor	Moderate	None	None		2
W. Fairview Ave.	Gravel		Fair	Fair	Fair	Minor	None	None		3
W. Jeffrey Ave.	Gravel	YES	Fair	Poor	Fair	Moderate	None	Minor		3
West Terrace Blvd.	Gravel		Good	Good	Good	None	None	None		4
Westwood Ave.	Gravel	YES	Good	Fair	Good	Minor	None	None		3
Whispering Meadow A	Gravel	YES	Good	Good	Poor	Moderate	None	None		3
Williams Pl.	Gravel		Good	Fair	Good	None	None	None		3
Willow Dr.	Gravel	YES	Good	Fair	Good	Minor	None	None		3
Wright St.	Gravel		Poor	Poor	Poor	Severe	None	Moderate		2
Wythe Way	Gravel		Poor	Poor	Poor	Minor	None	None		2

Gravel\_Roads\_Table

## **Appendix D – Manuals for the PASER Road Assessment Model**

*Pavement Surface Evaluation and Rating*

# PASER Gravel Roads Manual



RATING

5



RATING

3



RATING

**1**

## Contents

Introduction	2
Gravel road evaluation	2
Surface conditions and defects	3
Evaluation	4
Crown	4
Drainage	5
Gravel layer	7
Surface deformation	8
- Washboard	8
- Potholes	9
- Ruts	10
Surface defects	11
- Dust	11
- Loose aggregate	12
Rating road surface condition	13
Rating system	13
Rating 5 – Excellent	14
Rating 4 – Good	15
Rating 3 – Fair	16
Rating 2 – Poor	18
Rating 1 – Failed	19
Practical advice on rating roads	20

This manual is intended to assist local officials in understanding and rating the surface condition of gravel roads. It describes types and causes of distress and provides a simple system to visually rate the road segment's condition. The rating procedure can be used as condition data for the Wisconsin DOT local road inventory and as part of a computerized pavement management system like PASERWARE.

Produced by the T.I.C. with support from the Federal Highway Administration, the Wisconsin Department of Transportation, and the University of Wisconsin-Extension. The T.I.C., part of the nationwide Local Technical Assistance Program (LTAP), is a Center of the College of Engineering, Department of Engineering Professional Development, University of Wisconsin-Madison.

Copyright © 1989, 2002

Wisconsin Transportation Information Center

432 North Lake Street  
Madison, WI 53706

Phone 800/442-4615

Fax 608/263-3160

E-mail [tic@epd.engr.wisc.edu](mailto:tic@epd.engr.wisc.edu)

URL <http://tic.engr.wisc.edu>

Printed on recycled paper.





*Pavement Surface Evaluation and Rating*

# PASEI Manual

## Gravel Roads

Donald Walker, T.I.C. Director, *author*  
Lynn Entine, Entine & Associates, *editor*  
Susan Kummer, Artifax, *designer*

## *Pavement Surface Evaluation and Rating*

# Gravel PASER Manual

There are many miles of unsurfaced roads in this country. Wisconsin alone has over 22,000 miles of gravel roads under the jurisdiction of local governments. Maintaining and improving these roads is a major responsibility for local governments.

Gravel roads may service very remote areas and very few vehicles. On the other hand it is common to have gravel roads providing service to agricultural, logging, and recreational areas with fairly high traffic volumes. Many urban areas also have some gravel roads. Heavy trucks and residential traffic can combine to make very heavy demands on these unsurfaced roads.

This manual is intended to help you plan the maintenance and overall management of gravel roads. It discusses common problems and typical repairs. A simple system for evaluating conditions and rating roads is included.

The Wisconsin Transportation Information Center also has PASER manuals for other pavement types (see inside back cover). The rating systems are similar and compatible so that local road agencies can work with a comprehensive condition rating method. The rating procedure can be used as condition data for the Wisconsin DOT local road inventory (WISLR) and as part of a computerized pavement management system like PASERWARE.

Taking an organized approach to roadway management has many benefits. By documenting the actual conditions of roads you can set realistic budgets, make timely repairs, and set up cost effective maintenance procedures. Developing an overall plan for the roadway system lets local agencies develop budgets and plan for future needs. When detailed information is available, local officials can respond more effectively to questions from the public. A planned approach is easier to explain and receives greater public support.

Several key steps are necessary to develop a meaningful roadway management plan. First, you must inventory the existing condition. This is normally done by dividing the roadway into segments with similar conditions. During the inventory you collect information on construction history, roadway width, etc. Then you need some method for assessing the condition of the existing roadway. This Gravel PASER Manual uses a visual approach. Other information from material sampling, testing, and traffic counts can be useful for a more detailed system plan.

Another necessary step is setting priorities for roadway improvements. You can use roadway condition and the local importance of these roads to assign priorities. Then budgets can be developed based on cost estimates for the projected improvements. Since not all improvements can be made in one year, you can set up a multi-year budget plan. You can make a capital improvement plan for three to five years. Normally this is updated annually.

### *Gravel road evaluation*

Evaluating and rating gravel roads requires a different perspective than similar evaluations of asphalt or concrete pavements. This is due to the nature of gravel roads and their variability. Surface conditions on gravel roads can change literally overnight. Heavy rains and local heavy traffic can dramatically change the surface characteristics of gravel roads from one day to the next. In addition, routine maintenance activities, such as one pass of a motor grader, could improve the surface conditions of a gravel road significantly.

Since the evaluation or rating of a road could vary depending on recent weather conditions or recent maintenance activities, it should be based on major factors. Detailed surface conditions should be secondary.

The most important factors in evaluating a gravel road are the road cross section, drainage, and adequacy of the gravel layer. The gravel road cross section must contain adequate crown and good lateral drainage systems. The crown should be approximately 6", the adjacent ditches should be deep enough to contain surface water, and the culvert systems should be clean and sized to prevent any serious impoundment of water against the roadway.

The depth of the gravel layer will obviously depend on the existing soils and the amount of heavy traffic. For most conditions, a minimum gravel thickness of 6" is required. Heavier layers are necessary for very poor soils and/or very heavy traffic loads. Using geotextiles in very poor subgrade soil conditions can also significantly improve the performance of a gravel road.

Surface distress, such as ruts and potholes, indicates a lack of strength. This could be caused by improper drainage, by lack of adequate gravel cover, or possibly both. Therefore, surface distress becomes an important indicator of the primary concern for drainage and adequate gravel. The level of service that a gravel road provides to the driver also depends on smooth ride and dust control. Therefore distress such as washboarding, loose rock, and dust are important in the overall service of the road. However, these conditions are secondary since they can change quickly due to weather and maintenance activities. They should not influence the primary evaluation of the roadway.

It may be difficult to distinguish between a poorly maintained gravel road and an unimproved (dirt) road. The local road agency must first decide if they plan to maintain the road with a gravel surface or as an unimproved road. A minimum of 1½"– 2" of gravel surfacing is generally necessary to be considered a gravel road. More gravel is needed to provide a good level of service.

## Surface conditions and defects

The *Gravel PASER Manual* presents a method for visually assessing and rating the conditions of existing roadways. It is based on understanding the conditions and defects common on gravel roads. To set a rating you assess both the extent of problems on the road and the appropriate repairs or reconstruction needed.

It is helpful to separate the various conditions common to gravel roads. Five road conditions can be used to evaluate and rate gravel roads.

### Crown

The height and condition of crown, and an unrestricted slope of roadway from the center across the shoulders to the ditches.

### Drainage

The ability of roadside ditches and under-road culverts to carry water away from the road.

### Gravel layer

Adequate thickness and quality of gravel to carry the traffic loads.

### Surface deformation

Washboarding, potholes and ruts.

### Surface defects

Dust and loose aggregate.

Each of these is described in some detail in this manual. Assessing the condition of an actual roadway usually involves looking for different combinations of conditions.

In reviewing different conditions and defects, it is important to consider their severity and extent. Generally problems begin slowly and progressively become more serious. Slight defects will grow into moderate and then severe conditions. At first, defects may be found in only a few isolated places. As the condition worsens, more defects will show up on the surface. Examples in this manual will help you identify conditions and determine both how bad they are and how extensive they are.

## CROWN

An unsurfaced road must be built so water drains quickly off the roadway. If it is not, water stays in ponds or puddles, soaks into the roadbed, and softens it. Building a crown into the road—making the center of the road higher than the shoulder—enhances drainage. Normally, a gravel road will have 4"–6" of crown, or fall, from its center to the edge.

A roadway that has no crown will pond water. A windrow of soil or a high shoulder may also trap water on the roadway and impede drainage. In severe cases the crown is reversed—

lower than the edges—so that the road is in a bowl shape. Naturally, this traps water and rapidly deteriorates the roadway, especially under traffic.

Inadequate crown can be restored by regrading with a motor patrol grader. Light blading will restore minor irregularities. Restoring crown to a flat roadway may require complete reworking. This involves scarifying, or cutting loose, 3"–4" of gravel and reshaping the crown. It is helpful to apply water and use compaction to establish the crown.

If the surface gravel on the roadway is inadequate you may need to add gravel to construct a road with proper crown. Use good quality aggregate.

Hard and sound aggregate will prevent the breakdown of large aggregate into small particles under traffic. A proper mixture of aggregate sizes (gradation) is also important. You need an adequate amount of fines to bind the gravel together on the road. See Wisconsin Transportation Bulletins No. 4, *Road Drainage* and No. 5, *Gravel Roads* for more information.

When you do routine maintenance grading, take care to grade the roads to allow free drainage from the center of the road to the shoulder and into the ditch. Improper grading can create a secondary ditch.

► Excellent crown. No restriction to water flow from centerline to ditch.



Flat crown with poor grading has created secondary ditch preventing free drainage into

▼ roadside ditch.



Poorly graded crown traps water causing it to run down center of road.

**DRAINAGE**

Roadside ditches and culverts must be able to handle surface water flow. Without adequate ditches, water will pond on the roadway and soften the road base. The ditch must be wide and deep enough to accommodate all the surface water. It must slope so water drains and doesn't form local ponds. A ditch bottom which is several feet below the top of the road is best. This will provide thorough drainage of the roadbed and prevent flooding. Deeper and wider ditches may be necessary to

accommodate very heavy surface water flow. Ditches must be maintained to prevent erosion or the buildup of debris.

Drainage across roadways is handled with culverts or bridges. These drainage structures must be maintained to prevent ponding and water backup. Culvert headwalls and riprap are very helpful in directing water flow and preventing erosion of the roadbed.

Ditch cleaning is a routine maintenance procedure necessary to keep water flowing properly. Spoil material from a ditch may be used along the roadway if there is room. Major ditch

cleaning may require loading and hauling excess material. Take care to maintain uniform ditch slopes. Seed the soil or install additional erosion control after major ditching repairs.

Roadway culverts tend to fill with debris and silt. They must be cleaned routinely to maintain their water carrying capacity. Replacing headwalls and riprap is also necessary to prevent erosion. Collapsed or damaged culverts must be replaced.



◀ Excellent drainage with wide deep ditches.

Partial drainage. Ditch and new culvert being added on left. Little or no drainage on right.



▲ Good ditches.



**DRAINAGE**

*Continued*

► Poor drainage due to little or no ditch, no driveway culverts.

Shallow, narrow ditch cannot carry surface water causing ditch erosion and temporary roadway flooding.



◀ Shallow ditch and partially filled culvert. Ditch needs cleaning and culvert should be lowered to allow a minimum of **12"** of aggregate cover.

► No ditch. Road is actually trenched into roadside forcing water onto surface.



374

▶  
Excellent  
gravel  
layer.



## GRAVEL LAYER

Traffic loads require an adequate layer of gravel to carry and distribute the loads to the subsoils. The thickness needed will vary with the amount of heavy traffic and the stability of the subsoils. A minimum layer of 6" is normally required. Heavier layers, up to 10" or more, are sometimes used for heavy loads or poor soil conditions.

The gravel must be of good quality to provide long term service. The gradation and durability of the gravel (measured by hardness and soundness testing) are important. A proper gradation contains a mixture of larger aggregate (1"), sand-sized aggregate, and fines. More fines (8%–15%) are recommended for surfacing gravel than are normally used in base gravel. See Transportation Information Bulletin No. 5, *Gravel Roads*, for more information.



◀  
Adequate gravel  
layer. No ruts or  
potholes.



◀  
Little or  
no gravel  
layer.

## SURFACE DEFORMATION

### *Washboard*

Traffic action can dislodge aggregate and create a washboard effect on the surface. This washboarding or corrugation develops across the road, perpendicular to the direction of traffic. It is more prevalent under heavy traffic and under loose aggregate conditions. It may also tend to develop on hills or curves, near intersections, or in areas where traffic is accelerating or decelerating. Soft roadbeds and improper grader operation can also cause washboards.

Light washboarding can be removed with routine grading. Washboarding that is moderate or severe often requires scarification, cutting down 3"-4", and regrading. If there is insufficient material, new gravel will be required. Select an aggregate with sufficient fines to resist future washboarding.

Since washboarding may be concentrated at specific locations, spot regrading is often required. Take care to blend the regraded sections into the adjoining roadway. Since moisture is needed for compaction, correcting washboarding after a rain is more effective. Maintain the crown, and super-elevation, and match bridges and intersections when repairing spot corrugations.

Operating a motor patrol grader at a high rate of speed can actually create corrugations during routine maintenance. Speeds below 10 mph are recommended. Proper blade angle and pitch, and proper tire inflation, are also essential.

▼ Moderate washboarding in center of road.



► Severe washboarding traps water.





## Potholes

Potholes and depressions can develop in the gravel or surface. They're caused when surface material is worn away or soft spots develop in underlying soils. They may fill with water and are accelerated in roads without adequate crown. Isolated potholes may be repaired by hand. This can involve putting granular material into the holes and compacting it.

- ◀ Small, isolated potholes. Routine regrading should eliminate them.
- ▶ Series of moderate potholes require scarification and regrading.



- ▶ Potholes at bridge may require scarification and hand patching. Gravel and debris should be cleaned off bridge deck.
- ◀ Severe potholes covering most of road need additional gravel and regrading.

Extensive potholes require reworking and major regrading. It is usually necessary to add granular material to repair them. Scarify the area prior to repair to insure a good blend. You may need to reshape the road to restore a crown and make drainage improvements to restore surface stability and prevent future potholes.

## Ruts

Traffic can create a surface depression or rut over a portion of a gravel road. The ruts may be caused by dislodging some of the surface gravel. Loose unstable gravel may be displaced by traffic causing minor surface ruts. Severe rutting (over 3") may be caused by weak underlying soils. Poor crown and drainage conditions weaken the base and accelerate rutting.

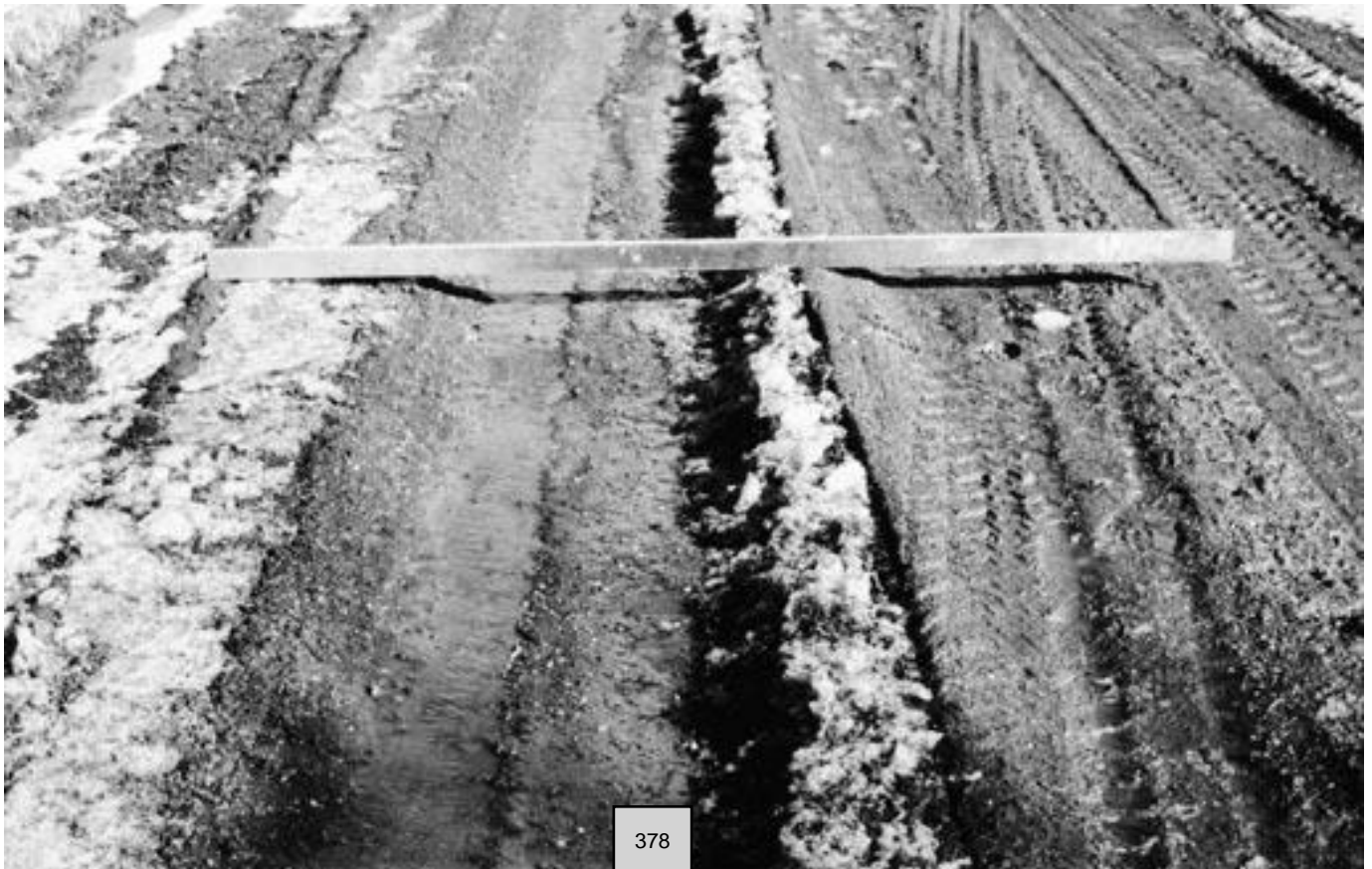
Slight rutting can be removed by blading and restoring the crown. Severe rutting caused by unstable subsurface soils will require improvements in drainage and addition of aggregate.



- ▲ Rut in wheel path needs regrading to eliminate ponding and prevent further road deterioration.

Numerous ruts and very poor drainage create soft roadbed conditions and need major

- ▼ regrading and new aggregate.



## SURFACE DEFECTS

### *Dust*

Traffic on dry gravel roads can generate dust. Good quality gravel used in the construction of gravel roads has a combination of large aggregate, sand, and fine material or binder. These fines can be picked up under the action of traffic and become airborne.

Dust on gravel roads creates several problems. Visibility can be severely restricted under heavy dust conditions,

creating traffic safety hazards. Dust is a form of air pollution and can be very objectionable to nearby property owners. The loss of the fine material from a well-graded gravel surface can eventually lead to a loss of stability. Without the fine binder material, the larger particles become unstable and are dislodged by traffic.

Rolling and compacting a new gravel surface will help maintain a tight and impervious surface or crust. Under traffic and during extended dry periods this crust may be disturbed and heavy

dust conditions result. Controlling dust with liquid calcium chloride or other surface treatment agents can be very helpful.

It is essential to replace the fines in the gravel mix to maintain the road and keep it stable under traffic. Fines can often be reclaimed from the shoulder edge and regraded and mixed with existing gravel. This should be done as routine maintenance while restoring and maintaining the crown.



◀ Heavy dust obscures vision and causes loss of roadway fine material. A dust control chemical may be advisable in areas of heavy traffic.

## Loose aggregate

Loose aggregate or unstable surface gravel conditions can develop from loss of fines through heavy dust action or from erosion due to an improper gradation mix of the original aggregate. Vehicles can move loose or unstable aggregate forming ridges or windrows in the direction of traffic. Generally gravel will be moved from the wheel path and form ridges at the center of lanes and at roadway edges. Loose aggregate can also accumulate at places where vehicles frequently turn or stop.

Loose aggregate may be temporarily bladed to the shoulder although you have to be careful not to restrict drainage. By remixing loose aggregate with fines from the road edge it may be possible to produce a well graded mix. However, a severe accumulation of loose aggregate usually requires mixing with additional well graded surface gravel.



- ▲ Loose aggregate over most of road. Light grading and compaction during wet weather would improve stability and develop a surface crust.

► Heavy accumulation of loose aggregate on outside of roadway.

Regrading and possibly new aggregate are needed.



## Rating road surface condition

A simplified rating system has been developed to help manage gravel roads. It uses a scale of 1 to 5—5 is excellent condition and 1 is failed. In a normal progression the road will start out in excellent condition and gradually deteriorate under the effects of traffic and weather. Routine grading and minor patching may be sufficient to restore the road to excellent condition. As conditions worsen, more extensive maintenance

may be required; complete rebuilding may eventually be necessary.

To select a rating first assess the crown, drainage, and gravel layer. Then review the individual defects and select the type of maintenance or rehabilitation necessary. The rating should reflect the condition and type of maintenance or repairs required. Look at the photographs in this section to become more familiar with the ratings and conditions.

### RATINGS ARE RELATED TO NEEDED MAINTENANCE OR REPAIR

**Rating 5** Newly constructed road. Excellent crown and drainage. No maintenance required.

**Rating 4** Good crown and drainage. Routine maintenance.

**Rating 3** Roadway shows traffic effects. Needs regrading, minor ditch maintenance, and spot gravel application.

**Rating 2** Road needs additional aggregate layer, major drainage improvements.

**Rating 1** Travel is difficult. Complete rebuilding required.

Surface rating	Visible distress*	General condition/treatment measures
5 Excellent	No distress. Dust controlled. Excellent surface condition and ride.	New construction—or total reconstruction. Excellent drainage. Little or no maintenance needed.
4 Good	Dust under dry conditions. Moderate loose aggregate. Slight washboarding.	Recently regraded. Good crown and drainage throughout. Adequate gravel for traffic. Routine grading and dust control may be needed.
3 Fair	Good crown (3"-6"). Adequate ditches on more than 50% of roadway. Gravel layer mostly adequate but additional aggregate may be needed in some locations to correct washboarding or isolated potholes and ruts. Some culvert cleaning needed. Moderate washboarding (1"-2" deep) over 10%-25% of the area. Moderate dust, partial obstruction of vision. None or slight rutting (less than 1" deep). An occasional small pothole (less than 2" deep). Some loose aggregate (2" deep).	Shows traffic effects. Regrading (reworking) necessary to maintain. Needs some ditch improvement and culvert maintenance. Some areas may need additional gravel.
2 Poor	Little or no roadway crown (less than 3"). Adequate ditches on less than 50% of roadway. Portions of the ditches may be filled, overgrown and/or show erosion. Some areas (25%) with little or no aggregate. Culverts partially full of debris. Moderate to severe washboarding (over 3" deep) over 25% of area. Moderate rutting (1"-3"), over 10%-25% of area. Moderate potholes (2"-4") over 10%-25% of area. Severe loose aggregate (over 4").	Travel at slow speeds (less than 25 mph) is required. Needs additional new aggregate. Major ditch construction and culvert maintenance also required.
1 Failed	No roadway crown or road is bowl shaped with extensive ponding. Little if any ditching. Filled or damaged culverts. Severe rutting (over 3" deep), over 25% of the area. Severe potholes (over 4" deep), over 25% of area. Many areas (over 25%) with little or no aggregate.	Travel is difficult and road may be closed at times. Needs complete rebuilding and/or new culverts.

\* Individual road sections will not have all of the types of distress listed for any particular rating. They may have only one or two types

**RATING 5**

EXCELLENT — Little or no maintenance required

New construction with excellent crown, drainage and gravel layer. Little or no distress.

►  
Newly constructed road with excellent crown, drainage and gravel layer.



►  
Road has excellent crown. Gravel has been stabilized for dust control. Very good drainage.





### RATING 4

GOOD — Routine maintenance may be required

Good crown, drainage and gravel layer. Distress limited to traffic effects such as dust, loose aggregate, and slight washboarding.



Good crown, ditches, and gravel layer.

Slight traffic effects, washboarding, and loose gravel.



Good crown and gravel, ditch appears good throughout.

Occasional routine grading for traffic effects.



Plenty of crown and excellent ditch. Needs routine grading to eliminate slight secondary ditch and loose gravel.

**RATING 3**

FAIR — Regrading and drainage improvement, spot gravel application needed

Adequate drainage and crown on more than 50% of roadway. Gravel layer is adequate with only need for spot replacement. Regrading needed to improve crown and repair wash-boarding and slight ruts or potholes.



▶ Good gravel and crown but ditch partially blocked. Needs cleaning or additional culvert.



▶ Heavy accumulation of loose gravel. Requires regrading. Ditch cleaning needed on right side.



▶ Fair crown and good gravel layer. Shallow ditch needs improvement.



**RATING 3**



FAIR — *(continued)*  
Regrading and drainage improvement, spot gravel application needed

◀ Fair crown and gravel layer.  
Needs ditching on right and more crown.



◀ Adequate drainage and fair crown. A few small potholes indicate need for regrading and additional gravel.

**RATING 2**

**POOR** — More gravel and major drainage improvements required

Travel at slow speeds (25 mph) may be necessary. Additional gravel layer needed to carry traffic. Little or no crown. Ditching is inadequate on more than 50% of roadway.

► Some gravel and crown but almost no ditch. Driveway culvert required.



▲ Little gravel and almost no ditches or crown.

No crown, poor drainage, and ▼ needs gravel.



▲ Lack of ditch on right causes ruts. Needs gravel.

Numerous potholes ► indicate additional gravel most likely required to restore crown. Needs extensive reworking.





**RATING 1**

Failed — Reconstruction required  
Needs complete rebuilding. Travel is difficult; road may be closed at times.

◀ Ruts. No ditch or aggregate.



Deep ruts and potholes.  
No drainage. Travel is difficult.  
▲



▲ Complete failure.  
Restricted travel.

## Practical advice on rating roads

### Inventory and field inspection

Most agencies routinely observe roadway conditions as a part of their normal work and travel. However, an actual inspection means looking at the entire roadway system and preparing a written summary of conditions. This inspection has many benefits over casual observations. Useful comparisons between segments can be made and more dependable decisions are likely because the entire roadway system is considered.

An inspection also encourages a review of specific conditions important in roadway maintenance—drainage and adequate strength, for example.

A simple written inventory is useful in making decisions where other people are involved. You do not have to trust your memory, and you can usually answer questions in more detail. Having a written record also improves your credibility with the public.

Finally, a written inventory is very useful in documenting the changing roadway conditions. Without records extending over several years, it is impossible to know if your road conditions are improving, holding their own, or declining.

Annual budgets and long range planning are best done when based on actual needs as documented with a written inventory.

The Wisconsin DOT local road inventory (WISLR) is a valuable resource for managing your local roads. Adding PASER surface condition ratings is an important improvement.

### Averaging and comparing sections

For evaluation, divide the local road system into individual segments which are similar in construction and condition. Rural segments may vary from ½ mile to a mile long, while some sections in urban areas will likely be 1-4 blocks long or more. If you are starting with the WISLR inventory, the segments have already been established. You may want

to review them for consistent road conditions. Obviously no roadway segment has entirely consistent conditions. Some “averaging” will be necessary. Also, individual road segments will not have all of the types of distress listed for any particular rating; they may have only one or two. The objective is to rate the condition that represents the majority of the roadway. Small or isolated conditions should not influence the rating. It is useful to note these special conditions on the inventory form so this information can be used in project design. For example, some spot repairs may be required.

Occasionally pavement conditions vary significantly. For example, short sections of good condition may be followed by sections of poor pavement conditions. In these cases it is best to rate the pavement according to the worst conditions and note the variation on the form.

The overall purpose of condition rating is to provide a relative comparison of the condition of all your pavement segments. Therefore, comparing any two pavement segments would show the better pavement having a higher rating. Within a given rating, say 3, not all pavements will be exactly the same. However, they should all be considered to be in better condition than those with lower ratings, say 2. Sometimes it is helpful in rating a difficult segment to compare it to other previously rated segments. For example, if it is better than one you rated 2, and worse than a typical 4, then a rating of 3 is appropriate. Having all road segments rated in the proper relative order is most important and useful.

### Separating road function from conditions

Gravel roads often are found in very low volume applications. This sometimes is confusing. People rating roads are more willing to accept poor condition on a road if it is little used. In higher traffic situations, they expect a road in better condition.

Therefore, there may be a tendency in evaluating the condition of a road to evaluate the condition more harshly in higher traffic volume situations and to be more lenient in evaluating little-used roads. This tendency should be avoided. The evaluation of the actual roadway condition must be objective.

You will also consider the road's function or importance but this must be done separately. Roads can be categorized by their use or their function. In selecting project improvements, you will likely consider both the road condition and the road's importance to select the most needed projects.

### Planning maintenance and repair

We have found that relating a normal maintenance or rehabilitation procedure to the surface rating scheme helps local officials use the rating system. However, an individual surface rating should not automatically dictate the final maintenance or rehabilitation technique. You should consider safety, future traffic projections, original construction, and roadway strength since these may dictate a more comprehensive rehabilitation than the rating suggests.

### Summary

Using local road funds most efficiently requires good planning and accurate identification of appropriate rehabilitation projects. Assessing roadway conditions is an essential first step in this process. The PASER evaluation procedure has proven effective in improving decision making and using highway funds more efficiently. It can be used directly by local officials and staff. It may be combined with additional testing and data collection in a more comprehensive pavement management system. For additional training and information, contact the Wisconsin Transportation Information Center.

*Transportation  
Information  
Center  
Publications*

Pavement Surface Evaluation and Rating (PASER) Manuals

Asphalt PASER Manual, 2002, 28 pp.

Brick and Block PASER Manual, 2001, 8 pp.

Concrete PASER Manual, 2002, 28 pp.

Gravel PASER Manual, 2002, 20 pp.

Sealcoat PASER Manual, 2000, 16 pp.

Unimproved Roads PASER Manual, 2001, 12 pp.

Drainage Manual

Local Road Assessment and Improvement, 2000, 16 pp.

SAFER Manual

Safety Evaluation for Roadways, 1996, 40 pp.

**Flagger's Handbook** (pocket-sized guide), 1998, 22 pp.

Work Zone Safety, Guidelines for Construction, Maintenance, and Utility Operations, (pocket-sized guide), 2002, 58 pp.

Wisconsin Transportation Bulletins

#1 Understanding and Using Asphalt

#2 How Vehicle Loads Affect Pavement Performance #3  
LCC—Life Cycle Cost Analysis

#4 Road Drainage

#5 Gravel Roads

#6 Using Salt and Sand for Winter Road Maintenance #7  
Signing for Local Roads

#8 Using Weight Limits to Protect Local Roads #9  
Pavement Markings

#10 Seal Coating and Other Asphalt Surface Treatments #11  
Compaction Improves Pavement Performance

#12 Roadway Safety and Guardrail

#13 Dust Control on Unpaved Roads

#14 Mailbox Safety

#15 Culverts-Proper Use and Installation

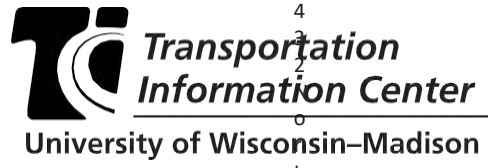
#16 Geotextiles in Road Construction/Maintenance and Erosion Control #17  
Managing Utility Cuts

#18 Roadway Management and Tort Liability in Wisconsin #19  
The Basics of a Good Road

#20 Using Recovered Materials in Highway Construction #21  
Setting Speed Limits on Local Roads

E-mail [tic@epd.engr.wisc.edu](mailto:tic@epd.engr.wisc.edu)

URL <http://tic.engr.wisc.edu>



4  
3  
2  
0  
t  
h  
L  
a  
k  
e  
S  
t  
r  
e  
e  
t  
M  
a  
d  
i  
s  
o  
n  
,  
W  
I  
S  
C  
O  
N  
S  
T  
R  
U  
C  
T  
I  
O  
N  
S  
/4  
4  
2  
-  
4  
6  
1  
5  
  
f  
a  
x  
  
6  
0  
8  
/  
2  
6  
3  
-  
3  
1  
6  
0



## Gravel Roads



Pavement Surface Evaluation and Rating

# PASER Asphalt Roads Manual





# Contents

Introduction	2
Asphalt pavement distress	3
Evaluation	4
Surface defects	4
Surface deformation	5
Cracking	7
Patches and potholes	12
Rating pavement surface condition	14
Rating system	15
Rating 10 & 9 - Excellent	16
Rating 8 - Very Good	17
Rating 7 - Good	18
Rating 6 - Good	19
Rating 5 - Fair	20
Rating 4 - Fair	21
Rating 3 - Poor	22
Rating 2 - Very Poor	23
Rating 1 - Failed	25
Practical advice on rating roads	26

Department of Engineering Professional Development,  
University of Wisconsin–Madison.

This manual is intended to assist local officials in understanding and rating the surface condition of asphalt pavement. It describes types of defects and provides a simple system to visually rate pavement condition. The rating procedure can be used as condition data for the Wisconsin DOT local road inventory and as part of a computerized pavement management system like PASERWARE.

The PASER system described here and in other T.I.C. publications is based in part on a roadway management system originally developed by Phil Scherer, transportation planner, Northwest Wisconsin Regional Planning Commission.

Produced by the T.I.C. with support from the Federal Highway Administration, the Wisconsin Department of Transportation, and the University of Wisconsin-Extension. The T.I.C., part of the nationwide Local Technical Assistance Program (LTAP), is a Center of the College of Engineering,

Copyright © 1987, 1989, 2002

Wisconsin Transportation Information Center

432 North Lake Street Madison, WI 53706

*Phone* 800/442-4615

*Fax* 608/263-3160

*Email* [tic@epd.engr.wisc.edu](mailto:tic@epd.engr.wisc.edu)

*URL* <http://tic.engr.wisc.edu>



*Pavement Surface Evaluation and Rating*

PASEI  
**Asphalt Roads**  
Manual

Donald Walker, T.I.C. Director, *author*  
Lynn Entine, Entine & Associates, *editor*  
Susan Kummer, Artifax, *designer*

## *Pavement Surface Evaluation and Rating*

# Asphalt PASER Manual

A local highway agency's major goal is to use public funds to provide a comfortable, safe and economical road surface—no simple task. It requires balancing priorities and making difficult decisions in order to manage pavements. Local rural and small city pavements are often managed informally, based on the staff's judgment and experience. While this process is both important and functional, using a slightly more formalized technique can make it easier to manage pavements effectively.

Experience has shown that there are three especially useful steps in managing local roads:

1. Inventory all local roads and streets.
2. Periodically evaluate the condition of all pavements.
3. Use the condition evaluations to set priorities for projects and select alternative treatments.

A comprehensive pavement management system involves collecting data and assessing several road characteristics: roughness (ride), surface distress (condition), surface skid characteristics, and structure (pavement strength and deflection). Planners can combine this condition data with economic analysis to develop short-range and long-range plans for a variety of budget levels. However, many local agencies lack the resources for such a full-scale system.

Since surface condition is the most vital element in any pavement management system, local agencies can use the simplified rating system presented in this *Asphalt PASER Manual* to evaluate their roads. The PASER ratings combined with other inventory data (width, length, shoulder, pavement type, etc.) from the WisDOT local roads inventory (WISLR) can be very helpful in planning future budgets and priorities.

WISLR inventory information and PASER ratings can be used in a computerized pavement management system, PASERWARE, developed by the T.I.C and WisDOT. Local officials can use PASERWARE to evaluate whether their annual road budgets are adequate to maintain or improve current road conditions and to select the most cost-effective strategies and priorities for annual projects.

PASER Manuals for gravel, concrete, and other road surfaces, with compatible rating systems are also available (page 29). Together they make a comprehensive condition rating method for all road types. PASER ratings are accepted for WISLR condition data.

## *Asphalt pavement distress*

PASER uses visual inspection to evaluate pavement surface conditions. The key to a useful evaluation is identifying different types of pavement distress and linking them to a cause. Understanding the cause for current conditions is extremely important in selecting an appropriate maintenance or rehabilitation technique.

There are four major categories of common asphalt pavement surface distress:

### **Surface defects**

Raveling, flushing, polishing.

### **Surface deformation**

Rutting, distortion—rippling and shoving, settling, frost heave.

### **Cracks**

Transverse, reflection, slippage, longitudinal, block, and alligator cracks.

### **Patches and potholes**

Deterioration has two general causes: environmental due to weathering and aging, and structural caused by repeated traffic loadings.

Obviously, most pavement deterioration results from both environmental and structural causes. However, it is important to try to distinguish between the two in order to select the most effective rehabilitation techniques.

The rate at which pavement deteriorates depends on its environment, traffic loading conditions, original construction quality, and interim maintenance procedures. Poor quality materials or poor construction procedures can significantly reduce the life of a pavement. As a result, two pavements constructed at the same time may have significantly different lives, or certain portions of a pavement may deteriorate more rapidly than others. On the other hand, timely and effective maintenance can extend a pavement's life. Crack sealing and seal coating can reduce the effect of moisture in aging of asphalt pavement.

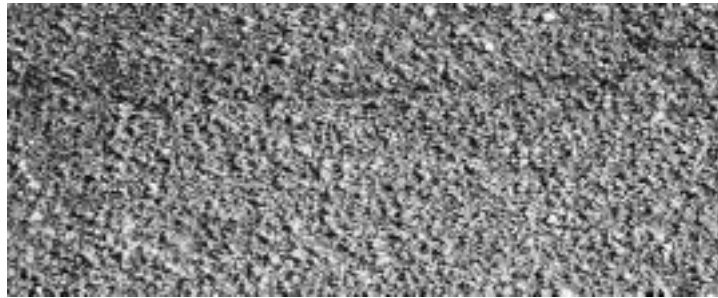
With all of these variables, it is easy to see why pavements deteriorate at various rates and why we find them in various stages of disrepair. Recognizing defects and understanding their causes helps us rate pavement condition and select cost-effective repairs. The pavement defects shown on the following pages provide a background for this process.

Periodic inspection is necessary to provide current and useful evaluation data. It is recommended that PASER ratings be updated every two years, and an annual update is even better.

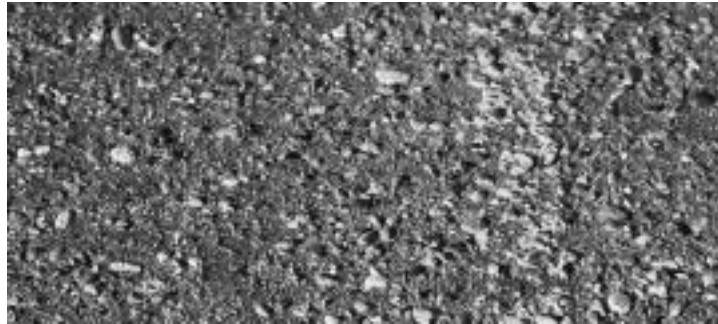
**SURFACE DEFECTS**

*Raveling*

Raveling is progressive loss of pavement material from the surface downward, caused by: stripping of the bituminous film from the aggregate, asphalt hardening due to aging, poor compaction especially in cold weather construction, or insufficient asphalt content. Slight to moderate raveling has loss of fines. Severe raveling has loss of coarse aggregate. Raveling in the wheelpaths can be accelerated by traffic. Protect pavement surfaces from the environment with a sealcoat or a thin overlay if additional strength is required.



◀ Slight raveling. Small aggregate particles have worn away exposing tops of large aggregate.



◀ Moderate to severe raveling. Erosion further exposes large aggregate.



◀ Severe raveling and loss of surface material.

*Flushing*

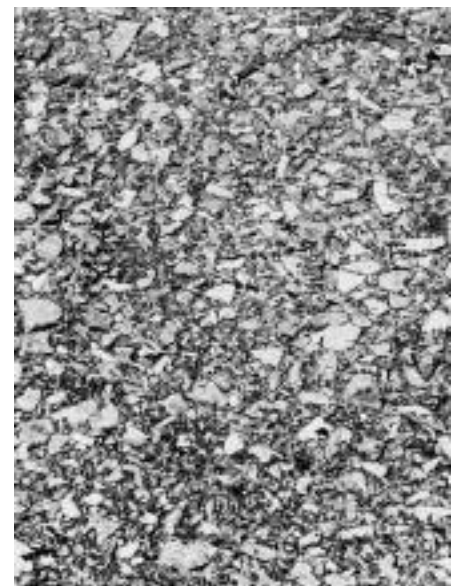
Flushing is excess asphalt on the surface caused by a poor initial asphalt mix design or by paving or sealcoating over a flushed surface. Repair by blotting with sand or by overlaying with properly designed asphalt mix.

*Polishing*

Polishing is a smooth slippery surface caused by traffic wearing off sharp edges of aggregates. Repair with sealcoat or thin bituminous overlay using skid-resistant aggregate.

Polished, worn aggregate needs repair. ▼

▶ Flushing. Dark patches show where asphalt has worked to surface.





## SURFACE DEFORMATION

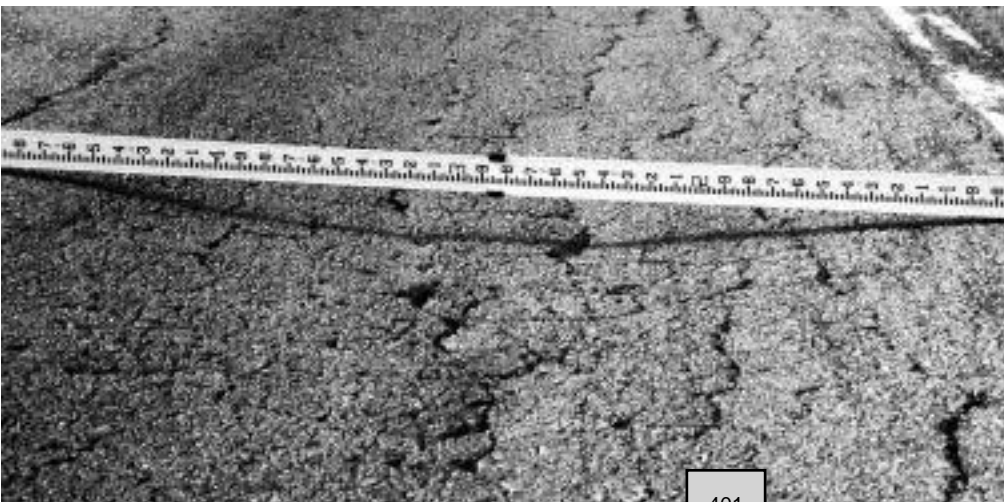
### *Rutting*

Rutting is displacement of material, creating channels in wheelpaths. It is caused by traffic compaction or displacement of unstable material. Severe rutting (over 2") may be caused by base or subgrade consolidation. Repair minor rutting with overlays. Severe rutting requires milling the old surface or reconstructing the roadbed before resurfacing.

◀ Even slight rutting is evident after a rain.



◀ Severe rutting over 2" caused by poor mix design.



◀ Severe rutting caused by poor base or subgrade.

# Distortion

Shoving or rippling is surfacing material displaced crossways to the direction of traffic. It can develop into washboarding when the asphalt mixture is unstable because of poor quality aggregate or improper mix design. Repair by milling smooth and overlaying with stable asphalt mix.

Other pavement distortions may be caused by settling, frost heave, etc. Patching may provide temporary repair. Permanent correction usually involves removal of unsuitable subgrade material and reconstruction.

Heavy traffic has shoved pavement

▼ into washboard ripples and bumps.



► Severe settling from utility trench.



► Frost heave damage from spring break-up.

▼ Widely spaced, well-sealed cracks.



**CRACKS**

*Transverse cracks*

A crack at approximately right angles to the center line is a transverse crack. They are often regularly spaced. The cause is movement due to temperature changes and hardening of the asphalt with aging.

Transverse cracks will initially be widely spaced (over 50'). Additional cracking will occur with aging until they are closely spaced (within several feet). These usually begin as hairline or very narrow cracks; with aging they widen. If not properly sealed and maintained, secondary or multiple cracks develop parallel to the initial crack. The crack edges can further deteriorate by raveling and eroding the adjacent pavement.

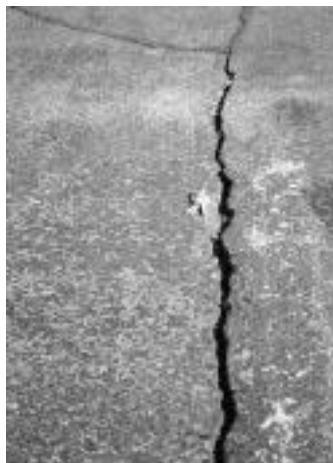
Prevent water intrusion and damage by sealing cracks which are more than 1/4" wide.



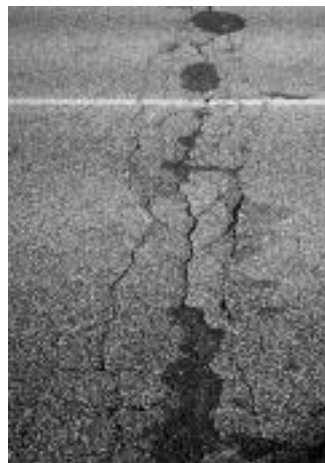
◀ Sealed cracks, a few feet apart.



▲ Tight cracks less than 1/4" in width.



▲ Open crack – 1/2" or more in width.



▲ Water enters unsealed cracks softening pavement and forming secondary cracks.



▲ Pavement ravel and erodes along open cracks causing deterioration.

## Reflection cracks

Cracks in overlays reflect the crack pattern in the pavement underneath. They are difficult to prevent and correct. Thick overlays or reconstruction is usually required.

►  
Concrete joints  
reflected through  
bituminous overlay.



## Slippage cracks

Crescent or rounded cracks in the direction of traffic, caused by slippage between an overlay and an underlying pavement. Slippage is most likely to occur at intersections where traffic is stopping and starting. Repair by removing the top surface and resurfacing using a tack coat.

►  
Crescent-  
shaped cracks  
characteristic of  
slippage.



►  
Loss of bond between  
pavement layers allows  
traffic to break  
loose pieces of surface.



Centerline crack  
(still tight). ▶



Edge cracking  
from weakened  
subbase and  
traffic loads. ▼



## Longitudinal cracks

Cracks running in the direction of traffic are longitudinal cracks. Center line or lane cracks are caused by inadequate bonding during construction or reflect cracks in underlying pavement. Longitudinal cracks in the wheel path indicate fatigue failure from heavy vehicle loads. Cracks within one foot of the edge are caused by insufficient shoulder support, poor drainage, or frost action. Cracks usually start as hairline or vary narrow and widen and erode with age. Without crack filling, they can ravel, develop multiple cracks, and become wide enough to require patching.

Filling and sealing cracks will reduce moisture penetration and prevent further subgrade weakening. Multiple longitudinal cracks in the wheel path or pavement edge indicate a need for strengthening with an overlay or reconstruction.

▶  
First stage of  
wheelpath cracking  
caused by heavy  
traffic loads.



Multiple open cracks at center line, wheelpaths and lane center. ▼



## Block cracks

Block cracking is interconnected cracks forming large blocks. Cracks usually intersect at nearly right angles. Blocks may range from one foot to approximately 10' or more across. The closer spacing indicates more advanced aging caused by shrinking and hardening of the asphalt over time. Repair with sealcoating during early stages to reduce weathering of the asphalt. Overlay or reconstruction required in the advanced stages.

▶ Large blocks, approximately 10' across.

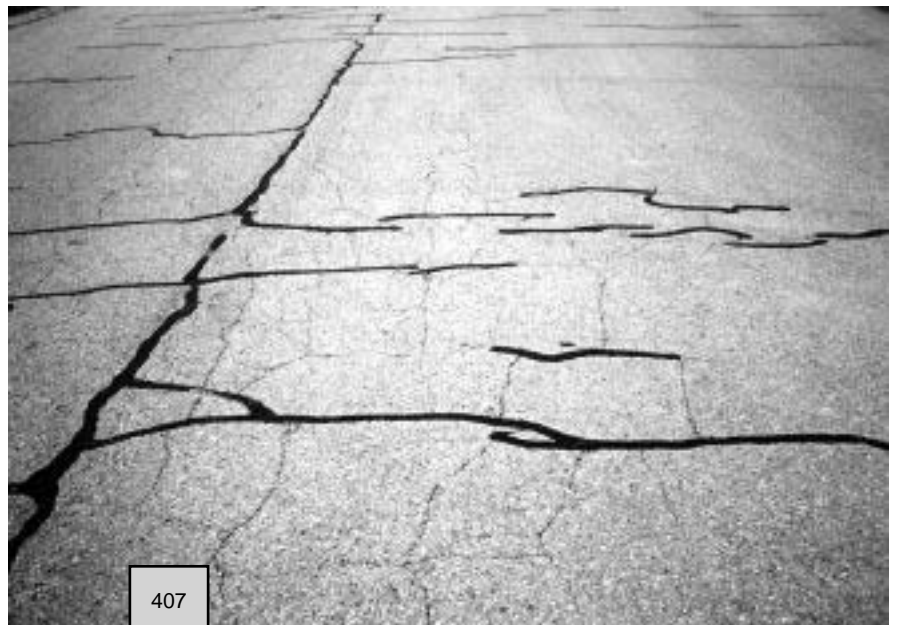


▶ Intermediate-size block cracking, 1'-5' across with open cracks.



▲ Extensive block cracking in an irregular pattern.

▶ Severe block cracking — 1' or smaller blocks. Tight cracks with no raveling.



## *Alligator cracks*

Interconnected cracks forming small pieces ranging in size from about 1" to 6". This is caused by failure of the surfacing due to traffic loading (fatigue) and very often also due to inadequate base or subgrade support. Repair by excavating localized areas and replacing base and surface. Large areas require reconstruction. Improvements in drainage may often be required.



**Alligator crack pattern.  
Tight cracks and one  
patch.**



**Characteristic  
"chicken wire" crack  
pattern shows smaller  
pavement pieces and  
patching.**



**Open raveled alligator  
cracking with  
settlement along lane  
edge most likely due to  
very soft subgrade.**





## PATCHES AND POTHOLES

### Patches

Original surface repaired with new asphalt patch material. This indicates a pavement defect or utility excavation which has been repaired. Patches with cracking, settlement or distortions indicate underlying causes still remain. Recycling or reconstruction are required when extensive patching shows distress.

►  
**Typical repair of utility excavation. Patch in fair to good condition.**



►  
**Edge wedging. Pavement edges strengthened with wedges of asphalt. Patch is in very good condition.**



►  
**Extensive patching in very poor condition.**



## Potholes

Holes and loss of pavement material caused by traffic loading, fatigue and inadequate strength. Often combined with poor drainage. Repair by excavating or rebuilding localized potholes. Reconstruction required for extensive defects.



◀  
Small pothole where top course has broken away.



◀  
Multiple potholes show pavement failure, probably due to poor subgrade soils, frost heave, and bad drainage.



◀  
Large, isolated pothole, extends through base.

Note adjacent alligator cracks which commonly deteriorate into potholes.

# Rating pavement surface condition

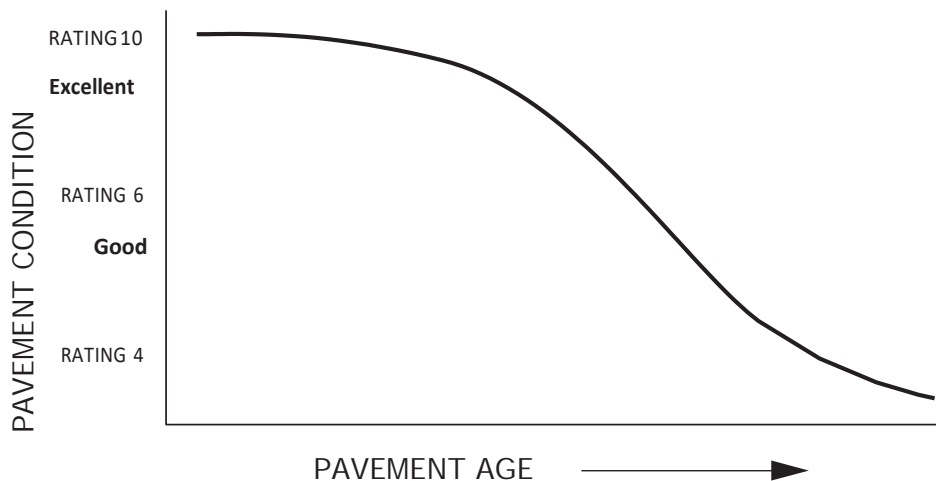
With an understanding of surface distress, you can evaluate and rate asphalt pavement surfaces. The rating scale ranges from 10 - excellent condition to 1- failed. Most pavements will deteriorate through the phases listed in the rating scale. The time it takes to go from excellent condition (10) to complete failure (1) depends largely on the quality of the original construction and the amount of heavy traffic loading.

Once significant deterioration begins, it is common to see pavement decline rapidly. This is usually due to a combination of loading and the effects of additional moisture. As a pavement ages and additional cracking develops, more moisture can enter the pavement and accelerate the rate of deterioration.

Look at the photographs in this section to become familiar with the descriptions of the individual rating categories. To evaluate an individual pavement segment, first determine its general condition. Is it relatively new,

toward the top end of the scale? In very poor condition and at the bottom of the scale? Or somewhere in between? Next, think generally about the appropriate maintenance method. Use the rating categories outlined below.

Finally, review the individual pavement distress and select the appropriate surface rating. Individual pavements will *not* have all of the types of distress listed for any particular rating. They may have only one or two types.



In addition to indicating the surface condition of a road, a given rating also includes a recommendation for needed maintenance or repair. This feature of the ratings system facilitates its use and enhances its value as a tool in ongoing road maintenance.

### RATINGS ARE RELATED TO NEEDED MAINTENANCE OR REPAIR

<b>Rating 9 &amp; 10</b>	No maintenance required
<b>Rating 8</b>	Little or no maintenance
<b>Rating 7</b>	Routine maintenance, crack sealing and minor patching
<b>Rating 5 &amp; 6</b>	Preservative treatments (seal coating)
<b>Rating 3 &amp; 4</b>	Structural improvement and leveling (overlay or recycling)
<b>Rating 1 &amp; 2</b>	Reconstruction

## Rating system

Surface rating	Visible distress*	General condition/ treatment measures
<b>10</b> Excellent	None.	New construction.
<b>9</b> Excellent	None.	Recent overlay. Like new.
<b>8</b> Very Good	No longitudinal cracks except reflection of paving joints. Occasional transverse cracks, widely spaced (40' or greater). All cracks sealed or tight (open less than 1/4").	Recent sealcoat or new cold mix. Little or no maintenance required.
<b>7</b> Good	Very slight or no raveling, surface shows some traffic wear. Longitudinal cracks (open 1/4") due to reflection or paving joints. Transverse cracks (open 1/4") spaced 10' or more apart, little or slight crack raveling. No patching or very few patches in excellent condition.	First signs of aging. Maintain with routine crack filling.
<b>6</b> Good	Slight raveling (loss of fines) and traffic wear. Longitudinal cracks (open 1/4"– 1/2"), some spaced less than 10'. First sign of block cracking. Slight to moderate flushing or polishing. Occasional patching in good condition.	Shows signs of aging. Sound structural condition. Could extend life with sealcoat.
<b>5</b> Fair	Moderate to severe raveling (loss of fine and coarse aggregate). Longitudinal and transverse cracks (open 1/2") show first signs of slight raveling and secondary cracks. First signs of longitudinal cracks near pavement edge. Block cracking up to 50% of surface. Extensive to severe flushing or polishing. Some patching or edge wedging in good condition.	Surface aging. Sound structural condition. Needs sealcoat or thin non-structural overlay (less than 2")
<b>4</b> Fair	Severe surface raveling. Multiple longitudinal and transverse cracking with slight raveling. Longitudinal cracking in wheel path. Block cracking (over 50% of surface). Patching in fair to poor condition. Slight rutting or distortions (1/2" deep or less).	Significant aging and first signs of need for strengthening. Would benefit from a structural overlay (2" or more).
<b>3</b> Poor	Closely spaced longitudinal and transverse cracks often showing raveling and crack erosion. Severe block cracking. Some alligator cracking (less than 25% of surface). Patches in fair to poor condition. Moderate rutting or distortion (1" or 2" deep). Occasional potholes.	Needs patching and repair prior to major overlay. Milling and removal of deterioration extends the life of overlay.
<b>2</b> Very Poor	Alligator cracking (over 25% of surface). Severe distortions (over 2" deep). Extensive patching in poor condition. Potholes.	Severe deterioration. Needs reconstruction with extensive base repair. Pulverization of old pavement is effective.
<b>1</b> Failed	Severe distress with extensive loss of surface integrity.	Failed. Needs total reconstruction.

**RATING 10 & 9**

EXCELLENT —  
**No maintenance required**

Newly constructed or recently overlaid roads are in excellent condition and require no maintenance.



**RATING 10**

New construction.



**RATING 9**

Recent overlay, rural.



**RATING 9**  
Recent overlay, urban.



**RATING 8**

VERY GOOD —

**Little or no maintenance required**

This category includes roads which have been recently sealcoated or overlaid with new cold mix. It also includes recently constructed or overlaid roads which may show longitudinal or transverse cracks. All cracks are tight or sealed.



**Recent chip seal.**



**Recent slurry seal.**



▼ **Widely spaced, sealed cracks.**



**New cold mix surface.**

**RATING 7**

GOOD —

**Routine sealing recommended**

Roads show first signs of aging, and they may have very slight raveling. Any longitudinal cracks are along paving joint. Transverse cracks may be approximately 10' or more apart. All cracks are 1/4" or less, with little or no crack erosion. Few if any patches, all in very good condition. Maintain a crack sealing program.

► **Tight and sealed transverse and longitudinal cracks. Maintain crack sealing program.**



► **Tight and sealed transverse and longitudinal cracks.**



► **Transverse cracks about 10' or more apart. Maintain crack sealing program.**





## RATING 6

GOOD —

### Consider preservative treatment

Roads are in sound structural condition but show definite signs of aging. Seal-coating could extend their useful life. There may be slight surface raveling. Transverse cracks can be frequent, less than 10' apart. Cracks may be  $\frac{1}{4}$ – $\frac{1}{2}$ " and sealed or open. Pavement is generally sound adjacent to cracks. First signs of block cracking may be evident. May have slight or moderate bleeding or polishing. Patches are in good condition.



Slight surface raveling with tight cracks, less than 10' apart.



Transverse cracking less than 10' apart; cracks well-sealed.



Large blocks, early signs of  
▼ raveling and blockcracking.

Open crack,  $\frac{1}{2}$ "  
wide; adjoining  
▼ pavement sound.

▼ Moderate flushing.



**RATING 5**

FAIR —

**Preservative maintenance treatment required**

Roads are still in good structural condition but clearly need sealcoating or overlay. They may have moderate to severe surface raveling with significant loss of aggregate. First signs of longitudinal cracks near the edge. First signs of raveling along cracks. Block cracking up to 50% of surface. Extensive to severe flushing or polishing. Any patches or edge wedges are in good condition.

▼ Block cracking with open cracks.



► Moderate to severe raveling in wheel paths.



▼ Severe flushing.



Wedges and patches extensive but in good condition.

Severe raveling with  
▼ extreme loss of aggregate.



Load cracking and slight  
▼ rutting in wheel path.



**RATING 4**

FAIR —

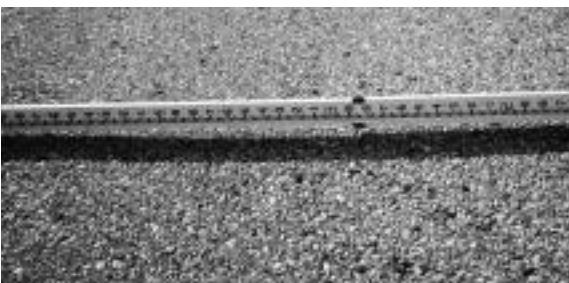
**Structural improvement required**

Roads show first signs of needing strengthening by overlay. They have very severe surface raveling which should no longer be sealed. First longitudinal cracking in wheel path. Many transverse cracks and some may be raveling slightly. Over 50% of the surface may have block cracking. Patches are in fair condition. They may have rutting less than 1/2" deep or slight distortion.



◀ Longitudinal cracking;  
early load-related distress  
in wheel path.  
Strengthening needed.

▼ Slight rutting; patch in  
good condition.



✦ Extensive block cracking.  
Blocks tight and sound.  
Slight rutting in wheel  
path

**RATING 3**

POOR—

**Structural improvement required**

Roads must be strengthened with a structural overlay (2" or more). Will benefit from milling and very likely will require pavement patching and repair beforehand. Cracking will likely be extensive. Raveling and erosion in cracks may be common. Surface may have severe block cracking and show first signs of alligator cracking. Patches are in fair to poor condition. There is moderate distortion or rutting (1-2") and occasional potholes.

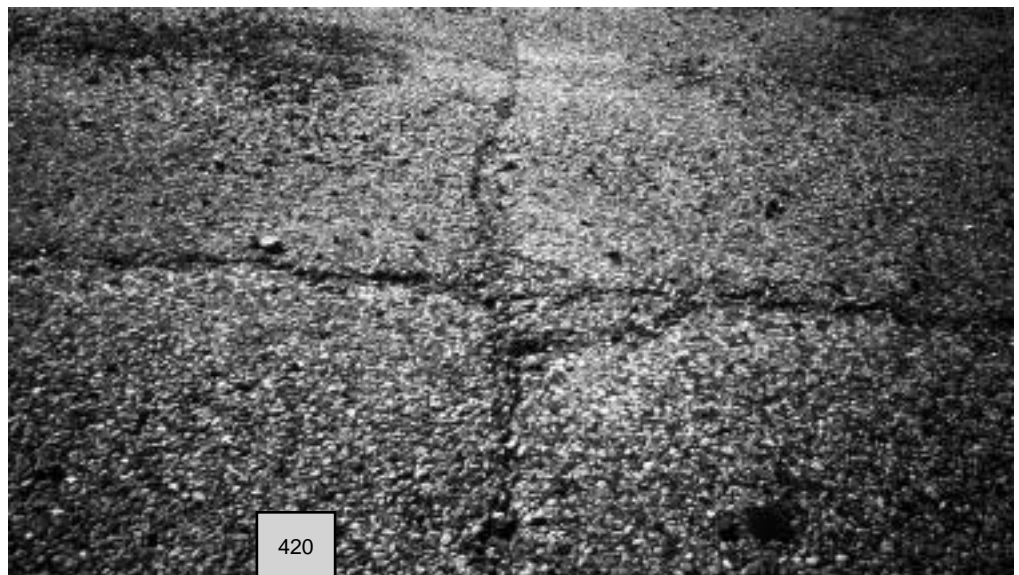
▶ Many wide and raveled cracks indicate need for milling and overlay.



▶ 2" ruts need mill and overlay.



▶ Open and raveled block cracks.



**RATING 3****POOR** — (continued)

Structural improvement required

◀ **Alligator cracking.**  
Edge needs repair and drainage needs improvement prior to rehabilitation.

▼ **Distortion with patches in poor condition. Repair and overlay.**



**RATING 2**

VERY POOR—

**Reconstruction required**

Roads are severely deteriorated and need reconstruction. Surface pulverization and additional base may be cost-effective. These roads have more than 25% alligator cracking, severe distortion or rutting, as well as potholes or extensive patches in poor condition.



▶ Extensive alligator cracking. Pulverize and rebuild.



▲ Severe rutting. Strengthen base and reconstruct.

▲ Patches in poor condition, wheelpath rutting. Pulverize, strengthen and reconstruct.



▶ Severe frost damage. Reconstruct.



**RATING 1**

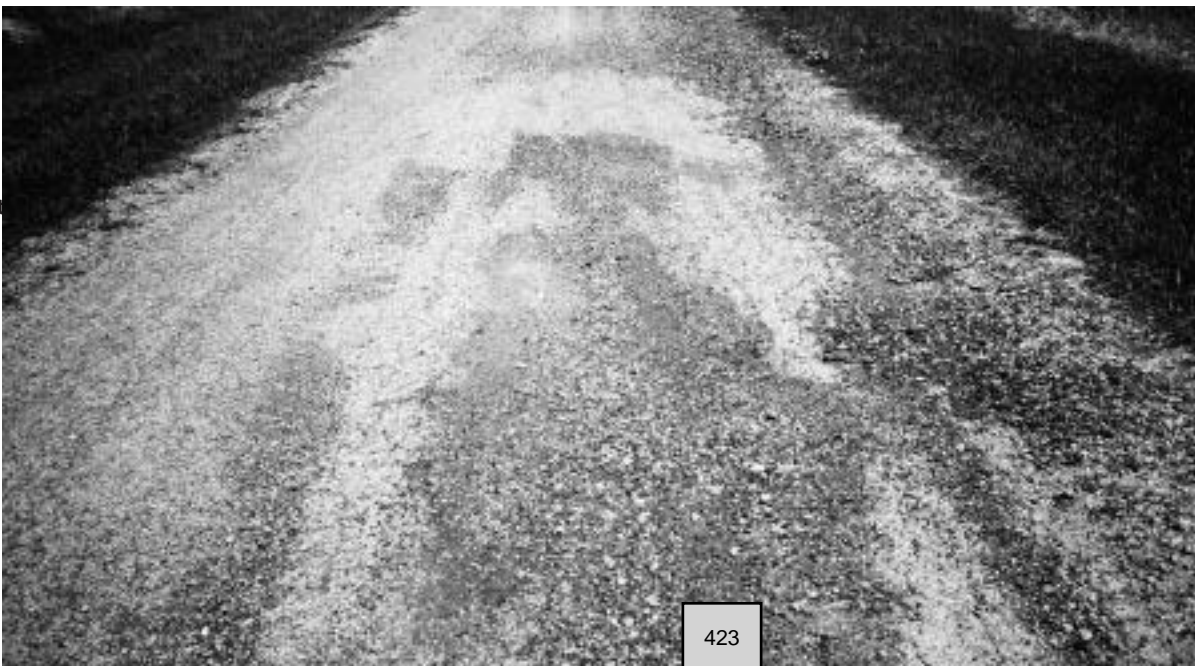
**FAILED —  
Reconstruction required**

Roads have failed, showing severe distress and extensive loss of surface integrity.

◀  
**Potholes from frost damage. Reconstruct.**



◀  
**Potholes and severe alligator cracking. Failed pavement. Reconstruct.**



◀  
**Extensive loss of surface material:  
Rebuild**

# Practical advice on rating roads

## Inventory and field inspection

Most agencies routinely observe roadway conditions as a part of their normal work and travel. However, an actual inspection means looking at the entire roadway system as a whole and preparing a written summary of conditions. This inspection has many benefits over casual observations. It can be helpful to compare segments, and ratings decisions are likely to be more consistent because the roadway system is considered as a whole within a relatively short time.

An inspection also encourages a review of specific conditions important in roadway maintenance, such as drainage, adequate strength, and safety.

A simple written inventory is useful in making decisions where other people are involved. You do not have to trust your memory, and you can usually answer questions in more detail. Having a written record and objective information also improves your credibility with the public.

Finally, a written inventory is very useful in documenting changing roadway conditions. Without records over several years it is impossible to know if road conditions are improving, holding their own, or declining.

Annual budgets and long range planning are best done when based on actual needs as documented with a written inventory.

The Wisconsin DOT local road inventory (WISLR) is a valuable resource for managing your local roads. Adding PASER surface condition ratings is an important improvement.

## Averaging and comparing sections

For evaluation, divide the local road system into individual segments which are similar in construction and condition. Rural segments may vary from

1/2 mile to a mile long, while sections in urban areas will likely be 1-4 blocks long or more. If you are starting with the WISLR Inventory, the segments have already been established. You may want to review them for consistent road conditions.

Obviously, no roadway segment is entirely consistent. Also, surfaces in one section will not have all of the types of distress listed for any particular rating. They may have only one or two types. Therefore, some averaging is necessary.

The objective is to rate the condition that represents the majority of the roadway. Small or isolated conditions should not influence the rating. It is useful to note these special conditions on the inventory form so this information can be used in planning specific improvement projects. For example, some spot repairs may be required.

Occasionally surface conditions vary significantly within a segment. For example, short sections of good condition may be followed by sections of poor surface conditions. In these cases, it is best to rate the segment according to the worst conditions and note the variation on the form.

The overall purpose of condition rating is to be able to compare each

segment relative to all the other segments in your roadway system. On completion you should be able to look at any two pavement segments and find that the better surface has a higher rating.

Within a given rating, say 6, not all pavements will be exactly the same. However, they should all be considered to be in better condition than those with lower ratings, say 5. Sometimes it is helpful in rating a difficult segment to compare it to other previously rated segments. For example, if it is better than one you rated 5 and worse than a typical 7, then a rating of 6 is appropriate. Having all pavement segments rated in the proper relative order is most important and useful.

## Assessing drainage conditions

Moisture and poor pavement drainage are significant factors in pavement deterioration. Some assessment of drainage conditions during pavement rating is highly recommended. While you should review drainage in detail at the project level, at this stage simply include an overview drainage evaluation at the same time as you evaluate surface condition.



Urban drainage.  
RATING:  
Excellent



Good rural ditch and driveway culvert. Culvert end needs cleaning.  
**RATING: Good**



Consider both pavement surface drainage and lateral drainage (ditches or storm sewers). Pavement should be able to quickly shed water off the surface into the lateral ditches. Ditches should be large and deep enough to drain the pavement and remove the surface water efficiently into adjacent waterways.

Look at the roadway crown and check for low surface areas that permit ponding. Paved surfaces should have approximately a 2% cross slope or crown across the roadway. This will provide approximately 3" of fall on a 12' traffic lane. Shoulders should have a greater slope to improve surface drainage.

A pavement's ability to carry heavy traffic loads depends on both the pavement materials (asphalt surfacing and granular base) and the strength of the underlying soils. Most soils lose strength when they are very wet. Therefore, it is important to provide drainage to the top layer of the subgrade supporting the pavement structure.

In rural areas, drainage is provided most economically by open ditches that allow soil moisture to drain laterally. As a rule of thumb, the bottom of the ditch ought to be at least one foot below the base course of the pavement in order to drain the soils. This means that minimum ditch depth should be about 2' below the center of the pavement. Deeper ditches, of course, are required to accommodate roadway culverts and maintain the flow line to adjacent drainage channels or streams.

You should also check culverts and storm drain systems. Storm drainage systems that are silted in, have a large accumulation of debris, or are in poor structural condition will also degrade pavement performance.

The T.I.C. publication, *Drainage Manual: Local Road Assessment and Improvement*, describes the elements of drainage systems, depicts them in detailed photographs, and explains how to rate their condition. Copies are available from the Transportation Information Center.

Highshoulder and no ditch lead to pavement damage.  
 Needs major ditch improvement for a short distance.  
**RATING: Fair**



No drainage leads to failed pavement.  
**RATING: Poor**



Planning annual maintenance and repair budgets

We have found that relating a normal maintenance or rehabilitation procedure to the surface rating scheme helps local officials use the rating system. However, an individual surface rating should not automatically dictate the final maintenance or rehabilitation technique.

You should consider future traffic projections, original construction, and

pavement strength since these may dictate a more comprehensive rehabilitation than the rating suggests. On the other hand, it may be appropriate under special conditions to do nothing and let the pavement fully deteriorate, then rebuild when funds are available.

#### Summary

Using local road funds most efficiently requires good planning and accurate identification of appropriate rehabili-

tation projects. Assessing roadway conditions is an essential first step in this process. This asphalt pavement surface condition rating procedure has proved effective in improving decision making and using highway funds more efficiently. It can be used directly by local officials and staff. It may be combined with additional testing and data collection in a more comprehensive pavement management system.

*T* spor  
*r* tatio  
*a* n  
*n* Info

**Pavement Surface Evaluation and Rating (PASER) Manual, 2002, 28 pp.**

### **SAFER Manual**

Safety Evaluation for Roadways, 1996, 40 pp.

**Flagger's Handbook** (pocket-sized guide), 1998, 22 pp.

**Work Zone Safety**, Guidelines for Construction, Maintenance, and Utility Operations, (pocket-sized guide), 1999, 55 pp.

### **Wisconsin Transportation Bulletins**

- #1 Understanding and Using Asphalt
- #2 How Vehicle Loads Affect Pavement Performance #3 LCC—Life Cycle Cost Analysis
- #4 Road Drainage
- #5 Gravel Roads
- #6 Using Salt and Sand for Winter Road Maintenance #7 Signing for Local Roads
- #8 Using Weight Limits to Protect Local Roads #9 Pavement Markings
- #10 Seal Coating and Other Asphalt Surface Treatments #11 Compaction Improves Pavement Performance
- #12 Roadway Safety and Guardrail
- #13 Dust Control on Unpaved Roads
- #14 Mailbox Safety
- #15 Culverts-Proper Use and Installation
- #16 Geotextiles in Road Construction/Maintenance and Erosion Control #17 Managing Utility Cuts
- #18 Roadway Management and Tort Liability in Wisconsin #19 The Basics of a Good Road
- #20 Using Recovered Materials in Highway Construction #21 Setting Speed Limits on Local Roads

**Brick and Block PASER Manual, 2001, 8 pp.**

**Concrete PASER Manual, 2002, 28 pp.**

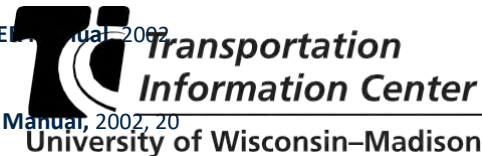
**Gravel PASER Manual, 2002, 20 pp.**

**Sealcoat PASER Manual, 2000, 16 pp.**

**Unimproved Roads PASER Manual, 2001, 12 pp.**

### **Drainage Manual**

Local Road Assessment and Improvement, 2000, 16 pp.



432 North Lake Street  
Madison, WI 53706

phone 800/442-4615

fax 608/263-3160

E-mail tic@epd.engr.wisc.edu

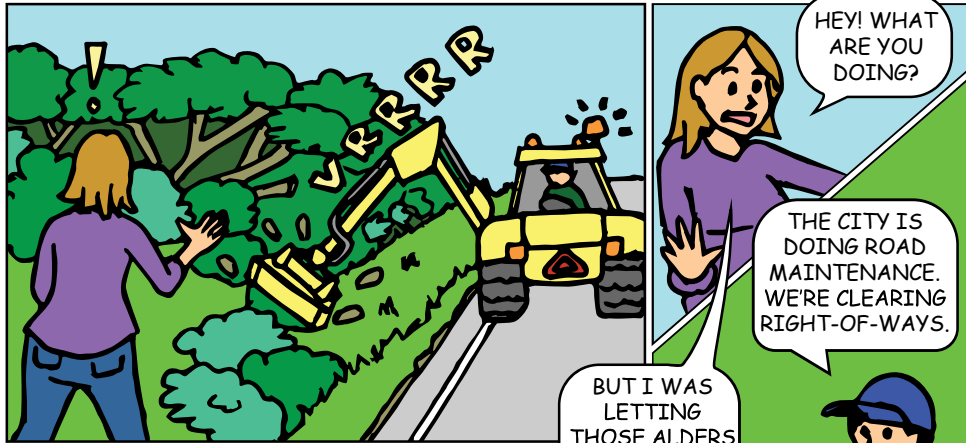
URL http://tic.engr.wisc.edu







# BRUSH CUTTING: Maintaining Our Roads & Right-of-Ways

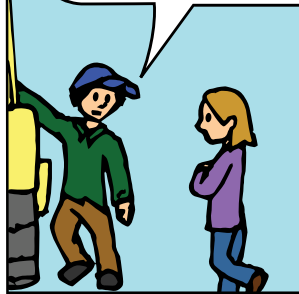


HEY! WHAT ARE YOU DOING?

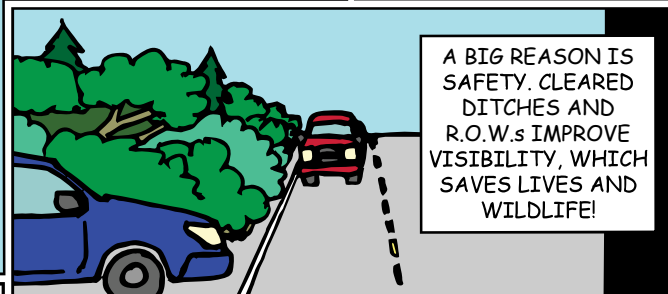
THE CITY IS DOING ROAD MAINTENANCE. WE'RE CLEARING RIGHT-OF-WAYS.

BUT I WAS LETTING THOSE ALDERS GROW! THEY MAKE A GREAT BUFFER FROM THE ROAD.

YEAH, THE MACHINE CAN BE PRETTY OBTRUSIVE, AND HAVING THE WILD VEGETATION MAKES A NICE BLOCK FROM THE ROAD, BUT WE DO ANNUAL BRUSH CUTTING FOR A FEW REASONS...



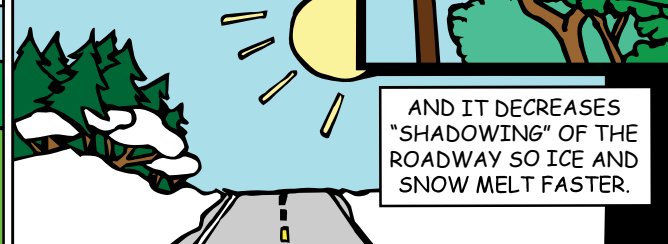
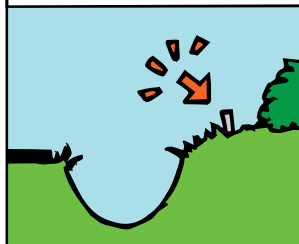
STILL WANT THAT PLANT BUFFER? LOCATE YOUR PROPERTY MARKERS TO DETERMINE WHERE THE R.O.W. IS.



A BIG REASON IS SAFETY. CLEARED DITCHES AND R.O.W.s IMPROVE VISIBILITY, WHICH SAVES LIVES AND WILDLIFE!

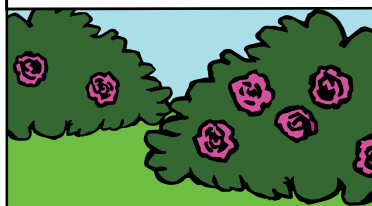


IT ALSO PROTECTS OVERHEAD UTILITY LINES FROM BEING DAMAGED BY FALLING LIMBS OR TREES.



AND IT DECREASES "SHADOWING" OF THE ROADWAY SO ICE AND SNOW MELT FASTER.

R.O.W.'s ARE USED FOR UTILITIES, SIDEWALKS, DITCHES, AND ARE SUBJECT TO CITY MAINTENANCE. SO BE SURE TO FIND WHERE YOUR PROPERTY LINE ENDS AND THE R.O.W. BEGINS BEFORE PLANTING THAT ROSEBUSH!

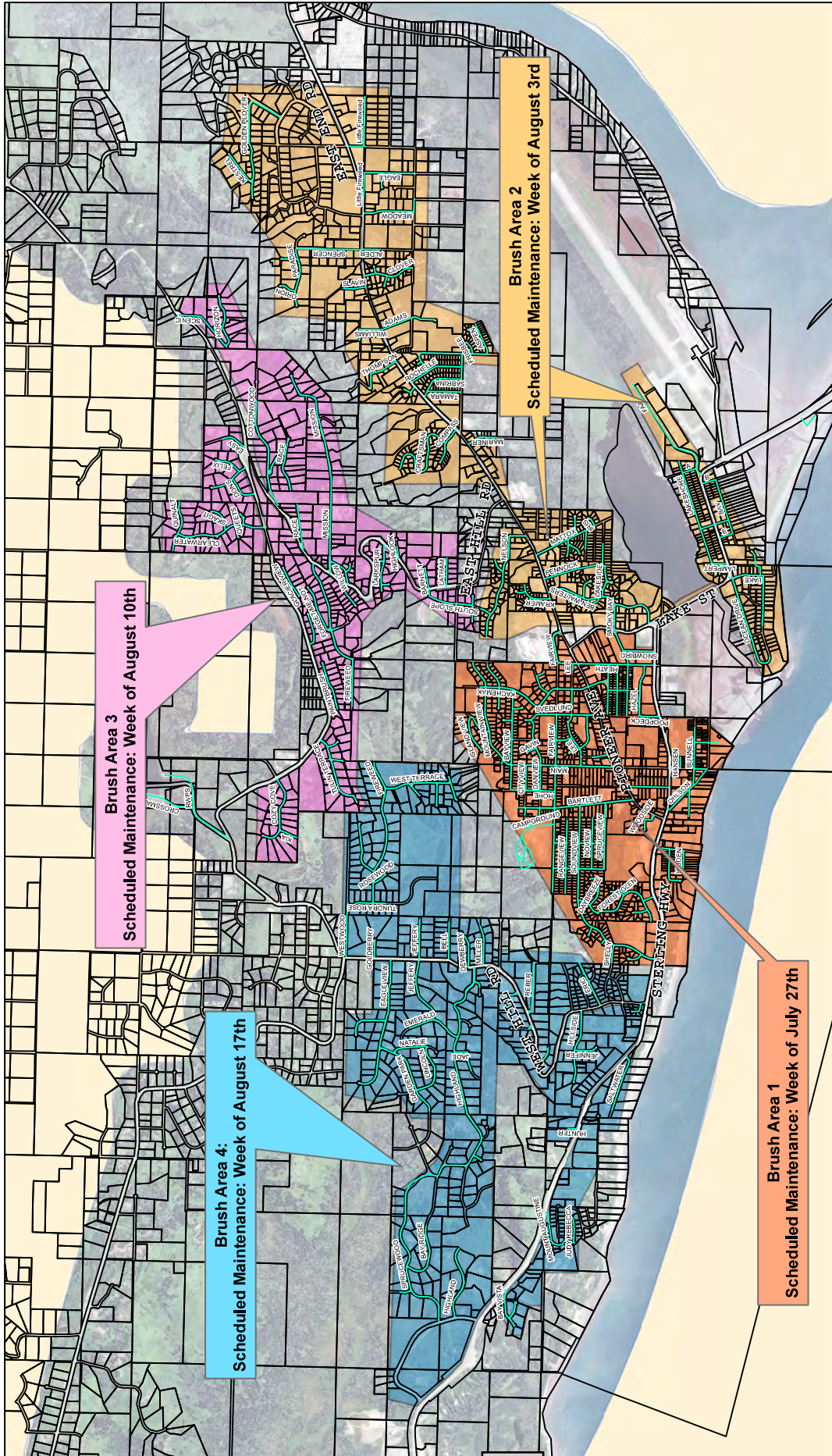


## Help Us Help the Community!

We want safe roadways for all and appreciate everyone's understanding.

**Brush cutting begins Monday, July 27<sup>th</sup>** and will take place in phases. Visit [www.cityofhomer-ak.gov/publicworks](http://www.cityofhomer-ak.gov/publicworks) for more information and a map of the phased areas to be cleared.

Questions? Call Public Works 907-235-3170



**Brush Area 3**  
Scheduled Maintenance: Week of August 10th

**Brush Area 4:**  
Scheduled Maintenance: Week of August 17th

**Brush Area 2**  
Scheduled Maintenance: Week of August 3rd

**Brush Area 1**  
Scheduled Maintenance: Week of July 27th



Coordinate System: NAD 1983 StatePlane Alaska 4 FIPS 5004 Feet  
 Projection: Transverse Mercator  
 Datum: North American 1983  
 Spheroid: GRS 1980  
 Prime Meridian: 150.0000  
 False Northing: 0.0000  
 False Easting: 500000.0000  
 Scale Factor: 0.9999  
 Latitude Of Origin: 54.0000  
 Unit: Foot US

# City of Homer Road Brushing Maintenance Schedule



Dept. of Public Works  
 July 7, 2020





---

### Special COVID-19 Edition

---

### Representative Sarah Vance

Friends of District 31,

July here on the Lower Peninsula has been so beautiful. While I am thankful for the abundance of sunshine, rain, and the coming berry harvest, it is not lost on me that many in our community are struggling to stay afloat. If that is you, remember to take a deep breath and remember that you are not alone. **If your business has been directly impacted by COVID-19 and you need help, check out the resources within this newsletter, and do not hesitate to contact my office for real-time assistance.**

---

---



---

### City of Homer Small Business Economic Relief Grant (SBERG)

The Homer City Council on May 26, 2020 accepted Federal CARES Act funds from the State of AK to assist communities and businesses that suffered economic harm from the COVID-19 public health emergency. City Council allocated \$3,000,000 of those funds to be distributed to Homer's small businesses in \$3,000 grants through a [Small Business Economic Relief Grant \(SBERG\) Program](https://www.cityofhomer-ak.gov/covid-relief/city-homer-small-business-economic-relief-grant-sberg).

<https://www.cityofhomer-ak.gov/covid-relief/city-homer-small-business-economic-relief-grant-sberg>

Any business located within the City of Homer with 50 or fewer employees that can certify and disclose financial loss due to COVID-19 is eligible to apply for the grant until it closes on **September 25, 2020**.

Visit the link above or contact Jody Mastey, the SBERG Program Manager at [jmastey@ci.homer.ak.us](mailto:jmastey@ci.homer.ak.us) or (907) 299-5978 for more information.

---

## KPB CARES

On June 16, 2020 the Kenai Peninsula Borough Assembly approved \$15 Million from the CARES Act Coronavirus Relief Fund to be distributed to eligible small businesses and nonprofits.

Until Friday, July 24, applicants can apply for a [grant from the Relief Fund](#). An applicant business or nonprofit must be physically located within the Borough, but not within the boundaries of the incorporated cities (Homer, Kachemak City, Kenai, Seldovia, Seward, and Soldotna).

[https://cares.kpb.us/?fbclid=IwAR0cHmjHA3U7sZuPijfVs593CLOH08R5Gi38pq90xLqYq\\_\\_\\_-q7n5HKCeWTc](https://cares.kpb.us/?fbclid=IwAR0cHmjHA3U7sZuPijfVs593CLOH08R5Gi38pq90xLqYq___-q7n5HKCeWTc)

The program is open to all qualifying businesses and nonprofit organizations, regardless of whether they have applied for or have obtained any other state or federal COVID-19 related assistance, as long as they can provide proof upon request that the Borough-provided relief funds have been applied to receipts for expenses not previously requested and received through any other local, state or federal assistance. The distribution matrix is the same for small businesses and nonprofit organizations.

[The KPB COVID-19 Information Hub](#) is a great place to go to get up to speed on COVID data in Alaska.

---

### Expansion of CARES Act Funding

The following press release was shared on the 17th by the Department of Commerce. It states that small Alaska businesses that received \$5,000 or less in PPP or EIDL funds and 501(c)(6) nonprofit organizations will become eligible for the State's grant program as long as they were located in Alaska and have 50 or fewer full-time employees.

**Julie Anderson**  
Commissioner

[www.Commerce-Alaska.gov](http://www.Commerce-Alaska.gov)



Department of Commerce,  
Community, and  
Economic Development

Anchorage, Alaska

## STATE OF ALASKA PRESS RELEASE

**For Immediate Release**  
20-017

### CARES Act Funding for Alaska Businesses to be Expanded

**Wednesday, June 17, 2020 (Anchorage)** — Today, Department of Commerce, Community and Economic Development (DCCED) Commissioner Julie Anderson announced upcoming changes to the [AK CARES Grant program](#)'s eligibility criteria to provide additional financial assistance to Alaska businesses.

Small Alaska businesses that received \$5,000 or less in Paycheck Protection Program (PPP) or Economic Injury Disaster Loan (EIDL) funds and 501(c)(6) nonprofit organizations will become eligible for the State's grant program, as long as they were based, licensed, and located in Alaska when the public health disaster emergency was declared on March 11, 2020 and have 50 or fewer full-time equivalent employees.

"Since the beginning of our COVID-19 response, ensuring the stabilization of Alaska's business community has been a top priority. With these eligibility adjustments, I am pleased to expand our economic relief offerings to small businesses and nonprofit organizations who previously qualified for a small amount of federal aid," **said Governor Mike Dunleavy**.

"The ability to make these changes to the AK CARES eligibility criteria will provide funds to those entities that received small amounts of funding from federal programs and are still greatly in need of relief," **said Commissioner Anderson**. "We look forward to working together to get these funds into the economy as quickly as possible."

DCCED and the Alaska Industrial Development and Export Authority (AIDEA) are finalizing program details based on these changes. The updated program details and the effective date will be announced in the coming days.

DCCED encourages businesses that will meet the new eligibility criteria for the AK CARES Grant program to begin preparing their application packages now. The application checklist and frequently asked questions are available on the AK CARES Grant website. These items should be reviewed carefully prior to submission of an application.

For additional information about the AK CARES grant program, visit [www.commerce.alaska.gov/web/decd/AKCARESGrant](http://www.commerce.alaska.gov/web/decd/AKCARESGrant). For additional information about the Department of Commerce, Community, and Economic Development and its other agencies, please visit [www.commerce.alaska.gov](http://www.commerce.alaska.gov).

###

**Media Contact:** Glenn Hoskinson, (907) 465-6466, [Glenn.Hoskinson@Alaska.gov](mailto:Glenn.Hoskinson@Alaska.gov)

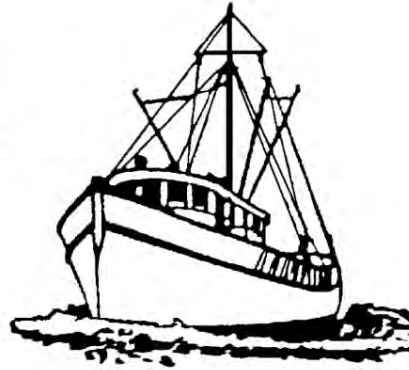
# PAYCHECK PROTECTION PROGRAM

# FOR COMMERCIAL FISHERMAN

## DEADLINE EXTENSION

The Department of Treasury and Small Business Administration has amended a rule that previously counted crew as independent contractors, and on July 6th passed an extension to the PPP program. Commercial fishing businesses can still apply for Paycheck Protection Program loans that include crew in payroll costs, as well as gloves and masks.

The application deadline is Aug. 8th



For more information contact:  
**Rep. Sarah Vance**

907-235-2921  
rep.sarah.vance@akleg.gov

The Paycheck Protection Program (PPP) is a federal loan that can be used on employee payroll as well as additional expenses such as gloves, masks, and anything else required to mitigate the spread of COVID-19. The deadline has been extended to August 8th. Applications need to be submitted by that date, even if they aren't processed by then.

**NOTE:** If you request or receive \$5,000 or more in Federal PPP or EIDL funds, you **will** become **ineligible** for AK CARES Act money from the State.

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>



### Dizzy Yet?

There are a lot of programs that offer monetary relief from COVID-19 related hardships. Some conflict with others. How do I know which ones are right for me?

The **wisest** thing to do is to apply for the local grants first and work your way up from there. **Local grants do not need to be repaid**, and are available for businesses within city limits, and from the borough for businesses not within city limits. Local grants expire soon though. APPLY NOW.

The State relief money will be available for longer, and most of it is in the form of a grant, (ex. AK CARES Act). **It does not need to be repaid**. Many businesses have found themselves ineligible for state grants because they received federal loans. In response to this initial conflict, The AK CARES Act was modified on June 17th to accept the applications of those who have received \$5,000 or less in federal PPP/EIDL loans, and the applications of many non-profit businesses. Click [here](#) to learn more.

Note: AS of this writing, The AK CARES Act is not yet open to commercial fishermen. They are working tirelessly to fix this, and I will provide updates if you call or email me.

Federal programs are surely the most inclusive, and longest lasting, but they also come with the most risk. Most of them come in the form of a loan, which **must be paid back with interest**. Some loans can turn into a grant if they exceed a certain amount. ALWAYS read what you are applying for and make sure that you understand and accept the conditions.

Department of Commerce, Community & Economic Development (DCCED)

FAQ's:

**If I receive funds from a municipal relief program that is distributing CARES Act money, am I ineligible to apply for an AK CARES grant?**

No. Businesses that receive money from a municipal relief program are still eligible to apply for an AK CARES grant, assuming they meet the eligibility criteria. However, the business cannot receive reimbursement for expenses that have already been reimbursed through another program i(e., no “double-dipping”).

**If I'm a small business owner who received federal money as an individual (as opposed to as a business) from a program such as unemployment, am I ineligible to apply for an AK CARES grant for my business?**

No, receiving unemployment as an individual will not make you ineligible for an AK CARES grant for your small business.

As always, please feel free to reach out to my office with your questions or concerns. It is a pleasure serving the people of District 31.



Representative Sarah Vance  
Rep.Sarah.Vance@AKleg.gov  
(907) 235-2921



# City of Homer

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

## Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 20-108

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: JULY 22, 2020

SUBJECT: VACATION OF THE 10 FOOT WIDE DRAINAGE EASEMENT ON LOT 24-A, AA MATTOX PEGGI'S ADDITION GRANTED BY PEGGI'S ADDITION (PLAT HM 99-64); WITHIN SECTION 17, TOWNSHIP 6 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA WITHIN THE KENAI PENINSULA BOROUGH. KPB FILE 2019-048V.

---

At their July 13, 2020 meeting, the Kenai Peninsula Borough Planning Commission approved the vacation of the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition Granted by Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska within the Kenai Peninsula Borough. KPB File 2019-48V. Per the letter from the Kenai Peninsula Borough, City Council has thirty days from July 13, 2020 in which to veto the decision of the Kenai Peninsula Borough Planning Commission and cites AS 29.40.140 as the basis for the ability to veto this drainage easement vacation. Their letter states per AS 29.40.140 and reads "In accordance with AS 29.40.140, no vacation of a City right-of-way and/or easement may be made without the consent of the City Council."

However, upon review of AS 29.40.140, the statute is specific to the vacation of a city street and reads as follows:

### ***Sec. 29.40.140. Hearing and determination.***

*(a) The platting authority shall consider the alteration or replat petition at a hearing and make its decision on the merits of the proposal.*

*(b) Vacation of a city street may not be made without the consent of the council. Vacation of a street in the borough area outside all cities may not be made without the consent of the assembly. The governing body shall have 30 days from the decision of the platting authority in which to veto a vacation of a street. If no veto is received by the platting authority within the 30-day period, consent is considered to have been given to the vacation.*

In addition, this matter was taken up by the Homer City Council at a Special Meeting on September 5, 2019 per KPB Code 20.70.110 which reads:

### ***20.70.110. - Vacation consent—City council or assembly.***

*A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the council. A vacation of a street right-of-way, public*



*area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.*

Council considered the drainage easement at the September 5, 2019 special meeting and no action was taken at that time.

RECOMMENDATION: No action is necessary from City Council in accordance with AS 29.40.140 related to a drainage easement and this has already been considered per KBP 20.70.110.



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

July 21, 2020

Homer City Council  
491 East Pioneer Avenue  
Homer, AK 99603-7645

RE: Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

Dear Homer City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced utility easement vacation during their regularly scheduled meeting of July 13, 2020. This petition is being sent to you for your consideration and action.

The City Council has 30 days from July 13, 2020 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Attached are draft, unapproved minutes of the pertinent portion of the meeting and other related material.

Sincerely,

Marcus A. Mueller  
Acting Planning Director  
Kenai Peninsula Borough

Attachments:  
Draft 7-13-2020 Planning Commissioner Meeting Minutes  
7-13-20 Meeting Packet Information

**MEMORANDUM**

**TO:** Homer City Council

**THRU:** Rick Abboud, City Planner

**FROM:** Marcus Mueller, KPB Acting Planning Director *mm*

**DATE:** July 21, 2020

**RE:** Homer City Council 30-day review period of vacation action

---

This vacation petition was processed pursuant to KPB 20.70.080 – Utility easement vacations. The matter is sent to Homer City Council pursuant to KPB 20.70.110.

Background

June 24, 2019 – the Kenai Peninsula Borough (KPB) approved vacation of the drainage easement on Lot 24-A, AA Mattox Peggi's addition, KPB File NO. 2019-048V.

July 17, 2019 – The KPB received a Notice of Appeal of the Planning Commission's decision.

August 12, 2019 – This matter was sent to Homer City Council. At a special meeting on September 5, 2019, the Homer City Council considered the item and took no action. Pursuant to KPB 20.70.110, if no veto is received within 30 calendar days from the date of approval the City shall be considered to have given consent.

May 6, 2020 – The KPB Assembly sitting as hearing officer convened for a special meeting to hear the appeal filed in this matter.

May 21, 2020 – The Assembly issued a decision finding that the KPB Planning Commission followed the correct code provisions but also found that a public hearing was required in this matter and thus the matter was

Page -2-

Date: July 21, 2020

To: Homer City Council

RE: Easement Vacation Actions

---

remanded the matter to the Planning Commission to hold a public hearing.

July 13, 2020 – The Planning Commission held a public hearing on this vacation petition. After close of public testimony and discussion, the Planning Commission unanimously voted to approve the vacation.

#### Homer City Council Action

Therefore, this matter is being sent back to Homer City Council a second time. The Homer City Council will have 30 days from the date of this memo to veto the planning commission's decision. If no veto is received by the KPB planning director by August 21, 2020, the City shall be considered to have given consent to the vacation.

**AGENDA ITEM G. UTILITY EASEMENT VACATIONS****G. Utility Easement Vacation**

1. Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

Staff report given by Scott Huff

**STAFF REPORT**

PC Meeting: July 13, 2020

**Purpose as stated in petition submitted on May 29, 2019:** The 10' drainage easement has not been used since it was granted in 1984. There is an alternative corridor in place on the Nelson Avenue ROW above the north lot line of the subject property. A long driveway permit on the Nelson Avenue ROW has been issued by the City of Homer to the Quiet Creek Park LLC Project. The long driveway permit requires that the existing drainage corridor remain in place on the North side of the long driveway. The current corridor on the Nelson Avenue ROW handles any storm or seasonal water runoff from the Quiet Creek Park LLC Project and above, as well as, the drainage plan in place in the Quiet Creek Park LLC Project. The owner understands that the City of Homer prefers not to cross personal property when other more adequate options or corridors are available to the City of Homer for drainage and seasonal runoff. The subject property is currently for sale and buyers are concerned about the future use of the subject property 10' drainage easement, therefore preventing them from making an offer on the subject property. This is creating an adverse effect to the subject property. Vacating this easement would not create any adverse effects to the surrounding properties.

**Petitioner:** AnnaLisa Cox, of Homer Alaska - current applicant and land owner  
(Peggi Patton of Homer, Alaska – original applicant and former land owner)

**Location:** on Heidi Court, in the City of Homer

**Notification:** Notice of vacation mailings were sent by regular mail to 17 owners of property within 300 feet and also the original applicant and Robert Molloy of Molloy Schmidt LLC. representing a neighboring landowner. Notice of the proposed vacation was emailed to 8 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building. The petition was published as part of the agenda in the Homer News on July 9, 2020.

During the meeting a message was received in the Zoom meeting chat box from Derotha Ferraro, the owner of Lot 36 stating that she did not receive notice and requested postponement on this item. Upon staff, reviewing of the public mailing notice list Ms. Ferraro was not on the list. The parcel had been recently sold to Ms. Ferraro and the mailing list used for public notice was not updated to include the new owner of Lot 36.

**Utility Company Comments Received:**

Alaska Communications Systems: No objection.

ENSTAR Natural Gas: No objection.

GCI: No objection.

Homer Electric Association: No objection.

**Staff comments:**

June 24, 2019 - This drainage easement vacation was heard and approved by the Kenai Peninsula Borough Planning Commission. During the meeting, the Planning Commission considered the proposed easement vacation, as well as the various comments that were submitted. Chairman Martin opened up the meeting to allow public comments. Seeing and hearing no one wishing to testify Chairman Martin closed public comment and discussion was opened among the Commission. A motion was made to approve the easement vacation and the motion passed unanimously.

July 17, 2019 - a Notice of Appeal of the Planning Commission's decision was submitted. The application was submitted by Tony Neal for Echo Trading Company LLC (Echo Trading). c/o Molloy Schmidt LLC. Tony Neal is the trustee of Delta Transfer and Storage Trust which is the owner of Echo Trading. Tony Neal (Echo Trading) is the developer of Barnett's South Slope Subdivision Quiet Creek Park Unit 2 (HM 2018-40) located 30 feet north of the drainage easement. Tony Neal (Echo Trading) is also the owner of Lot 8-A-1, AA Mattox Aplin 2019 Replat, located 177 feet to the west of the drainage easement.

May 6, 2020 – KPB Assembly conducted an Appeal Hearing following KPB Chapter 21.20 – Hearings and Appeals. The appellant presented the following issues for review in this matter. In its remand decision, within the Conclusion section on page 14, the Assembly provided instruction to the Planning Commission to “consider the arguments raised by the Parties in this matter, and take such subsequent action upon the Resolution as it determines is appropriate.” The primary arguments raised by the Appellant, along with staff response comments, are as follows:

1. Whether the Borough Planning Commission properly treated the subject easement as a “utility easement” when it considered and approved the proposed vacation.

*STAFF COMMENTS: Utility easement is defined in KPB 20.90 as follows, ‘Utility Easement. The right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage, wastewater disposal, and water facilities. The right of ingress and egress for conducting utility operations is implicit.’ Staff used this definition when determining what process to follow for the drainage easement vacation application.*

2. Whether the Borough Planning commission was obligated to conduct a public hearing regarding the proposed vacation prior to taking official action on the proposed vacation.

*STAFF COMMENTS: Under KPB 20.70.080 – Utility easement vacation, ‘A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right of way.’ Comments in opposition were received prior to the June 24, 2019 Planning Commission meeting. Due to those comments, the Planning Commission removed the item from the consent agenda, opened up the meeting to allow public comment, and conducted a public hearing. After seeing and hearing no one in the audience, the Commission closed public testimony, deliberated on the vacation, and then approved the vacation application. On appeal, the Assembly determined that a property noticed public hearing was required and remanded to the Planning Commission so that it may conduct a public hearing regarding this matter.*

3. Whether KPB 20.70.210 requires the Borough Planning Commission to find that, a proposed vacation serves the public interest prior to approving it.

*STAFF COMMENTS: The 10 foot drainage easement was a condition of approval by Homer City Council on March 22, 1999, to vacate and relocate a 25 foot underground utility easement, and vacate a 15 foot drainage easement on former Lot 24.*

*The City of Homer has jurisdiction for the use of the current 10 foot drainage easement. The City of Homer Advisory Planning Commission approved the vacation of the 10 foot drainage easement on May 15, 2019. Homer Public Works Department stated, ‘We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right of way. In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.’*

*The Planning Commission approved the vacation with findings 3, 5, and 6 showing that the City of Homer Advisory Commission approved the vacation of the 10 foot drainage easement.*

*The Planning Commission decision was forwarded to the Homer City Council. The City Council has 30 days from the Planning Commission date of decision in which to veto the vacation. The Homer City Council did not affirm, or veto, the KPB Planning Commission decision to vacate the 10 foot drainage easement.*

4. Whether the easement in question is a private easement, and if so, whether the Borough Planning Commission's action constitutes a taking without just compensation in violation of the United States and Alaska constitutions.

STAFF COMMENTS: *The 10 foot drainage easement was granted by Plat HM 99-64 on condition of approval by the Homer City Council. The easement was granted for public benefit, not public use. The easement is not a private easement. The easement was not granted to a specific person or parcel of land. The easement is under the City of Homer jurisdiction. Any use of the drainage easement, by the public, would require approval from the City of Homer Public Works Department.*

5. Whether the appeal procedure prescribed by Borough Ordinance 2019-29, which authorizes the Assembly to serve as hearing officer in this matter, violates KPB 21.20.220(B), which provides that appeals shall be heard by the Assembly.

STAFF COMMENTS: *This was an issue on appeal but not an issue that needs to be addressed by the Planning Commission on remand.*

6. Whether the Assembly, in rendering a decision in this matter, has authority to consider evidence not included in the Record on Appeal prepared and certified by the Borough Clerk.

STAFF COMMENTS: *This was an issue on appeal but not an issue that needs to be addressed by the Planning Commission on remand.*

### **Excerpts from Remand Decision**

May 21, 2020 – Decision on Appeal issued by the Assembly stated the following,

At page 1, Introduction:

"For the reasons set forth herein, the Assembly finds that, while the Commission did correctly follow the procedures established by the Borough Code for determining whether to approve the vacation of a utility easement, which provides that such vacations do not require a public hearing, such a hearing is nonetheless required by Alaska law. Consequently, the Assembly REVERSES at the Commission's action and REMANDS the matter to the Commission so that it may conduct a public hearing regarding this matter.

At Page 14, Conclusion:

'The resolution to vacate the drainage easement is REVERSED, and the matter REMANDED back to the Planning Commission with the instruction that it conduct a public hearing regarding Resolution 2019-19, consider the arguments raised by the Parties in this matter and take such subsequent action upon the Resolution as it determines is appropriate. In taking such action, the Planning Commission shall specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Mattox Subdivision.'

### **Additional information - timeline of events**

September 9, 1983 – AA Mattox 1958 Addition Unit 2, Plat HM 83-89  
 - Owner: Pioneer Investments by Dayton Child

February 7, 1984 – AA Mattox 1959 Addition Unit 2 AMENDED, Plat HM 84-8,

- Owner: Pioneer Investments by Dayton Child
- The surveyor amended the plat by adding a 15 foot wide underground utility and drainage easement affecting Lot 24 and a 10 foot wide underground utility easement affecting Lot 25.

November 16, 1999 – AA Mattox Peggi's Addition, Plat HM 99-64,

- Owner: Robert D. Patton and Peggi L. Patton
- Former Lot 24 and 25 were combined into Lot 24-A.
- A 10 foot drainage easement was granted on the west boundary of former Lot 25.
- The 25 foot utility easement (water and sewer) were moved from the common lot line to the southeast boundary of Lot 24-A.

November 14, 2018 – Barnett's South Slope Subdivision Quiet Creek Park Unit 2, Plat HM 2018-40,

- Owner: Tony Neal – Echo Trading
- located on the north side of Nelson Avenue (south).
- exception was granted to KPB 20.30.030 – proposed street layout, to not provide a matching 30 foot dedication for Nelson Avenue (south). Nelson Avenue (south) remains a 30 foot dedicated right of way.
- The plat shows all lots using Nelson Avenue (north) for access. The Plat Committee approved the double frontage lots based on other physical conditions, and that all lots front on Nelson Avenue (north).

September 4, 2019 – AA Mattox Gwen's 2019 Addn., Plat HM 2019-23

- Owner: Tony Neal – Echo Trading
- located on the west end of Nelson Avenue (south)
- Exception granted to KPB 20.30.030 – extension of right of way for Nelson Avenue (south)
- Exception granted to KPB 20.30.100 – dedication of a cul-de-sac on the west end of Nelson Avenue (south).
- Per the request for review submittal, the true access plan for this replatted lot is a driveway easement from Sanjay Court in Quiet Creek Park Subdivision.

March 2, 2020 – AA Mattox Aplin 2019 Replat, Plat HM 2020-3

- Owner Tony Neal – Echo Trading, located on the west end of Nelson Avenue (south)
- Carried forward exceptions granted to HM 2019-23
  - o KPB 20.30.030 – extension of right of way for Nelson Avenue (south)
  - o KPB 20.30.100 – dedication of a cul-de-sac on the west end of Nelson Avenue (south)

### **Findings:**

1. Per the petition, the drainage easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and Homer Electric Association provided written non-objection to the proposed vacation.
3. The Homer Advisory Planning Commission recommended approval of the proposed vacation on May 15, 2019.
4. AA Mattox Peggi's Addition (Plat HM 99-64) granted a 10-foot wide drainage easement on Lot 24-A.
5. Per the Homer Advisory Planning Commission hearing packet, the city prefers to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible.
6. Per the Homer Advisory Planning Commission hearing packet, a draining corridor exists easterly along Nelson Avenue and southerly down Kallman Road.
7. KPB 20.90 "Easement" B. - Utility Easement. The right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage, wastewater disposal, and water facilities. The right of ingress and egress for conducting utility operations is implicit.
8. Staff used KPB 20.90 "Easement" definition when determining what process to follow for the drainage easement vacation application.
9. Under KPB 20.70.080 – Utility easement vacation, 'A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right of way.'



10. June 24, 2019 Planning Commission meeting, was opened to allow public comment and the Planning Commission conducted a public hearing. After seeing and hearing no one in the audience, the Commission closed public testimony, deliberated on the vacation, and then approved the vacation application.
11. The 10 foot drainage easement was a condition of approval by Homer City Council on March 22, 1999, to vacate and relocate a 25 foot underground utility easement, and vacate a 15 foot drainage easement on former Lot 24.
12. The City of Homer Advisory Planning Commission approved the vacation of the 10 foot drainage easement on May 15, 2019.
13. Homer Public Works Department stated, 'We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right of way. In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.'
14. The 10 foot drainage easement was granted by Plat HM 99-64.
15. The easement was granted for the public benefit and was not granted to a specific person or parcel of land. The easement is not a private easement.
16. Any use of the drainage easement, by the public, would require approval from the City of Homer Public Works Department.
17. The objection of a neighboring landowner was considered in full. Prior to plat approvals for Barnett's South Slope Subdivision Quiet Creek Park Unit 2, AA Mattox Gwen's 2019 Addn., and AA Mattox Aplin 2019 Replat, the developer requested and was granted certain relevant exceptions to KPB subdivision regulations. Specifically, relevant to this issue is the fact that the developer did not provide a 30 foot matching right-of-way dedication for Nelson Avenue (south), or the extension of Nelson Avenue (south) based on the reason provided that the lots in Quiet Creek Subdivision had superior, alternative access and would not use Nelson Avenue for access. Nelson Avenue was never intended to serve as the vehicular access point for lots within Quiet Creek Subdivision and the City of Homer has stated that it prefers for the current drainage system to remain in place.

#### **STAFF RECOMMENDS:**

The Planning Commission complete the following:

- Conduct a public hearing regarding Resolution 2020-16.
- Consider the arguments raised by the Parties in the appeal.
- Address whether the drainage easement is a private easement or a public easement.
- Take action upon the Resolution as it determines is appropriate.

Based on the means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacation, and findings 1-17, STAFF RECOMMENDS approval of the easement vacation, subject to:

1. Provide a sketch clearly indicating the draining easement being vacated to be recorded with KPB Planning Commission Resolution 2019-19, becoming Page 2 of 2.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicants will provide the recording fee for the resolution and its attachments to the Planning Department.

#### **NOTE: Action after denial of vacation (KPB 20.70.120)**

**A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**

**B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

Mr. Huff also highlighted several photos and maps that were contained in the packet as well as an as-built showing the location of the house to the drainage easement proposed for vacation. Mr. Huff also noted that there were comments from Mr. Molloy requesting postponement of this action until after August 10

because his client, Mr. Tony Neal, is not present due to commercial fishing in Bristol Bay. Mr. Molloy also submitted a second comment objecting to the hearing process. He requested that the planning commission split the public hearing into two meetings. One meeting to determine whether the drainage easement is a public or private and the second meeting so that witnesses could be called and be cross-examined.

There was also information in the meeting packet from the petitioner Annalisa Cox providing a timeline of events showing Mr. Neal's request of an exception to provide a matching dedication to Nelson Ave. and stated the following reasons to support his requests; because Nelson St. could not be constructed or used and that it should not even exist. Eleven days later Mr. Neal then objected to the vacation of this drainage easement saying he was going to use Nelson Ave. to access his lots. Ms. Cox also submitted a copy of the September 7<sup>th</sup>, 2005 Homer Planning Commission meeting minutes showing the Mr. Neal's Quite Creek Park Subdivision was approved subject to eliminating access via Kallman, unless a 60 ft. ROW is provided.

## END OF STAFF REPORT

Chair Martin open the item for public comment.

Annalisa Cox, 4510 Heidi Ct., Homer, AK 99603: Ms. Cox is the petitioner and is the current owner of Lot 24A, AA Mattox Peggi's Addition. Mrs. Cox requested that the Planning Commission approve this utility easement vacation as they did in June of 2019. She stated that a large majority of the lots within the AA Mattox 1958 Addition Subdivision have issues with groundwater drainage that ebbs and flows as the season's change. After reviewing the history of this subdivision and speaking with her neighbors and the previous owner Peggi Patton, it appears that this easement was initially placed on Plat 84-8 to address groundwater drainage problems. The 1999 easement vacation petition was filed prior to lots 24 & 25 being replatted into Lot 24A. The petition filed by the Patton's stated here is an existing 2 ft. wide ditch close within Lot 25 handling the current water flow, primarily for breakup. This statement referenced groundwater drainage on Lot 25 that handled a large majority of the groundwater drainage for lot 24 & 25. The original drainage easement on the eastern 15 ft. of the Lot 24 property line was there to ensure the drainage could be moved when Lot 25 was developed. However, Lot 25 remained undeveloped, was purchased by the Patton's, and the drainage was never moved onto the drainage easement. When the City Council granted the easement vacations in 1999 it was with the condition that a drainage easement be granted within the westerly 10 ft. of Lot 25 as requested by the Homer Public Works Department to ensure drainage between the still separated 2 lots. The drainage for groundwater on Lot 25 remained untouched until 2017, when Peggi & Bob installed french drains around the entire perimeter of house and yard. At this time, a water kitchen and culvert system for the french drains to drain into was installed. This replaced the above ground drainage on Lot 25 and rectified the drainage problems that had plagued this property. Page 253 of the meeting packet contains a copy of an as-built survey for Lot 24A, the water kitchen location has been drawn onto this survey for reference. It shows that the water kitchen does not reside within the utility drainage easement, but does sit right next to it. Mr. Neal has stated the Patton's changed the drainage pattern on the public right-of-way in 2017. That is not the case and aerial imagery from 2003 has been submitted showing the area surrounding Lot 24A. In this picture, you can see the drainage pattern has historically run on the Nelson & Kallman Right of Ways. Ms. Cox stated that Echo Trading Company claims to be the direct beneficiary of this utility drainage easement, however none of Echo Trading Company's lots boarder her property, they boarder the public right-of-way, Nelson Ave, which provides far superior drainage access to their properties in an area easily accessed by the Department of Public works for maintenance. The 2018 permit for use of the Nelson & Kallman right-of-ways to construct a driveway access to Lot 8 clearly states the existing drainage patterns should not be altered or disturbed. The permit also includes a diagram with arrows showing the drainage should flow along the North Side of the driveway. In May of 2019, Tony Neal submitted a letter to the Planning Commission to request an exemption to KPB Code 20.30.100, dedication of a cul-de-sac. The exemption was granted because Mr. Neal's letter stated that the true access plan for Lot 8 was a platted right-of-way from Sanjay Ct. Mr. Neal stated that the southern Nelson Ave. right-of-way would not be used because it could not be constructed to the most minimum City of Homer requirements and that the Nelson right of way could be used for trail, not a vehicular access. Ms. Cox stated that she had provided a copy of the letter written by Mr. Neal and that it could found in the PC packet. Ms. Cox went on to say that, Mr. Neal submitted a letter in June of 2019 stating opposition to the drainage easement vacation on Lot 24A. In this letter, he stated he was going to gain access via Nelson Ave. using his permit issued for access to Lot 8. Mr. Neal stated that the easement on my property would be required so he could divert

drainage, which has historically run along the right of way, onto my private property private property. This is the same Nelson Ave. Mr. Neal stated would never be built and should not even exist the month prior. Echo Trading has indicated that several other Quiet Creek lots will receive their legal access from the Nelson/Kallman right-of-ways. However, the platted legal access for the subdivision comes from Northern Nelson Ave. The southern Nelson right-of-way was only ever intended to serve as access to one lot, what is now Lot 8. In a letter sent to the KPB Planning Commission, the Homer Advisory Planning Commission detailed Kallman should not serve as access to the Quiet Creek Subdivision and this is found throughout the 2005/2006 preliminary plat minutes. Because of the expectation that one lot would receive access, Echo Trading was granted another exemption in which they did not have to dedicate a matching 30 ft. right of way along the southern Nelson. Ms. Cox stated that KPB code 20.70.080(a) states a public hearing is not required in the case of a vacation of a utility easement. Yet one is being required for this case, thus going against her due process rights provided by the Alaska constitution. KPB code 20.70.190 states, rights of way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. The drainage easement that runs through the middle of her property, Lot 24A has never been used. Historically, the drainage has always run along the Nelson & Kallman right-of ways. The 2003 imagery shows that 17 years ago that drainage ran along Nelson & Kallman, not through the middle of lot 24A. KPB code 20.90.010 defines a utility easement as the right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage. This easement was requested in 1999 by the in Homer Department of Public Works and approved for placement by the Homer City Council. The City requested the easement in case they it ever needed it to install drainage, which by definition makes it a utility easement. Ms. Cox stated that over the last year she has spent significant amounts of time and money to defend her property. The drainage easement on her property has never been used. The sub-developer, who wants to use the easement, possesses a permit to use the public right-of-way above her property and specifies the drainage should not go through her drainage easement. The developer has been expressly told by the director of public works that he will not be permitted to use the easement to divert the drainage from the public right-of-way and that drainage should run along the north side of the right-of-way. The acting director of Homer Department of Public Works requested the drainage easement in 1999. In 2019, the Director of the Homer Public Works Department stated non-objection to the vacation of this easement further adding they prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. In this case a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road. Ms. Cox would like to request that the commission approve the utility drainage easement vacation petition as it is not needed, has approval from the city to vacate, and will not deny drainage to anyone. The Homer city council remained silent under the impression that by not acting the drainage easement vacation would record.

Robert Molloy Molloy Schmidt LLC; 110 South Willow St., Kenai, AK 99611: Mr. Molloy is the legal representative for Echo Trading & principles, Tony & Gwen Neal. The relief that they are asking for has been laid out in the letters that have been sent to the commission. First would be the continuance of this hearing until after Aug 10, 2020. His clients, the Neals, are not able to attend this hearing because they are commercial fishing in out in western Alaska. They do not have reliable internet access or cell phone coverage so they are not able to attend this Zoom meeting. Their internet is powered by a generator, which makes the connection very slow, and bandwidth limited. The Assembly's decision noted that the Neals are not simply commenting neighbors, but are affect property owners, with a personal property interest and are parties to this proceeding. They would be prejudiced if they were not allow a continuance for their part of the hearing. As you heard from the petitioner, creditability is an issue in this and the Neals need to be seen and heard by the commission. Second, would be that hearing procedures be consistent with the directions given to the commission by the Assembly in the appeal decision. The procedure being used here has already been found to be inadequate by the Assembly in the appeal. What is being called a public hearing is a public meeting that is open for public comment and documents. The commission has not adopted any of the procedures that have been suggested by the Assembly in their decision. Where the Assembly stated that some of the specific due process requirements that the Alaska Supreme Court has found apply to administrative hearings, include the right to call witness and present witness testimony. That would allow the calling of witnesses to talk about things in addition to the permit. When the action involves the issues of creditability having an in-person hearing where you are seen and heard is required. In addition, we need to have notice of legal and administrative factors in any evidence that the government is going to rely upon. Which is not what you get on the day of the hearing. What we have asked for is not a full trial but is consistent

with what the Assembly has said in their decision. We are not asking for anything like pre-trial discoveries, motions, or rulings on evidence. The hearing with the Assembly took three hours. This is a complicated situation and there is a lot of history and documents, with explanation of documents that will be needed. We asked for bifurcation of the hearing so that the Planning Commission can first decide the legal issue of whether or not they have the legal jurisdiction to vacate the easement. The thought is that first, it should be decided whether the drainage easement is a public utility easement or a private easement. If it is a private easement, it should not be in the commission's bailiwick at all. His client is asking the commission to do the right thing here and provide for procedures consistent with what the Assembly has said. To have an orderly submission of documents and testimony.

See and hearing no one else from the public wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Bentz moved, seconded by Commissioner Foster to adopt PC Resolution 2020-16 to approve the vacation of the 10-foot wide drainage easement on Lot 24-A, AA Mattox Pegg's Addition, granted by AA Mattox Pegg's addition within Section 17, Township 6 North, Rand 13 West, Seward Meridian, Alaska within the Kenai Peninsula Borough.

Commissioner Foster had a question for staff. If the one homeowner did not receive notification should this item be postponed until they can comment? Mr. Huff said that she was not notified but that she is participating on this Zoom meeting and that she was aware this item.

Derotha Ferraro: P.O. Box 1408, Homer, AK 99603: Ms. Ferraro spoke up and said that she was unable to raise find the "raise hand" feature to speak up earlier. She stated that she is the owner of Lot 36 and that they did not receive notice on this item. She became aware of it through her job at South Peninsula Hospital. While making sure that all of the information was in the packet for the hospital meeting and she saw pictures of her lot, especially pictures showing drainage going across the bottom part of her lot. She stated that she is not a surveyor or lands type of person. She has not had the opportunity to review this information to discover whether vacating the drainage easement will have an effect on her property.

Mr. Huff replied that he had spoken to an owner of lot 36 about a week ago. Records show that Gary Harris is an owner. Mr. Harris had contacted the Planning Department to ask how to vacate Nelson Ave. He wanted to know how to fill out the petition and get the process going. Mr. Huff explained the vacation process and while doing so had the opportunity to explain about the vacation of the drainage easement. He told Mr. Harris that if Nelson Ave. was vacated the right-of-way land would go back to Lots 23 & 24A to the south. Mr. Huff then said the Mr. Harris wanted to think about whether or not vacating Nelson Ave. would have any benefit for him.

Commissioner Venuti had a question for staff. He finds it interesting that this vacation was not appropriate for a hearing tonight, but on June 24, 2019 it was. He wondered if notices were sent out for that meeting. He wondered if this important issue for the Neals at that point and time. He also noted that the Assembly is instructing them to do a hearing – he wondered whether that out weights current code. Mr. Huff replied thought that the Neal's business manager would have attended the meeting in 2019. It was opened up for public comment at the meeting and no one at the meeting made comment, so the commission went ahead and acted on item. As for the question about the Assembly sending this back for a public hearing, Mr. Huff said this is the hearing that the Planning Commission conducts for the vacation of public right-of-ways. The hearing is opened up for public comment, the commission discusses the merits of the petition and a decision is made.

Chair Martin then asked for the borough's lawyer, Mr. Kelley, to provide comment on Commissioner Venuti's question. Mr. Kelley replied the agenda back in 2019 identified this item as not requiring a public hearing because that is what the utility easement code KPB 20.70.080 says. This may have been a source of confusion for any interested parties, even though at the time the planning commission opened the item for public comment. The fact that the agenda went out suggesting the item would not be heard as a public hearing ended up being problematic. He would disagree with Mr. Molloy's interpretation of the Assembly's decision. The Assembly remanded the item back to the Planning Commission to hold a public hearing. That is why he recommended that a public hearing be conducted consistent with established practice and

procedures that the Planning Commission follows. As far as Mr. Molloy's request for witnesses, the commission should recognize and allow anyone who want to provide public testimony. Echo Trading or any other party wanting to provide scripts or call witnesses, one by one to provide public testimony that would be fine. The idea that the Planning Commission has to turn the public hearing process into a mini trial were cross-examination is allowed on any agenda item if requested by a party is problematic and an undue burden on the Planning Commission and administrative staff. Mr. Kelley did not agree that was what was ordered or required by law. He would say that anyone who want to testify should testify and that anyone who want to submit comments should submit comments but having cross-examination is a bit beyond.

Annalisa Cox; 4510 Heidi Ct., Homer, AK 99603: Ms. Cox stated that she does not agree that this public hearing should be split into two hearing or calling of witnesses. This is a public hearing conducted by the Planning Commission, not a judge and jury trial. This is a public hearing regarding a public utility drainage easement. To conduct a trial type of hearing would go against her due process rights given by the Alaska constitution. She would also like to let the commission know that she did let the owners of Lots 36 know about what was going on with the drainage easement vacation. She was under the impression that they understood the vacation process because they approach her about vacating the Nelson Ave. right-of-way.

Commissioner Carluccio asked how should they treat the fact that the Neals are not available, and have requested a postponement so that they could submit their testimony. Chair Martin said that was for the commission to discuss and decide with findings. Chair Martin also noted that this meeting had been properly noticed and advertised.

Seeing and hearing no further discussion Chair Martin brought it back to commission for a vote.

Ms. Shirnberg was asked to restate the motion for the commission.

Mr. Kelley

y made the recommendation that since the Assembly had asked that the commission to determine whether this drainage easement was a public or private perhaps, they would like to address that concern in their motion.

Commissioner Ruffner referred to PC Resolution 2020-16 in the desk packet. He noted that one of the whereas statements does address the easement as being a public easement referring to findings that were in the staff report. He then stated that he was inclined to vote in support of this petition.

Commissioner Ecklund requested that the findings on page 239 in the packet would be important to use as supporting adopting the resolution. She then read the finding into the record.

Mr. Huff stated that the current staff report also lists additional findings for 17 findings. He noted that the PC Resolution 2020-16 contained an error stating there were 18 findings, it needed to be corrected and changed to 17 findings.

**AMENDMENT MOTION:** Commissioner Whitney moved, seconded by Commissioner Ruffner to amended PC Resolution 2020-16 to reflect 17 findings as stated in the staff report.

See and hearing no discussion on the amendment Chair Martin brought it back to the commission for a vote.

**AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	3
Yes	Bentz, Carluccio, Ecklund, Fikes, Foster, Whitney, Venuti, Ruffner, Martin				
No	None				
Absent	Brantley, Ernst, Morgan				

Chair Martin asked if there was any further discussion on the main motion.

Commissioner Whitney noted that a whereas statement in the resolution which read "the Planning

Commission decided that the 10 foot wide drainage easement is a public easement based on the staff report and 17 findings” did cover whether or not the easement was public or private and an additional motion was not needed. He then asked Mr. Kelley if that was correct. Mr. Kelley replied that was correct and felt it was worth discussing this on the record so that everyone was clear about it. He then said the whereas statement in the resolution should sufficiently cover the issue.

See and hearing no further discussion on the main motion Chair Martin brought it back to the commission for a vote.

**MAIN MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	3
Yes	Bentz, Carluccio, Ecklund, Fikes, Foster, Whitney, Venuti, Ruffner, Martin				
No	None				
Absent	Brantley, Ernst, Morgan				

**AGENDA ITEM G. UTILITY EASEMENT VACATIONS**

2. Utility Easement Vacation of the following easements:

- 10 foot utility easement adjoining the south boundary of Lot 1, excluding 10 feet adjoining Owen Road right of way;
- 10 foot utility easement adjoining the east boundary of Lot 10, excluding the 10 feet adjoining Cowen Road right of way;
- 10 foot utility easement adjoining the east and north boundary of Lot 11, excluding the 10 feet adjoining Owen Road right of way,

located within Cowan-McFarland Subd. No. 3 (Plat KN 83-227), utility easements granted by Cowan McFarland Subdivision No 1 (Plat KN 1660) and Cowan-McFarland Subd. No. 3 (Plat KN 83-227); within Section 22, Township 5 North, Range 9 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-053V

Staff report given by Scott Huff

**STAFF REPORT**

PC Meeting: July 13, 2020

Purpose as stated in petition: Vacant not practical easements. Takes away from usable area of new lot.

Petitioners: Russell A. Stirman of Kennewick, WA.

Location: Off Owen Street and McFarland Road, Funny River area.

Notification: Notice of vacation mailings were sent by regular mail to 11 owners of property within 300 feet. Notice of the proposed vacation was emailed to 13 agencies and interested parties.

The public notice was posted on the Planning Department’s bulletin board at the KPB Administration Building.

The proposed vacations are within the Funny River Advisory Planning Commission (APC). The Funny River APC was not able to meet on this item. The information was sent to each of the APC members. One of the members submitted a written comment that he thought the easement request was in good order and that he would recommend approval.

Staff Comments: The utility easements proposed to be vacated are along interior lot lines of three parcels. The three parcels are proposed to be combined into one lot. The preliminary plat for Cowan McFarland

## **G. UTILITY EASEMENT VACATIONS**

- 1. Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2019-048V; Petitioner(s)/Owner(s): Annalisa Cox of Homer, AK & Former Land Owner, Peggi L. Patton of Homer, AK**

AGENDA ITEM G. UTILITY EASEMENT VACATIONS

G. Utility Easement Vacation

1. Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

**STAFF REPORT**

PC Meeting: July 13, 2020

**Purpose as stated in petition submitted on May 29, 2019:** The 10' drainage easement has not been used since it was granted in 1984. There is an alternative corridor in place on the Nelson Avenue ROW above the north lot line of the subject property. A long driveway permit on the Nelson Avenue ROW has been issued by the City of Homer to the Quiet Creek Park LLC Project. The long driveway permit requires that the existing drainage corridor remain in place on the North side of the long driveway. The current corridor on the Nelson Avenue ROW handles any storm or seasonal water runoff from the Quiet Creek Park LLC Project and above, as well as, the drainage plan in place in the Quiet Creek Park LLC Project. The owner understands that the City of Homer prefers not to cross personal property when other more adequate options or corridors are available to the City of Homer for drainage and seasonal runoff. The subject property is currently for sale and buyers are concerned about the future use of the subject property 10' drainage easement, therefore preventing them from making an offer on the subject property. This is creating an adverse effect to the subject property. Vacating this easement would not create any adverse effects to the surrounding properties.

**Petitioner:** AnnaLisa Cox, of Homer Alaska - current applicant and land owner  
(Peggi Patton of Homer, Alaska – original applicant and former land owner)

**Location:** on Heidi Court, in the City of Homer

**Notification:** Notice of vacation mailings were sent by regular mail to 17 owners of property within 300 feet and also the original applicant and Robert Molloy of Molloy Schmidt LLC. representing a neighboring land owner. Notice of the proposed vacation was emailed to 8 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building. The petition was published as part of the agenda in the Homer News on July 9, 2020.

**Utility Company Comments Received:**

Alaska Communications Systems: No objection.

ENSTAR Natural Gas: No objection.

GCI: No objection.

Homer Electric Association: No objection.

**Staff comments:**

June 24, 2019 - This drainage easement vacation was heard and approved by the Kenai Peninsula Borough Planning Commission. During the meeting the Planning Commission considered the proposed easement vacation, as well as the various comments that were submitted. Chairman Martin opened up the meeting to allow public comments. Seeing and hearing no one wishing to testify Chairman Martin closed public comment and discussion was opened among the Commission. A motion was made to approve the easement vacation and the motion passed unanimously.



July 17, 2019 - a Notice of Appeal of the Planning Commission's decision was submitted. The application was submitted by Tony Neal for Echo Trading Company LLC (Echo Trading). c/o Molloy Schmidt LLC. Tony Neal is the trustee of Delta Transfer and Storage Trust which is the owner of Echo Trading. Tony Neal (Echo Trading) is the developer of Barnett's South Slope Subdivision Quiet Creek Park Unit 2 (HM 2018-40) located 30 feet north of the drainage easement. Tony Neal (Echo Trading) is also the owner of Lot 8-A-1, AA Mattox Aplin 2019 Replat, located 177 feet to the west of the drainage easement.

May 6, 2020 – KPB Assembly conducted an Appeal Hearing following KPB Chapter 21.20 – Hearings and Appeals. The appellant presented the following issues for review in this matter. In its remand decision, within the Conclusion section on page 14, the Assembly provided instruction to the Planning Commission to “consider the arguments raised by the Parties in this matter, and take such subsequent action upon the Resolution as it determines is appropriate.” The primary arguments raised by the Appellant, along with staff response comments, are as follows:

1. Whether the Borough Planning Commission properly treated the subject easement as a “utility easement” when it considered and approved the proposed vacation.

*STAFF COMMENTS: Utility easement is defined in KPB 20.90 as follows, ‘Utility Easement. The right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage, wastewater disposal, and water facilities. The right of ingress and egress for conducting utility operations is implicit.’ Staff used this definition when determining what process to follow for the drainage easement vacation application.*

2. Whether the Borough Planning commission was obligated to conduct a public hearing regarding the proposed vacation prior to taking official action on the proposed vacation.

*STAFF COMMENTS: Under KPB 20.70.080 – Utility easement vacation, ‘A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right of way.’ Comments in opposition were received prior to the June 24, 2019 Planning Commission meeting. Due to those comments, the Planning Commission removed the item from the consent agenda and opened up the meeting to allow public comment and conducted a public hearing. After seeing and hearing no one in the audience, the Commission closed public testimony, deliberated on the vacation, and then approved the vacation application. On appeal, the Assembly determined that a property noticed public hearing was required and remanded to the Planning Commission so that it may conduct a public hearing regarding this matter.*

3. Whether KPB 20.70.210 requires the Borough Planning Commission to find that a proposed vacation serves the public interest prior to approving it.

*STAFF COMMENTS: The 10 foot drainage easement was a condition of approval by Homer City Council on March 22, 1999, to vacate and relocate a 25 foot underground utility easement, and vacate a 15 foot drainage easement on former Lot 24.*

*The City of Homer has jurisdiction for the use of the current 10 foot drainage easement. The City of Homer Advisory Planning Commission approved the vacation of the 10 foot drainage easement on May 15, 2019. Homer Public Works Department stated, ‘We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right of way. In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.’*

*The Planning Commission approved the vacation with findings 3, 5, and 6 showing that the City of Homer Advisory Commission approved the vacation of the 10 foot drainage easement.*

*The Planning Commission decision was forwarded to the Homer City Council. The City Council has 30*

days from the Planning Commission date of decision in which to veto the vacation. The Homer City Council did not affirm, or veto, the KPB Planning Commission decision to vacate the 10 foot drainage easement.

4. Whether the easement in question is a private easement, and if so, whether the Borough Planning Commission's action constitutes a taking without just compensation in violation of the United States and Alaska constitutions.

*STAFF COMMENTS: The 10 foot drainage easement was granted by Plat HM 99-64 on condition of approval by the Homer City Council. The easement was granted for public benefit, not public use. The easement is not a private easement. The easement was not granted to a specific person or parcel of land. The easement is under the City of Homer jurisdiction. Any use of the drainage easement, by the public, would require approval from the City of Homer Public Works Department.*

5. Whether the appeal procedure prescribed by Borough Ordinance 2019-29, which authorizes the Assembly to serve as hearing officer in this matter, violates KPB 21.20.220(B), which provides that appeals shall be heard by the Assembly.

*STAFF COMMENTS: This was an issue on appeal but not an issue that needs to be addressed by the Planning Commission on remand.*

6. Whether the Assembly, in rendering a decision in this matter, has authority to consider evidence not included in the Record on Appeal prepared and certified by the Borough Clerk.

*STAFF COMMENTS: This was an issue on appeal but not an issue that needs to be addressed by the Planning Commission on remand.*

#### **Excerpts from Remand Decision**

May 21, 2020 – Decision on Appeal issued by the Assembly stated the following,

At page 1, Introduction:

“For the reasons set forth herein, the Assembly finds that, while the Commission did correctly follow the procedures established by the Borough Code for determining whether to approve the vacation of a utility easement, which provides that such vacations do not require a public hearing, such a hearing is nonetheless required by Alaska law. Consequently, the Assembly REVERSES at the Commission’s action and REMANDS the matter to the Commission so that it may conduct a public hearing regarding this matter.

At Page 14, Conclusion:

‘The resolution to vacate the drainage easement is REVERSED, and the matter REMANDED back to the Planning Commission with the instruction that it conduct a public hearing regarding Resolution 2019-19, consider the arguments raised by the Parties in this matter and take such subsequent action upon the Resolution as it determines is appropriate. In taking such action, the Planning Commission shall specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision’s easement developers, including Mattox Subdivision.’

#### **Additional information - timeline of events**

September 9, 1983 – AA Mattox 1958 Addition Unit 2, Plat HM 83-89

- Owner: Pioneer Investments by Dayton Child

February 7, 1984 – AA Mattox 1959 Addition Unit 2 AMENDED, Plat HM 84-8,

- Owner: Pioneer Investments by Dayton Child
- The surveyor amended the plat by adding a 15 foot wide underground utility and drainage easement affecting Lot 24 and a 10 foot wide underground utility easement affecting Lot 25.

November 16, 1999 – AA Mattox Peggi’s Addition, Plat HM 99-64,

- Owner: Robert D. Patton and Peggi L. Patton
- Former Lot 24 and 25 were combined into Lot 24-A.
- A 10 foot drainage easement was granted on the west boundary of former Lot 25.
- The 25 foot utility easement (water and sewer) were moved from the common lot line to the southeast boundary of Lot 24-A.

November 14, 2018 – Barnett’s South Slope Subdivision Quiet Creek Park Unit 2, Plat HM 2018-40,

- Owner: Tony Neal – Echo Trading
- located on the north side of Nelson Avenue (south).
- exception was granted to KPB 20.30.030 – proposed street layout, to not provide a matching 30 foot dedication for Nelson Avenue (south). Nelson Avenue (south) remains a 30 foot dedicated right of way.
- The plat shows all lots using Nelson Avenue (north) for access. The Plat Committee approved the double frontage lots based on other physical conditions, and that all lots front on Nelson Avenue (north).

September 4, 2019 – AA Mattox Gwen’s 2019 Addn., Plat HM 2019-23

- Owner: Tony Neal – Echo Trading
- located on the west end of Nelson Avenue (south)
- Exception granted to KPB 20.30.030 – extension of right of way for Nelson Avenue (south)
- Exception granted to KPB 20.30.100 – dedication of a cul-de-sac on the west end of Nelson Avenue (south).
- Per the request for review submittal, the true access plan for this replatted lot is a driveway easement from Sanjay Court in Quiet Creek Park Subdivision.

March 2, 2020 – AA Mattox Aplin 2019 Replat, Plat HM 2020-3

- Owner Tony Neal – Echo Trading, located on the west end of Nelson Avenue (south)
- Carried forward exceptions granted to HM 2019-23
  - o KPB 20.30.030 – extension of right of way for Nelson Avenue (south)
  - o KPB 20.30.100 – dedication of a cul-de-sac on the west end of Nelson Avenue (south)

**Findings:**

1. Per the petition, the drainage easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and Homer Electric Association provided written non-objection to the proposed vacation.
3. The Homer Advisory Planning Commission recommended approval of the proposed vacation on May 15, 2019.
4. AA Mattox Peggi’s Addition (Plat HM 99-64) granted a 10-foot wide drainage easement on Lot 24-A.
5. Per the Homer Advisory Planning Commission hearing packet, the city prefers to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible.
6. Per the Homer Advisory Planning Commission hearing packet, a draining corridor exists easterly along Nelson Avenue and southerly down Kallman Road.
7. KPB 20.90 “Easement” B. - Utility Easement. The right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage, wastewater disposal, and water facilities. The right of ingress and egress for conducting utility operations is implicit.
8. Staff used KPB 20.90 “Easement” definition when determining what process to follow for the drainage easement vacation application.
9. Under KPB 20.70.080 – Utility easement vacation, ‘A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right of way.’
10. June 24, 2019 Planning Commission meeting, was opened to allow public comment and the Planning Commission conducted a public hearing. After seeing and hearing no one in the audience, the

Commission closed public testimony, deliberated on the vacation, and then approved the vacation application.

11. The 10 foot drainage easement was a condition of approval by Homer City Council on March 22, 1999, to vacate and relocate a 25 foot underground utility easement, and vacate a 15 foot drainage easement on former Lot 24.
12. The City of Homer Advisory Planning Commission approved the vacation of the 10 foot drainage easement on May 15, 2019.
13. Homer Public Works Department stated, 'We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right of way. In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.'
14. The 10 foot drainage easement was granted by Plat HM 99-64.
15. The easement was granted for the public benefit and was not granted to a specific person or parcel of land. The easement is not a private easement.
16. Any use of the drainage easement, by the public, would require approval from the City of Homer Public Works Department.
17. The objection of a neighboring land owner was considered in full. Prior to plat approvals for Barnett's South Slope Subdivision Quiet Creek Park Unit 2, AA Mattox Gwen's 2019 Addn., and AA Mattox Aplin 2019 Replat, the developer requested and was granted certain relevant exceptions to KPB subdivision regulations. Specifically, relevant to this issue is the fact that the developer did not provide a 30 foot matching right-of-way dedication for Nelson Avenue (south), or the extension of Nelson Avenue (south) based on the reason provided that the lots in Quiet Creek Subdivision had superior, alternative access and would not use Nelson Avenue for access. Nelson Avenue was never intended to serve as the vehicular access point for lots within Quiet Creek Subdivision and the City of Homer has stated that it prefers for the current drainage system to remain in place.

**STAFF RECOMMENDS:**

The Planning Commission complete the following:

- Conduct a public hearing regarding Resolution 2020-16.
- Consider the arguments raised by the Parties in the appeal.
- Address whether the drainage easement is a private easement or a public easement.
- Take action upon the Resolution as it determines is appropriate.

Based on the means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacation, and findings 1-18, STAFF RECOMMENDS approval of the easement vacation, subject to:

1. Provide a sketch clearly indicating the draining easement being vacated to be recorded with KPB Planning Commission Resolution 2019-19, becoming Page 2 of 2.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicants will provide the recording fee for the resolution and its attachments to the Planning Department.

**NOTE: Action after denial of vacation (KPB 20.70.120)**

**A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**

**B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

END OF STAFF REPORT

In the matter of the Kenai Peninsula Borough )  
Planning Commission's decision to approve )  
Resolution 2019-19, which approved )  
vacation of the drainage easement on Lot )  
24-A, AA Mattox Peggi's Addition, KPB File No. )  
2019-048V. )

Kenai Peninsula Borough

Echo Trading LLC, )  
Appellants )

Case No. 2019-02-PCA

Justin and Annalisa Cox, )  
Applicant. )

**DECISION ON APPEAL**

**Introduction**

Appellant ECHO TRADING COMPANY, LLC ("Appellant" or "ET") appeals the Kenai Peninsula Borough ("Borough") Planning Commission's ("Commission") Resolution 2019-19 ("Resolution"), which authorized the "...vacation of the 10-foot-wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64)."<sup>1</sup>

For the reasons set forth herein, the Assembly finds that, while the Commission did correctly follow the procedures established by the Borough Code for determining whether to approve the vacation of a utility easement, which provides that such vacations do not require a public hearing, such a hearing is nonetheless required by Alaska law. Consequently, the Assembly REVERSES the Commission's action, and REMANDS the matter to the Commission so that it may conduct a public hearing regarding this matter.

<sup>1</sup> See Resolution at R4-5 and Notice of Decision at R6-R7.

## **I. AUTHORITY OF THE ASSEMBLY ACTING AS HEARING OFFICER**

After the appeal was filed by ET, the Borough recognized that its Code of Municipal Ordinances did not contain a procedure for an appeal of a utility easement vacation. The Borough Assembly decided that it would act as the Hearing Officer, a role that the Assembly is authorized to perform. The Assembly is an administrative agency and is subject to administrative appeals. See *Keiner v. City of Anchorage*, 378 P.2d 406, 410 (Alaska 1963) (“the term ‘administrative agency’ should be construed broadly so as to include a municipal council, acting as a board of adjustment, since it is performing administrative functions”); see also *Winegardner v. Greater Anchorage Area Borough*, 534 P.2d 541, 543-44 (Alaska 1975). Pursuant to KPB 21.20.340 . . . “[T]he hearing officer may remand, affirm, or reverse, or modify, in whole or in part, the appealed decision or order.”

## **II. PROCEDURAL HISTORY**

On April 25, 2019, the Borough Planning Department received a Petition to Vacate Utility Easement from Peggi Patton, predecessor-in-interest to the Applicant with respect to the property described as Lot 24A AA Mattox Peggi’s Addition Plat No. 99-64. [R.1] Ms. Patton’s Petition requested that the Borough vacate the 10-foot drainage easement located on the subject property because concerns regarding the easement’s future use were inhibiting her ability to sell the property, and because there existed an alternative drainage corridor along the Nelson Avenue right of way, which runs adjacent to the property, which provides adequate drainage to upland properties, including those properties that are part

*In the Matter of the Appeal of Echo Trading Company, LLC*, Case No. 2019-02-PCA  
**DECISION ON APPEAL**  
Page 2 of 15

of the Quiet Creek Park LLC Project. [R. 2] Ms. Patton submitted to the Borough in support of her Petition notices of non-objection by Enstar Natural Gas Company, Alaska Communications Systems, GCI, and the Homer Electric Association. [R. 32; 37-39; 54]

The City of Homer Advisory Planning Commission considered the proposed vacation at its May 15, 2019 meeting. [R. 170-73] The official minutes for the May 15 meeting show that the proposed vacation was approved as part of the Advisory Planning Commission's consent agenda, and that it provided no public hearing regarding the matter. [R. 170-73]

On May 31, 2019, the Borough Planning Department issued a Notice of Proposed Utility Easement Vacation to the owners of those properties within a 300-foot radius of the subject easement. [R. 64-65] The Notice provided the location of the easement, the justifications for Ms. Patton's request, and explained that the Borough Planning Commission would consider the proposal at its June 24, 2019 meeting. [R. 64] In addition, the Notice requested that interested parties submit any written comments by June 21, 2019. [R. 64]

On June 8, 2019, Tony Neal, the Appellant's Member-Manager, submitted to the Department written comments in opposition to the proposed vacation. [R. 61-62] In his comments, Mr. Neal explained that he was in Western Alaska and would therefore be unable to attend the June 24 meeting. [R. 61] Among other things, Mr. Neal asserted in his comments that: (1) there exists an extensive public record detailing drainage concerns in the area of the Quiet Creek Park

subdivision; (2) the immediate vicinity has been designated as wetlands regulated by the U.S. Army Corps of Engineers; (3) the Pattons had improperly diverted drainage into the Nelson Avenue right of way; and, (4) the Pattons' improper acts is the reason that the easement is not currently being used for drainage. [R. 61]

On June 11, 2019, after being forwarded Mr. Neal's comments by the Department, Ms. Patton submitted her own responsive written comments. [R. 42] In her comments, Ms. Patton stated that the easement had never been used for drainage, and that the Pattons had not diverted drainage to the Nelson Avenue right of way. [R. 42] On June 12, 2019, City of Homer Public Works Director & City Engineer Carey S. Meyer submitted written comments to the Borough in response to the Appellant's written objections. [R. 43-45] On June 18, 2019, Mr. Neal submitted additional public comments to the Planning Commission, in which he contested a portion of the information provided by Mr. Meyer and submitted additional information in support of the Appellant's position. [R. 50]

The Planning Commission considered the proposed vacation, as well as the various comments submitted to it by interested parties, at its June 24, 2019 meeting. [R. 50-52; T. 1-3] In accordance with the Department's conclusion that the Commission was not required to conduct a public hearing regarding the proposed vacation, it did not do so. [R. 50-52; T. 1-3] The Commission ultimately approved the proposed vacation by unanimous consent and issued its written decision on July 2, 2019. [R. 52; 110-11; T. 3]



On July 17, 2019, the Appellant submitted its Notice of Appeal from the Commission's June 24, 2019 decision, pursuant to Kenai Peninsula Borough Code Section 21.20.230(B). [R. 104-11] Subsequent to the Appellant's filing of its Notice of Appeal, the Borough determined that, while KPB 21.20.230(B) mandated that the Assembly hear appeals from the Commission's decisions regarding vacation petitions according to the provisions of KPB Chapter 20.70, that chapter did not provide procedures for doing so. [R. 112-13] Accordingly, the Borough Assembly adopted Ordinance 2019-29, which provided that the appeal procedures would be governed by those set forth at KPB 21.20.010 et seq. and prescribed additional time for party testimony and rebuttal. [R. 112-13]

The Borough Clerk issued a Notice of Certification of the Record and Notice of Hearing Officer and Hearing Date on December 30, 2019. [R. 125-26] On January 13, 2020, the Applicant submitted a Motion to Correct the Record, arguing that the Record on Appeal as certified by the Borough Clerk erroneously omitted a driveway permit relevant to the issues on appeal. [R. 234] Upon considering the Appellant's Opposition to the Motion to Correct the Record, and the Borough's Non-Opposition, the Assembly issued an Order on February 20, 2020 declining to rule on the Motion, explaining that it would instead take the request under advisement, and would make a ruling at the conclusion of this Appeal. [R. 247]

The Appellant, Applicant, and the Borough each submitted Opening Statements to the Assembly on February 24, 2020. [R. 127-188] On March 2, 2020,

the Borough submitted a Motion to Strike the Appellant's Opening Statement, arguing that it addressed evidence that was not part of the Certified Record on Appeal. [R. 252-81] Upon considering the Appellant's Opposition and the Applicant's Response, the Assembly again declined to rule on the Motion, elected to again take the matter under advisement for resolution following the Appeal Hearing, and directed the Appellant and the Borough to submit supplemental briefing on the question of whether the Assembly should consider evidence outside of the Certified Record on Appeal in rendering its decision. [R. 300-302]

The Assembly conducted the Appeal Hearing on May 6, 2020. Each of the Parties, as well as the other who submitted Entries of Appearance in this matter, were in attendance. At the Appeal Hearing the Assembly: (1) granted the Applicant's Motion to Correct the Record; (2) denied the Borough's Motion to Strike Appellant's Opening Statement; and, (3) denied Appellant's Objection to the introduction of new evidence. At the conclusion of the Appeal Hearing the Assembly notified the Parties that it would take their respective arguments under advisement, conduct deliberations, and issue this written decision.

### **III. ISSUES PRESENTED FOR REVIEW**

The Appellant has presented the following issues for review in this matter:

1. Whether the Borough Planning Commission properly treated the subject easement as a "utility easement" when it considered and approved the proposed vacation.

2. Whether the Borough Planning Commission was obligated to conduct a public hearing regarding the proposed vacation prior to taking official action on the proposed vacation.

3. Whether KPB 20.70.210 requires the Borough Planning Commission to find that a proposed vacation serves the public interest prior to approving it.

4. Whether the easement in question is a private easement, and if so, whether the Borough Planning Commission's action constitutes a taking without just compensation in violation of the United States and Alaska constitutions.

5. Whether the appeal procedure prescribed by Borough Ordinance 2019-29, which authorizes the Assembly to serve as hearing officer in this matter, violates KPB 21.20.220(B), which provides that appeals shall be heard by the Assembly.

6. Whether the Assembly, in rendering a decision in this matter, has authority to consider evidence not included in the Record on Appeal prepared and certified by the Borough Clerk.

#### **IV. STANDARD OF REVIEW**

The Alaska Supreme Court has consistently held that the "review of zoning board decisions is narrow and...a presumption of validity is accorded those decisions."<sup>2</sup> Findings of fact are reviewed according to the substantial evidence

---

<sup>2</sup> *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 173 (Alaska 1993). See also *Luper v. City of Wasilla*, 215 P.3d 342, 345 (Alaska 2009); *Pruitt v. City of Seward*, 152 P.3d 1130, 1139 (Alaska 2007); *Griswold v. City of Homer*, 55 P.3d 64, 67-68 (Alaska 2002); *Village of Eklutna v. Bd. of Adjustment*, 995 P.2d 641, 643 (Alaska 2000).

test.<sup>3</sup> According to that test, the decision of a municipal “...zoning body shall not be reversed if it is supported by substantial evidence.”<sup>4</sup> Substantial evidence is that which “...a reasonable mind might accept as adequate to support a conclusion.”<sup>5</sup> Under Alaska law, a reviewing body may “...not evaluate the strength of the evidence, but merely note[s] its presence.”<sup>6</sup>

Where the decision of a local zoning body requires the interpretation of a zoning ordinance, that interpretation is granted broad deference whenever it does not present a question of simple statutory construction, but instead involves application of the agency’s specialized expertise.<sup>7</sup> Deference is also warranted when a zoning authority’s interpretation represents the formulation or application of fundamental policy.<sup>8</sup> When a zoning authority’s permitting decision implicates such expertise or policymaking, the determination as to whether that decision was in error is made according to the reasonable basis standard, and the reviewing body will “defer to the agency’s interpretation unless it is plainly erroneous and inconsistent with the regulation.”<sup>9</sup>

---

<sup>3</sup> *Luper*, 215 P.3d at 345; *Griswold*, 55 P.3d at 67; *Balough v. Fairbanks North Star Borough*, 995 P.2d 245, 254 (Alaska 2000).

<sup>4</sup> *Griswold*, 55 P.3d at 67-68.

<sup>5</sup> *Id.*, at 67 (quoting *DeYonge v. NANA/Marriott*, 1 P.3d 90, 94 (Alaska 2000) (citations omitted)).

<sup>6</sup> *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 179 n.26 (Alaska 1986).

<sup>7</sup> *Balough*, 995 P.2d at 254.

<sup>8</sup> *Id.*

<sup>9</sup> *Luper*, 215 P.3d at 345 (internal quotation omitted).

## V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Appellant has asserted, both in its comments to the Commission, and in its arguments to this body, that the upland property it owns would suffer adverse effects directly related to the Borough's vacation of the subject drainage easement.

2. The Alaska Constitution provides that, "No person shall be deprived of life, liberty, or property, without due process of law."<sup>10</sup> The Alaska Supreme Court has held that the Alaska Constitution's due process protections are greater than those afforded by the U.S. Constitution.<sup>11</sup> Therefore, we need only analyze Appellant's due process arguments under the requirements of the Alaska Constitution.

3. Pursuant to Alaskan Caselaw "an easement creates a nonpossessory property right to enter and use land in the possession of another [the servient estate owner] and obligates the possessor [of the burdened land] not to interfere with the uses authorized by the easement."<sup>12</sup>

4. As an affected property owner, the Appellant's interest in protecting its property from erroneous deprivation resulting from the Borough's action is protected by the due process clause of the Alaska constitution.

---

<sup>10</sup> Alaska Const. art. I, § 7.

<sup>11</sup> *Brandner v. Providence Health & Services-Washington*, 394 P.3d 581, 589 (Alaska 2017).

<sup>12</sup> *Hansen v. Davis*, 220 P.3d 911, 913 (Alaska 2009) quoting Restatement (Third) of Property: Servitudes § 1.2(1) (2000).

At a minimum, due process requires that those at risk of deprivation due to government action be granted both a hearing and “a ‘meaningful’ opportunity to be heard[.]”<sup>13</sup>

5. Alaska has adopted the test established by the U.S. Supreme Court’s decision in *Mathews v. Eldridge*<sup>14</sup> for determining which specific procedures are required in a particular administrative context.<sup>15</sup> That test considers the following factors: (1) the private interest affected by the government action; (2) the risk of an erroneous deprivation; and, (3) the government’s interest, including the fiscal and administrative burdens that additional or substitute procedural requirements would entail.<sup>16</sup>

6. Although the Appellant was permitted to submit comments for the Commission’s consideration at the June 24, 2020 meeting, the Appellant was not allowed an opportunity to fully present its position at a public hearing.

7. In *Nash v. Mat-Su Borough*, which also concerned an administrative appeal arising from a municipal land use action, the Alaska Supreme Court explained:

*Due process in the administrative context does not demand that every hearing comport to the standards a court would follow, but rather that the administrative process afford an impartial decision-maker, notice and the opportunity to be heard, procedures consistent with the essentials of a fair trial, and a reviewable record.*<sup>17</sup>

---

<sup>13</sup> *Anderson v. Alaska Housing Finance Corp.*, Supreme Court No. S-17077 (Alaska 2020) (quoting *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972)).

<sup>14</sup> 424 U.S. 319 (1976).

<sup>15</sup> *Haggbloom v. City of Dillingham*, 191 P.3d 991, 995-96 (Alaska 2008).

<sup>16</sup> *Id.*, at 995.

<sup>17</sup> *Nash v. Mat-Su Borough*, 239 P.3d 692, 699 (Alaska 2010).

The administrative hearing must be *adversarial* but need not be a full judicial hearing.<sup>18</sup>

8. Some of the specific due process requirements that the Alaska Supreme Court has found apply to administrative hearings include the rights to: call witnesses and present witness testimony;<sup>19</sup> object to administrative procedures;<sup>20</sup> receive notice of all legal and administrative factors, and any evidence, that the government intends to rely on in making its decision;<sup>21</sup> and, when the action involves issues of credibility, an in-person hearing.<sup>22</sup>

9 In addition, while the Alaska Supreme Court has never addressed whether an individual may be denied an opportunity to be represented by counsel at an administrative hearing, it has on several occasions viewed that factor as supporting a conclusion that an individual had been afforded adequate due process.<sup>23</sup>

10. The Planning Department and the Commission each acted in accordance with applicable provisions of the Kenai Peninsula Borough Code. The decision not to conduct a public hearing complied with the provisions of KPBC 20.70.080.

---

<sup>18</sup> *North Slope Borough v. Barraza*, 906 P.2d 1377, 1384 (Alaska 1995) (citing *Storrs v. Municipality of Anchorage*, 721 P.2d 1146 (1986); *Nichols v. Eckert*, 504 P.2d 1359, 1365 (Alaska 1973)).

<sup>19</sup> *Nash v. Mat-Su Borough*, 239 P.3d 692, 699 (Alaska 2010).

<sup>20</sup> *Id.*, at 700-01 (Alaska 2010).

<sup>21</sup> *Much v. Alaska Police Standards Council*, S-16225, No. 1673 (2018) (Memorandum Opinion).

<sup>22</sup> *Whitesides v. State*, 20 P.3d 1130, 1135-37 (Alaska 2001).

<sup>23</sup> See *Garibay v. State*, 341 P.3d 446 (Alaska 2014); *Haggblom v. City of Dillingham*, 191 P.3d 991 (Alaska 2008); *Jurgens v. City of North Pole*, 153 P.3d 321 (Alaska 2007).

11. The definition set forth at KPB 20.90.010 for the term “Utility Easement” explicitly refers to “drainage” as being within its ambit.<sup>24</sup>

12. The Appellant raised a number of substantial issues regarding the characterization of the drainage easement and the process used by the Commission. Specifically, Appellant argued that the drainage easement was in fact a special purpose easement as defined under KPB 20.90.010. Additionally, the Appellant argued that if the easement was vacated, then the plat would be altered and AS 29.40.130 required a public hearing.

13. KPB 20.70.130 provides that upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.<sup>25</sup>

14. The Homer City Council did not veto the vacation of the easement. However, such inaction constitutes consent under KPB 20.70.110, which states, “If no veto is received by the Planning Director within the specified period, the City or Borough shall be considered to have given consent to the vacation.”

---

<sup>24</sup> The definition defines utility easements as “electric, telephone, gas, drainage, wastewater disposal, and water facilities.”

<sup>25</sup> It is possible that KPB 20.70.130 is not applicable to utility easements. This is an issue that the Commission should address in the remand.



15. The main issue in the appeal appears to be whether due process was afforded to the parties and whether the Appellant was denied due process. While the Commission in rendering its decision to vacate the drainage easement provided a list of Findings, the Findings do not appear to address the issues presented in this Appeal.<sup>26</sup>

16. Applying the first factor in the *Mathews v. Eldridge* test to the facts at hand, as well as the Appellant's assertions that its property will be adversely affected by the Borough's vacation of the subject easement, the Borough Assembly finds that the Appellant's private interest in ensuring that its property is protected from the adverse effects of the elimination of a public drainage easement is important.

17. In considering the second factor of the *Mathews v. Eldridge* test, the Borough Assembly finds that the failure to conduct a full public hearing in such a way that the Appellant is afforded a full and meaningful opportunity to present its case to the Borough Planning Commission creates a significant risk of erroneous deprivation. This is especially so in light of the fact that, since the Commission's June 24, 2019 meeting, the parties have submitted several arguments to this body regarding whether the subject easement was properly treated as a utility easement, whether it is public or private in nature, and whether the Borough is required to comply with the procedures set forth at AS 29.40.120-.160. Each of

---

<sup>26</sup> See [R. 51].

these are questions that the Commission might have been meaningfully explored if it had conducted a public hearing regarding the matter, and which it is uniquely qualified to decide.

18. The third factor of the *Mathews v. Eldridge* analysis requires consideration of the nature of the Borough's interest in not requiring a public hearing for the vacation of utility easements and how that interest may be affected if required to adopt additional procedures. The Assembly acknowledges that conducting a public hearing involves the consumption of Borough resources that could be directed to other ends. However, the Assembly ultimately finds that any burdens associated with the conduct of public hearings is minimal in light of the Appellant's interests, and the apparent risks of erroneous deprivation that may result from approving the vacation without first affording the Appellant a full and fair opportunity to make its case at a public hearing.

19. The Borough Assembly finds that all other issues raised by the Parties in these proceedings may be properly raised before and addressed by the Commission on remand, and therefore declines to address them.

## **VII. CONCLUSION**

The resolution to vacate the drainage easement is REVERSED, and the matter is REMANDED back to the Commission with the instruction that it conduct a public hearing regarding Resolution 2019-19, consider the arguments raised by the Parties in this matter, and take such subsequent action upon the Resolution as it determines is appropriate. In taking such action, the Commission shall specifically

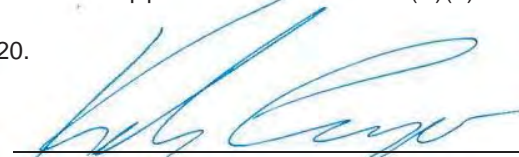
*In the Matter of the Appeal of Echo Trading Company, LLC, Case No. 2019-02-PCA*  
**DECISION ON APPEAL**  
Page 14 of 15

address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Mattox Subdivision.

**VIII. NOTICE OF RIGHT TO APPEAL**

This Decision constitutes the final decision of the Assembly as the Hearing Officer of the Kenai Peninsula Borough in this matter. This Decision may be appealed within 30 days of the date of the Certificate of Distribution of the Decision, in accordance with Kenai Peninsula Code Section 21.20.360, AS 22.10.020(d), AS 29.40.060 and Alaska Rule of Appellate Procedure 602(a)(2).

Dated this 21<sup>st</sup> day of May, 2020.

  
 Kelly Cooper, Chair (Assembly President)

CERTIFICATE OF SERVICE			
I, John Blankenship, Clerk of the Kenai Peninsula Borough, do hereby certify that, I served the foregoing notice.			
<input checked="" type="checkbox"/>  Signature		Dated this 21st day of May, 2020.	
<i>Appellant:</i> Tony Neal Echo Trading LLC via agent	<i>Appellant's Agent:</i> Molloy Schmidt LLC bob@molloysschmidt.com	Annalisa Cox a.cox.109@gmail.com	
Kenai Peninsula Borough Marcus Mueller, Interim Planning Director mmueller@kpb.us	Kenai Peninsula Borough Sean Kelley, Deputy Borough Attorney skelley@kpb.us	Kenai Peninsula Borough Scott Huff, Platting Manager shuff@kpb.us	

**MEMORANDUM**

**TO:** Blair Martin, Chair  
Planning Commission Members

**FROM:** Sean Kelley, Deputy Borough Attorney *SK*

**CC:** Marcus Mueller, Acting Planning Director

**DATE:** July 1, 2020

**RE:** AA Mattox Peggi's Addition – Utility (drainage) Easement Vacation

---

This memo recommends that the Planning Commission follow its standard public hearing procedure, allow any individual who wants to speak on the matter an opportunity to testify, and consider all testimony and evidence presented in this matter. Following the conclusion of all public testimony and discussion, the Planning Commission should enter a decision on the merits of the vacation petition in accordance with the Assembly's remand Decision on Appeal (Hereinafter the "Decision").

**Background**

On April 25, 2019, the Kenai Peninsula Borough (KPB) Planning Department received a petition to vacate a 10-foot drainage easement within Lot 24-A, AA Mattox Peggi's Addition, Plat HM 99-64. The application was submitted by the owner of Lot 24-A, Peggi L. Patton, 4510 Heidi Court, Homer, AK 99603.

The petition was processed following KPB 20.70.080 Utility Easement vacations. Borough code defines a Utility Easement to include drainage easements.<sup>1</sup> Public notice and publication of the easement vacation was mailed in accordance with borough code. The applicant provided reviews from the utility providers: ENSTAR, Homer Electric Association, Alaska Communications Systems, and GCI. The applicant provided City of Homer Advisory Planning Commission minutes that recommended approval of the vacation of the drainage easement. Several comment letters were received and provided to the KPB Planning Commission (hereinafter the "Planning Commission"). Tony Neal, a nearby land owner submitted letters stating concerns with the proposed vacation and that he was opposed to the vacation. Peggi Patton, the applicant and land owner at the time the petition was filed submitted a letter. Carey Meyer, City of Homer Public Works Director/City Engineer submitted a letter in response to Mr. Neal's concerns.

---

<sup>1</sup> See KPB 20.90.010 - Definitions.

The Planning Commission reviewed the drainage easement vacation petition, staff report, supporting information, and written testimony at the June 24, 2019 meeting. The Planning Commission opened the item for public comment. After seeing and hearing no one wishing to comment, the item was brought back to the commission. A motion was made, and seconded, to approve the vacation of the drainage easement. After a brief discussion, the Planning Commission unanimously approved the vacation.

On July 2, 2019 a notice of decision for the KPB Planning Commission meeting of June 24, 2019 was mailed to affected parties. On July 17, 2019, the Kenai Peninsula Borough Clerks office received a completed appeal form and supporting documentation from Echo Trading LLC., c/o Molloy Schmidt LLC, the Appellant, appealing the Planning Commission decision approving the drainage easement vacation. Subsequently, a cover letter and the Planning Commission meeting minutes were sent to Homer City Council on August 12, 2019. At a special meeting on September, 2019, Homer City Council met to review the drainage easement vacation petition. The City of Homer did not veto or affirmatively consent to the Borough's decision regarding the easement. Following the City's failure to veto, the Applicant indicated that it was not withdrawing the appeal documents filed in July and that its appeal to the Assembly should move forward. On May 6, 2020, the Assembly, sitting as hearing officer, heard the appeal and on May 21, 2020 the Assembly entered its decision remanding the matter back to the Planning Commission with instructions to notice this matter for public hearing and to hold a public hearing on the subject easement vacation petition.

#### **Echo Trading LLC Requests**

Echo Trading LLC ("Echo Trading"), through its attorneys Molloy Schmidt LLC, has submitted a number of requests in this matter, the primary requests are addressed below:

1. Jurisdiction: Was subject easement granted to public or dedicated to a private party?

It is misleading for Echo Trading to say the Planning Department's position is that the easement was not dedicated to the public. The source of the misunderstanding may be term confusion. Borough staff distinguishes "dedicate" and "grant" for platting purposes as follows: an owner *dedicates* right-of-way and *grants* easements on a plat.<sup>2</sup> The subject easement was *granted* to the public for general public benefit but not for public use. It is not a public area or public use easement. Initially, Echo Trading took the position that the easement was a public area easement. Echo Trading's current position is that the easement is a private easement that was not granted/dedicated to the public. Throughout this process staff has maintained that the subject easement was granted for public (rather than private) benefit but not public use. Looking

---

<sup>2</sup> Plat HM 99-64 supports this with language that the owner dedicates "all rights-of-way to public use and grant all easements to the use shown."

at the four corners of the subject Plat HM 99-64 there is no express grant or dedication to a private party and the borough is not aware of any contract or conveyance document that grants the subject easement to a private party.

In reaching its decision on the merits, the Planning Commission should determine whether or not Plat HM 99-64 granted the subject easement to the public. It is not within the Planning Commission's scope of review to determine the legal interests or clear title of the respective parties.<sup>3</sup> Staff submits that hearing a vacation petition concerning a borough approved, plat granted easement is within the Planning Commission's jurisdiction.<sup>4</sup>

2. Hearing Procedure: request to hold an administrative trial

The Assembly's Decision remanded this matter to the Planning Commission to allow a full, noticed, opportunity to be heard. Echo Trading should certainly be allowed an opportunity to be heard. However, the Decision does not require bifurcation nor does it require the opportunity to question or cross examine witnesses. The Decision also does not direct the Planning Commission to hold a special hearing. It is appropriate to hear the subject vacation similar to all other vacations requiring public hearing. Following standard practice is fair to all parties involved.

Echo Trading's original issue on appeal was that the published agenda for this matter was noticed as an item not requiring public hearing. Echo Trading did not assert that the Planning Commission's public hearing procedure must include trial-like procedures. Due process does not require the Planning Commission to treat a public hearing the same as a court proceeding; which is called an "administrative trial" for purposes herein (i.e. witnesses, cross examination, motion practice, and a more formal court-like evidentiary process). The Assembly did not order or direct the Planning Commission to hold an administrative trial. The Decision directs the Planning Commission to hold a public hearing.<sup>5</sup>

**Therefore, in accordance with the Assembly's Decision, this matter on remand was noticed as a public hearing and a public hearing must be held. All submitted documentation or evidence should be considered. In addition, any individual who wants to provide public testimony should be allowed to do so.** The Planning Commission may also decide that this item warrants augmenting the time for public testimony beyond 5 minutes per speaker. There are no extraordinary procedural requirements beyond that.

It is recommended that the Planning Commission treat this matter as it would treat any

---

<sup>3</sup> The question of whether Echo Trading LLC has a legal interest in the easement as the dominant tenement / unnamed beneficial holder of the easement is a legal issue for a court of law to determine. See AS 09.45.010 - .990 (Superior Court has jurisdiction to hear quiet title actions).

<sup>4</sup> Note there is a difference between a developer/owner granting an easement on a plat and surveyor/staff depicting on a plat a known easement/encumbrance of record. In the present case, the owner granted the easement on the plat.

<sup>5</sup> See Assembly's Decision on Appeal at pp. 1, 14-15.

other vacation petition set for public hearing and follow its normal, established public hearing procedure. Holding an administrative trial, as requested by Echo Trading, for this vacation petition is problematic. As a matter of precedent, converting items set for public hearing into mini trials upon request would be an immense administrative burden. Administrative staff and the commission are not judicially trained and cannot be expected to turn every contested public hearing into a trial. Trials are time intensive and expensive—during both pre-trial procedure (motion practice, discovery) and at the hearing (attorneys, witnesses, cross examinations, evidentiary issues). If the Assembly truly intended to direct the Planning Commission to conduct an administrative trial in this matter, a more specific directive from the Assembly is needed.

### 3. Request to postpone

The Planning Commission may decide to postpone this hearing upon a properly made motion and majority decision. Typically commenting neighbors do not dictate when a matter is heard. It is staff's understanding that the landowner wants the matter to be heard at the Planning Commission's regular meeting on July 13, 2020. This is not rushed. The Assembly entered its decision on May 21, 2020. The vacation petition has been pending since April of 2019. All parties were provided advance notice that this item could be set for public hearing on July 13, 2020 and interested parties will have ample opportunity to submit written comments and other evidence for consideration.

### Conclusion

It is recommended that the Planning Commission consider all testimony and evidence and enter a decision on the merits. This memo intentionally avoids a recommendation on the merits of the petition. This memo is provided in response to claims that the Assembly's Decision, and/or Alaska statute, requires bifurcation and trial-like procedures. Article I, section 7 of the Alaska Constitution guarantees the right of due process. Due process in the administrative context does not demand that every hearing comport to the standards a court would follow. Due process in the administrative context affords an impartial decision maker, notice, the opportunity to be heard, procedures consistent with the essentials of a fair trial, and a reviewable record.<sup>6</sup>

In this case, the matter will be properly noticed for public hearing. There will be an impartial decision maker. All individuals that want to speak on this matter should be permitted time to speak. There shall be opportunity to submit documentation and evidence, and all information that is submitted should be considered by the Planning Commission. The established public hearing process used by the Planning Commission satisfies due process in the administrative context and therefore the recommendation is to follow standard practice and procedure in this case.

---

<sup>6</sup> See *Nash v. Mat-Su Borough*, 239 P.3d 692, 699 (Alaska 2010)

AGENDA ITEM F. VACATIONS NOT REQUIRING A PUBLIC HEARING

F. Utility Easement Vacation

1. Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

STAFF REPORT

PC Meeting: June 24, 2019

Purpose as stated in petition: The 10' drainage easement has not been used since it was granted in 1984. There is an alternative corridor in place on the Nelson Avenue ROW above the north lot line of the subject property. A long driveway permit on the Nelson Avenue ROW has been issued by the City of Homer to the Quiet Creek Park LLC Project. The long driveway permit requires that the existing drainage corridor remain in place on the North side of the long driveway. The current corridor on the Nelson Avenue ROW handles any storm or seasonal water runoff from the Quiet Creek Park LLC Project and above, as well as, the drainage plan in place in the Quiet Creek Park LLC Project. The owner understands that the City of Homer prefers not to cross personal property when other more adequate options or corridors are available to the City of Homer for drainage and seasonal runoff. The subject property is currently for sale and buyers are concerned about the future use of the subject property 10' drainage easement, therefore preventing them from making an offer on the subject property. This is creating an adverse effect to the subject property. Vacating this easement would not create any adverse effects to the surrounding properties.

Petitioner: Peggi Patton of Homer, Alaska

Location: on Nelson Avenue and Heidi Court, in the City of Homer

Notification: Notice of vacation mailings were sent by regular mail to 17 owners of property within 300 feet. Notice of the proposed vacation was emailed to 8 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

The City of Homer Advisory Planning Commission recommended approval of the drainage easement vacation on May 15, 2019.

Comments Received:

Alaska Communications Systems: No objection.

ENSTAR Natural Gas: No objection.

GCI: No objection.

Homer Electric Association: No objection.

Tony Neal: Objection

Mr. Neal is a land owner of Lot 8 and the remainder of Tract A, which are two lots located at the west end of Nelson Avenue. The two lots are currently being combined into one parcel, Lot 8-A of proposed AA Mattox Subdivision Gwen's 2019 Addition. The Plat committee approved this replat at the May 28, 2019 meeting on the condition of an access easement be granted from Sanjay Court. Currently the only legal access to the remainder of Tract A is from Nelson Drive.

Mr. Neal also owns the 37 Acre development of Barnett's South Slope Subdivision Quiet Creek Park Unit 2 (HM 2018-40). Lots 34, 35, and 36 of HM 2018-40 front on Nelson Avenue, however the constructed access is from a different Nelson Avenue located further north.



Mr. Neal's letter states his concerns with drainage and the ability to use Nelson Avenue to access proposed Lot 8-A.

Carey Meyer, Public Works Director, City of Homer

Mr. Meyer contacted the Planning Department and submitted written comments in response to Mr. Neal's letter. Mr. Meyer stated that the City of Homer has no interest in a drainage easement across private property when a dedicated Right of Way is nearby. The City of Homer prefers to utilize a dedicated street right of way, whenever possible, to provide drainage corridors to direct water to natural drainage ways. A natural drainage way is located approximately 400 feet to the east.

Staff comments:

1999 – An application was submitted to vacate the 15 foot utility and drainage easement within former Lot 24 and the 10 foot utility easement within former Lot 25 AA Mattox Subdivision.

The 1999 vacation application was approved by the City of Homer Planning and Zoning Commission.

The KPB Planning Department, after listening to concerns regarding drainage and water/sewer services, denied the application. The application was then appealed to the Homer City Council.

The Homer City Council overturned the denial and approved the vacation on the condition that a 25 foot water and sewer easement be granted on the east boundary of former Lot 25 as well as a 10 foot drainage easement be granted on the west side of former Lot 25. The request for the drainage easement came from the City of Homer Public Works Department.

The City of Homer Public Works has submitted comments stating no objection to the vacation of the 10 foot drainage easement. Public Works prefers to utilize utility and drainage corridors within dedicated right of ways whenever possible, as opposed to easements on private property. Nelson Avenue and Kallman Road contain an existing drainage corridor.

**Findings:**

1. Per the petition, the drainage easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and Homer Electric Association provided written non-objection to the proposed vacation.
3. The Homer Advisory Planning Commission recommended approval of the proposed vacation on May 15, 2019.
4. AA Mattox Peggi's Addition (Plat HM 99-64) granted a 10-foot wide drainage easement on Lot 24-A.
5. Per the Homer Advisory Planning Commission hearing packet, the city prefers to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible.
6. Per the Homer Advisory Planning Commission hearing packet, a draining corridor exists easterly along Nelson Avenue and southerly down Kallman Road.
7. No surrounding properties will be denied utilities or drainage.

Based upon the above findings, **staff recommends** granting the vacation as petitioned, subject to:

1. Provide a sketch clearly indicating the draining easement being vacated to be recorded with KPB Planning Commission Resolution 2019-19, becoming Page 2 of 2.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicants will provide the recording fee for the resolution and its attachments to the Planning Department.

**NOTE: Action after denial of vacation (KPB 20.70.120)**

- A. **Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. **Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when**

the original petition was filed.

END OF STAFF REPORT

Page 66 of 173

Page 240 of 349

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2019-19  
HOMER RECORDING DISTRICT**

Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

WHEREAS, Peggi Patton of Homer, AK requested the vacation of the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); and

WHEREAS, affected utility companies provided written non-objection to the proposed vacation; and

WHEREAS, The City of Homer Advisory Planning Commission recommended approval of the drainage easement vacation on May 15, 2019; and

WHEREAS, per the petition, the easement is not in use by any utility companies; and

WHEREAS, the proposed vacation will not deny drainage or utility easement(s) to surrounding properties; and

WHEREAS, on June 24, 2019, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed vacation; and

WHEREAS, right of way dedications of Nelson Avenue and Kallman Road exist and can provide drainage corridors and public access; and

WHEREAS, the Planning Commission has found that vacating the drainage easement will not be detrimental to the public interest; and

WHEREAS, 20.70.140 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64), is hereby vacated.

Section 2. That a sketch showing the location of the drainage easement being vacated be attached to, and made a part of this resolution, becoming Page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Julie Hindman  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 North Binkley Street  
Soldotna, Alaska 99669



**Petition to Vacate Utility Easement**

**No Public Hearing Required**

Submit completed form to the Kenai Peninsula Borough Planning Department, 144 North Binkley St., Soldotna, AK 99669

Upon receipt of complete application with all required attachments the vacation will be scheduled for Planning Commission action. The petitioner must secure and submit written comments from utility companies. If the easement is within city limits; secure and submit city's written comments. **The completed petition, with all required attachments, accompanied by a \$75.00 non-refundable fee, must be submitted to the Planning Department a minimum of thirty (30) days prior to the meeting at which the Planning Commission will take action.**

Fees - \$75.00 non-refundable fee attached.

To accomplish an approved vacation; a Planning Commission Resolution must be filed with the State Recorder to enter the vacation into the public records unless the vacation is accomplished by plat. Petitioner must pay filing fees (usually \$22-\$27).

Utility easement requested to be vacated was granted by plat of Subdivision, filed as Plat No. 99-64 in Homer Recording District. *NOT utility easement (Drainage)*

Utility easement proposed to be vacated was granted by (specify type of document) as recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ of the \_\_\_\_\_ Recording District. (Copy of recorded document must be submitted with petition) *couldn't find any recorded documents*

Comments from *Hea* Electric Association attached.

Comments from *N/A* Gas Company attached. *emailed to Scott*

Comments from *ACS* Telephone Company attached. *emailed*

Comment from *GCT* Cable Company attached. *emailed*

Comments from the KPB Roads Department attached if applicable.

Comments from City of \_\_\_\_\_ attached.

One copy of plat or map (sketch) showing area proposed to be vacated. If easement was granted by document; one copy of recorded document must be submitted.

If an existing structure is encroaching into easement; As-Built showing encroachment must be attached.

Is easement being used by utility company?  Yes  No  
 If yes, which utility \_\_\_\_\_

The petitioner must provide reasonable justification for the vacation. Reason for vacating:

SEE ATTACHED REASON FOR VACATING:

---



---

The petition must be signed (written signature) by owners of the land subject to the easement proposed to be vacated. Each must include mail address and legal description of his/her property.

Submitted by: Signature *Peggy L. Patton* As  Petitioner  Representative

Name: PEGGY L. PATTON  
 Address: 4510 HEIDI CT.  
HOMER, AK 99603  
 Phone: 907-399-4055

**Petitioners:**

Signature _____	Signature _____
Name _____	Name _____
Address _____	Address _____
_____	_____
Owner of _____	Owner of _____
Signature _____	Signature _____
Name _____	Name _____
Address _____	Address _____
_____	_____
Owner of _____	Owner of _____

The petitioner's reasonable justification for vacation of 10' drainage easement.

Subject Property: Lot 24A AA Mattox Peggi's Addition Plat No. 99-64

The 10' drainage easement on the above mentioned subject property has not been used since it was platted on the subject property original plat 84-HRD.

There is an alternative corridor in place on the Nelson Avenue ROW above the north lot line of the subject property. A long driveway permit on the Nelson Avenue ROW has been issued by the City Of Homer to the Quiet Creek Park LLC Project. The long driveway permit requires that the existing Drainage corridor remain in place on the North side of the long driveway. (see driveway permit, original and current subject property plats 84-HRD and 99-64, attached)

The current corridor on the Nelson Avenue ROW handles any storm or seasonal water runoff from the Quiet Creek Park LLC Project and above, as well as, the drainage plan in place in the Quiet Creek Park LLC Project.

It is my understanding that the City of Homer prefers not to cross personal property when other more adequate options or corridors are available to the City of Homer for drainage and seasonal runoff.

The subject property is currently for sale and buyers are concerned about the future use of the subject property 10' drainage easement, therefor preventing them from making an offer on the subject property. This is creating an adverse effect to the subject property.

Vacating this easement would not create any adverse effects to the surrounding properties.

HW 99-64

**OWNERSHIP CERTIFICATE**

We hereby certify that we are the owners of the real property shown and described hereon and that we hereby adopt the plan of subdivision and by our free consent dedicate all rights-of-way to public use and grant of easements to the use shown.

We further certify that the Deed of Trust affecting this property does not contain restrictions which would prohibit this subdivision or require signature and approval of the beneficiary.

Robert D. Patton Peggy L. Patton  
 Owner of former Lot 24 Owner of former Lots 25 and 26  
 Robert D. Patton Date Peggy L. Patton Date  
 450 Heidi Court aka Peggy L. Forrester  
 Homer AK 99603

Notary's Acknowledgment  
 Subscribed and sworn to me before on this 13 day of August 1999  
 for Robert D. Patton and Peggy L. Patton  
Maureen Deen  
 Notary Public for Alaska  
 My Commission Expires 7-30-02

Notary Seal: MAUREEN DEEN, Notary Public, State of Alaska

**WASTEWATER DISPOSAL**

Plan for wastewater that meet regulatory requirements are on file at the State of Alaska Department of Environmental Conservation.

Phyllis Whiff August 6, 1999  
 Registered Professional Land Surveyor  
 License No. LS 5750

**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of May 24, 1999.

KENAI PENINSULA BOROUGH  
 By: Mark Brad  
 Authorizing Official

**SURVEYORS CERTIFICATE**

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that the dimensions and other details are correct to the best of my knowledge.

Phyllis Whiff August 6, 1999  
 Registered Professional Land Surveyor  
 License No. LS 5750

**LEGEND**

- Found 5/8" rebar as per Plat No. 84-B HRD
- Found 2" Aluminum Cap on 5/8" steel rebar 5780-S-1997

**NOTES**

- All wastewater disposal systems shall comply with existing applicable laws at the time of construction.
- No permanent structures shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
- Books of Bearing & AA Patton 1958 Addition Unit 2 Amended as shown on Record Plat 84-B Homer Recording District. Dimensions are record.
- Utility and Drainage Easements as shown on the Parent Plat 84-B HRD were vacated by action of the Homer City Council at their meeting on March 22, 1999.
- The 35 ft water and sewer easement as shown hereon is not in use this date. Any use of this easement must be approved by the City of Homer Public Works Dept. and the ground must be restored to its original condition after construction. Furthermore, this easement shall be vacated by request of the City of Homer if water and sewer mains are placed a Kiliman Road.
- General easement for electric lines or system is recorded in Book 19 Page 92 HRD in favor of Homer Electric Association to definite location given.
- Covenants affecting the lot shown hereon are on file at the Homer office of the State Recorder. See BK 141 P.263, BK 145 P.201, BK 145 P.202, BK 152 P.255, BK 169 P.475.

**Vicinity Map 1" = 1000 ft**

**AA Mattox Pegg's Addition**

Being a Plat of Lots 24 and 25 AA Mattox 1953 Addition Unit 2 Amended as shown on Record Plat 84-B Homer Recording District.

Located within the SE 1/4 SE 1/4 Sec 17, T6S, R15W S4 in the City of Homer Third Judicial District, Alaska

Contains 0.524 Acres more or less

Clients: Robert and Peggy Patton 450 Heidi Court Homer AK 99603	Surveyor: Phyllis Whiff, RLS PO Box 2358 Homer AK 99603
Drawn: RWI	Date: 3-23-99
Scale 1" = 50 ft.	File partitioned: KPB File No. 98-264

3

~~TO BE VACATED~~

NEILSON ROAD

Already Vacated

HH 99-64

**OWNERSHIP CERTIFICATE**

We hereby certify that we are the owners of the real property shown and described hereon and that we hereby adopt this plat of subdivision and by our true consent dedicate all right-of-way to public use and grant all easements to the use shown.

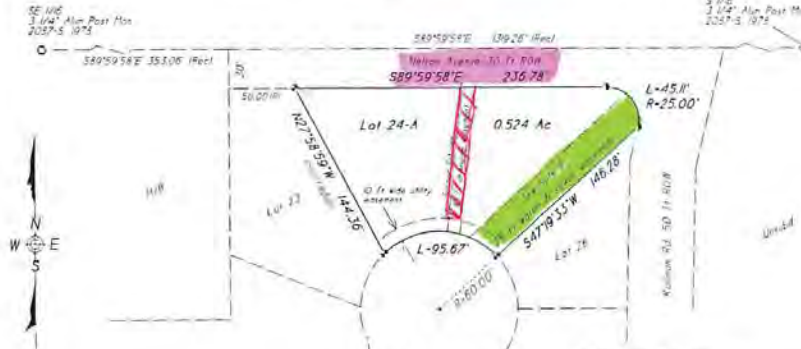
We further certify that the Deed of Trust affecting this property does not contain restrictions which would prohibit this subdivision or require signature and approval of the beneficiary.

Robert D. Patton Peggy L. Patton  
owner of Former Lot 24 owner of Former Lots 24 and 25  
Robert D. Patton Date Peggy L. Patton Date  
#513 North Court #12 Peggy L. Patton  
Homer AK 99603 #12

Notary's Acknowledgment  
Subscribed and sworn to before me this 13 day  
of August 1999

for Robert D. Patton and Peggy L. Patton

Maureen Dawn  
Notary Public for Alaska  
My Commission Expires 7-30-02



**LEGEND**

- Found 5/8" rebar as per Plat No. 84-B HRD
- Found 2" Aluminum Cap on 5/8" steel rebar 5/780'S 1997

**WASTEWATER DISPOSAL**

Plans for wastewater that meet regulatory requirements are on file at the State of Alaska Department of Environmental Conservation

Robert W. Whitt August 6, 1999  
Rogert W. Whitt LS 5760 Date

**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

May 24, 1999

KENAI PENINSULA BOROUGH

By Max Reed  
Mayor/City Council



**SURVEYORS CERTIFICATE**

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that the dimensions and other details are correct to the best of my knowledge

Robert W. Whitt August 6, 1999  
Rogert W. Whitt LS 5760 Date

99-64 2000  
RECORDED  
HOMER AK 087  
On 11/16/99  
By 11:43 P  
#513 North Court  
Homer AK 99603  
#12

Vicinity Map 1" = 1000 ft



**AA Mattox Pegg's Addition**

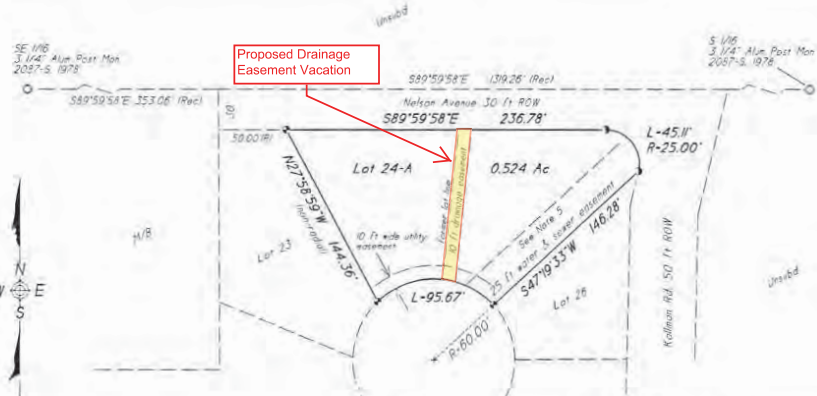
Being a Parcel of Lots 24 and 25 AA Mattox 1952 Addition Unit 2 Provided as shown on Record Plat 24-B Homer Recording District

Located with the SE 1/4 SE 1/4 Sec. 17, T6S, R13W, S4E in the City of Homer Third Judicial District, Alaska

Contains 0.524 Acres more or less

Client: Robert and Peggy Patton 4510 Mt. A. Cir. Homer AK 99603	Surveyor: Robert W. Whitt RLS P.O. Box 2528 Homer AK 99603
Drawing No: Scale 1" = 50 ft. File #99-64	Date: 7-23-99 NPS File No. 98-264

HH 99-64



**LEGEND**

- Found 5/8" rebar as per Plat No. 84-8 HRD
- Found 2" Aluminum Cap on 5/8" steel rebar 5780-S 1997

- NOTES**
1. All wastewater disposal systems shall comply with existing applicable laws at the time of construction.
  2. No permanent structures shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
  3. Basis of Bearing is AA Mattox 1958 Addition Unit 2 Amended as shown on Record Plat 84-8 Homer Recording District. Dimensions are record.
  4. Utility and Drainage Easements as shown on the Record Plat 84-8 HRD were vacated by action of the Homer City Council at their meeting on March 22, 1999.
  5. The 25 ft water and sewer easement as shown hereon is not in use this date. Any use of this easement must be approved by the City of Homer Public Works Dept. and the ground must be restored to its original condition after construction. Furthermore, this easement shall be vacated by request of the City of Homer if water and sewer mains are placed in Kallman Road.
  6. General easement for electric lines or system is recorded in Book 19 Page 82 HRD in favor of Homer Electric Association no definite location given.
  7. Covenants affecting the lot shown hereon are on file at the Homer office of the State Recorder. See Bl 141 P263, Bl 145 P201, Bl 145 P368, Bl 152 P238, Bl 169 P475.



**WASTEWATER DISPOSAL**

Plans for wastewater that meet regulatory requirements are on file at the State of Alaska Department of Environmental Conservation.

*Roger W. Inhoff August 6, 1999*  
 Roger W. Inhoff LS 5780-L-20

**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

May 24, 1999

KENAI PENINSULA BOROUGH  
 By: *Max Reed*  
 Authorizing Official

**SURVEYORS CERTIFICATE**

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that the dimensions and other details are correct to the best of my knowledge.

*Roger W. Inhoff August 6, 1999*  
 Roger W. Inhoff LS 5780-L-20

99-64 2000

RECORDED REC DIST  
 HOMER  
 Date 11/16/99  
 Fee 1143.97  
 Prepared by  
 Roger Inhoff, RLS  
 PO Box 2588  
 Homer AK 99603

**OWNERSHIP CERTIFICATE**

We hereby certify that we are the owners of the real property shown and described herein and that we hereby adopt this plan of subdivision and by our free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

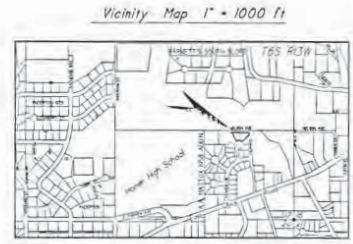
We further certify that the Deed of Trust affecting this property does not contain restrictions which would prohibit this subdivision or require signature and approval of the beneficiary.

*Robert D. Patton* owner of former Lot 24  
*Peggy L. Patton* Date  
 4510 Heidi Court  
 Homer AK 99603

*Peggy L. Patton* owner of former Lots 24 and 25  
 Date  
 and Peggy L. Forrester

Notary's Acknowledgement  
 Subscribed and sworn to me before on this 13 day of August 1999

for Robert D. Patton and Peggy L. Patton  
*Maureen Dawn*  
 Notary Public for Alaska  
 My Commission Expires 7-30-02



**AA Mattox  
 Peggy's Addition**

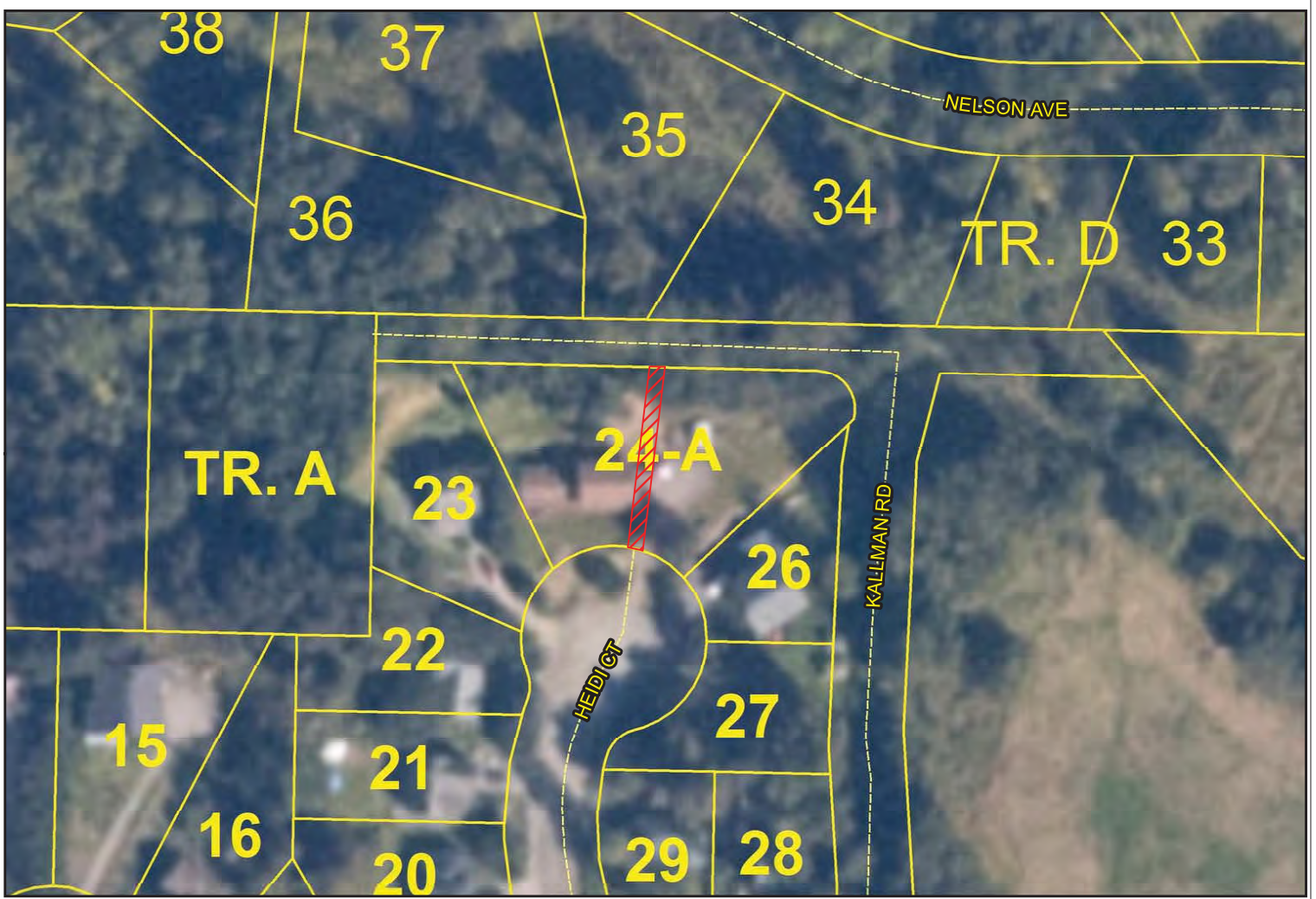
Being a Replat of Lots 24 and 25 AA Mattox 1958 Addition Unit 2 Amended as shown on Record Plat 84-8 Homer Recording District


Located within the SE 1/4 SE 1/4 Sec. 17, T8S, R13W, S4M in the City of Homer Third Judicial District, Alaska

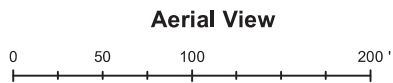
Contains 0.524 Acres, more or less


Clients: Robert and Peggy Patton 4510 Heidi Court Homer AK 99603	Surveyor: Roger W. Inhoff, RLS PO Box 2588 Homer AK 99603
Drawn: PWI	Date: 3-23-99
Scale 1" = 50 ft	File: patton/vcd KPB File No. 98-264



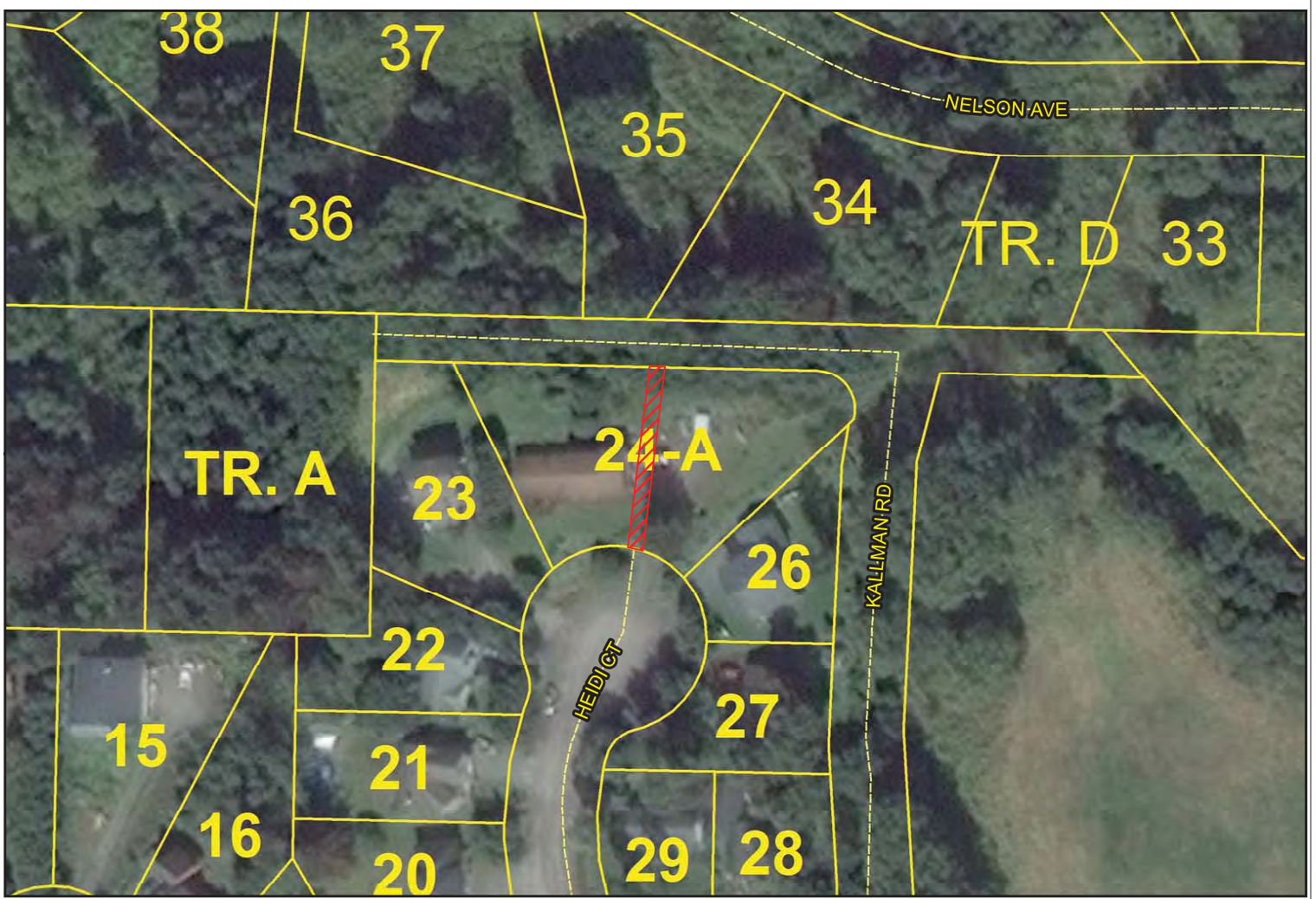



 The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.  
**Page 72 of 173**

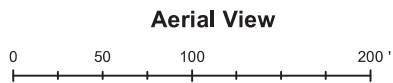



 Drainage Easement Vacation

JReif, KPB  
 Date: 4/25/2019  
 Imagery: 2016

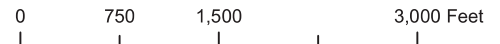
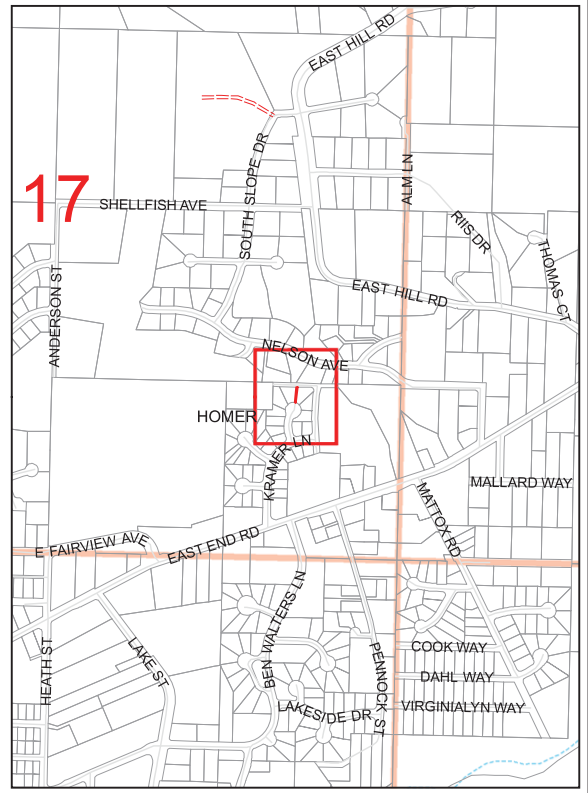
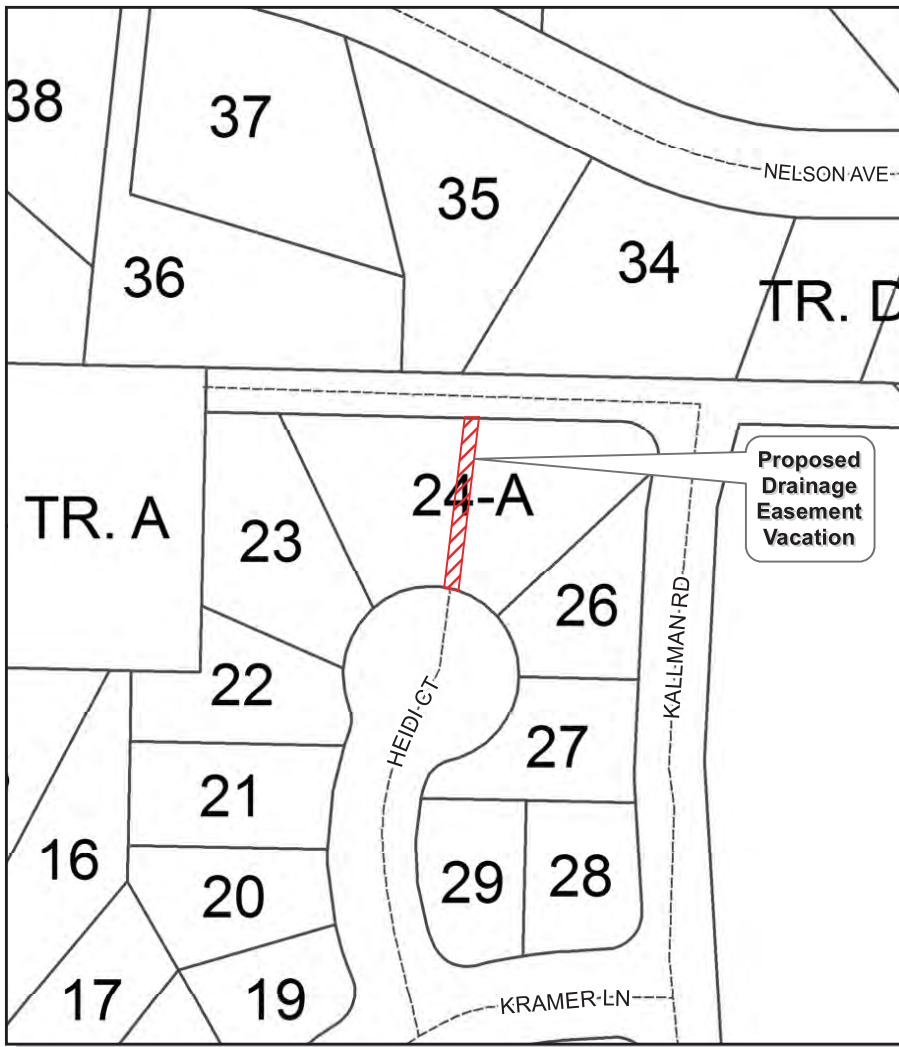


 The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.  
**Page 73 of 173**



 Drainage Easement Vacation

JReif, KPB  
 Date: 4/25/2019  
 Imagery: Aug 2016

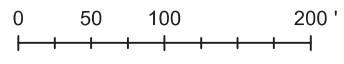


**KPB 2019-048V  
T06S R13W S17  
HOMER**



JReif, KPB  
Date: 4/25/2019

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for the accuracy of the information. **Page 74 of 173**



Google Maps 4598 Heidi Ct

Page 73



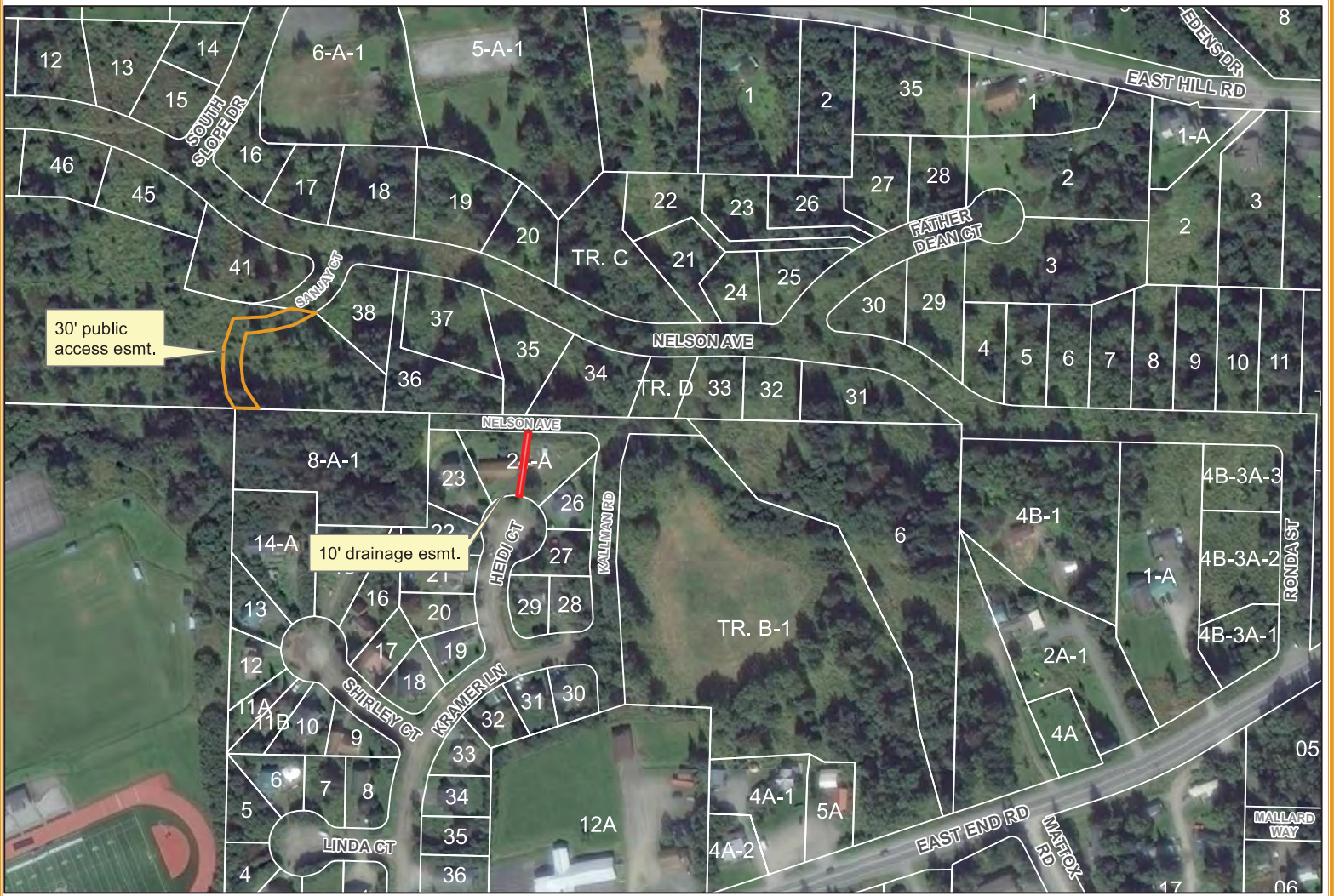
Image capture: Aug 2009 © 2019 Google

Homer, Alaska



Street View - Aug 2009

<https://www.google.com/maps/@59.6526055,-151.5200444,3a,60y,0.3h,91.09t/data=!3m6!1e2!3m4!1s56h-IPN0105wXOBfv4PpDQ!2e0!7!13312!8!6656>



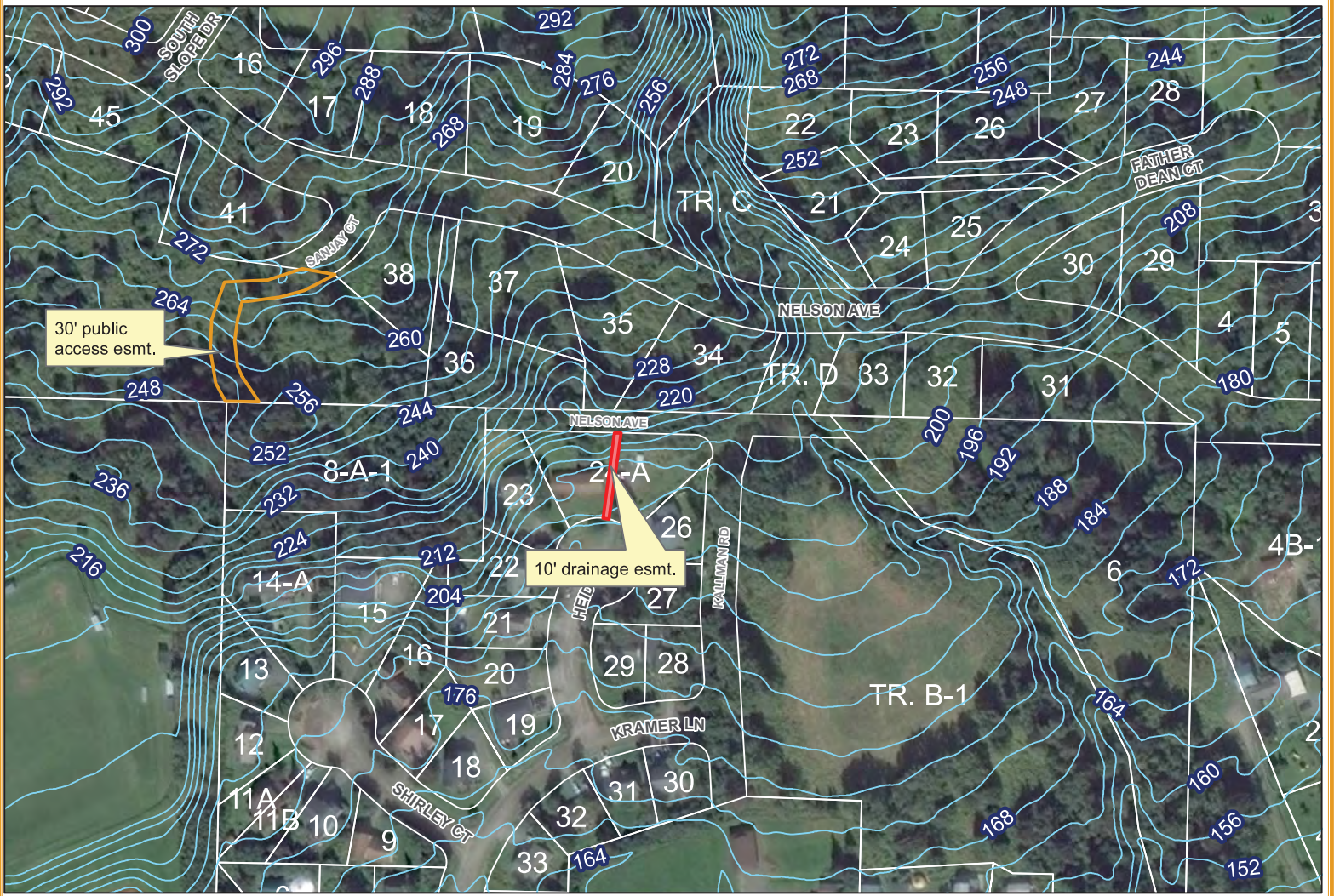
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

0 175 350 700 Feet

AERIAL IMAGERY - 2016



Date: 6/25/2020  
S. Huff, KPB



30' public access esmt.

10' drainage esmt.



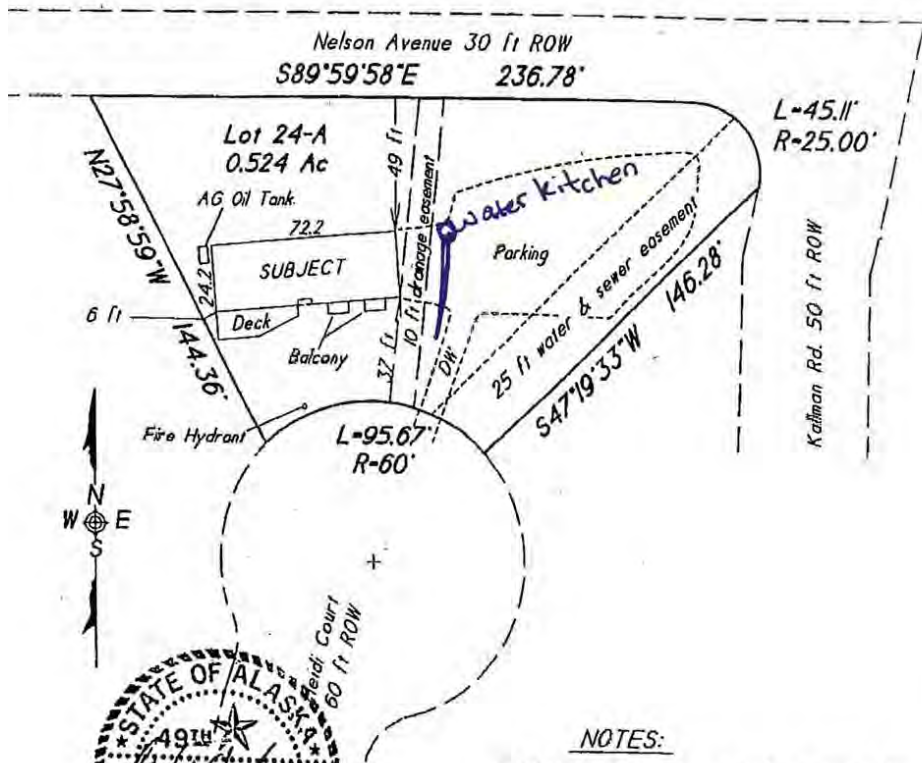
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



AERIAL IMAGERY - 2016  
4 FOOT CONTOURS



Date: 6/24/2020  
S. Huff, KPB



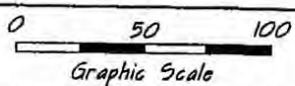
**NOTES:**

1. Subject structure is one and two story frame house.
2. This lot is served by City of Homer water and sewer.
3. This survey is valid for above ground improvements only and is based on the record plat.
4. The front 10 ft of the building setback of Heidi Cr is also a utility easement.
5. Utility and Drainage Easements as shown on the Parent Plat 84-8 HRD were vacated by action of the Homer City Council.
6. This document may not be recorded or copies sold without the written permission of the Surveyor. This Survey is to be used only for the purposes intended and is valid for 120 days from the date of survey after which it must be recertified.

I hereby Certify that I have surveyed the following property and that no visible encroachments exist:

Lot 24-A AA Mattox Peggi's Addition

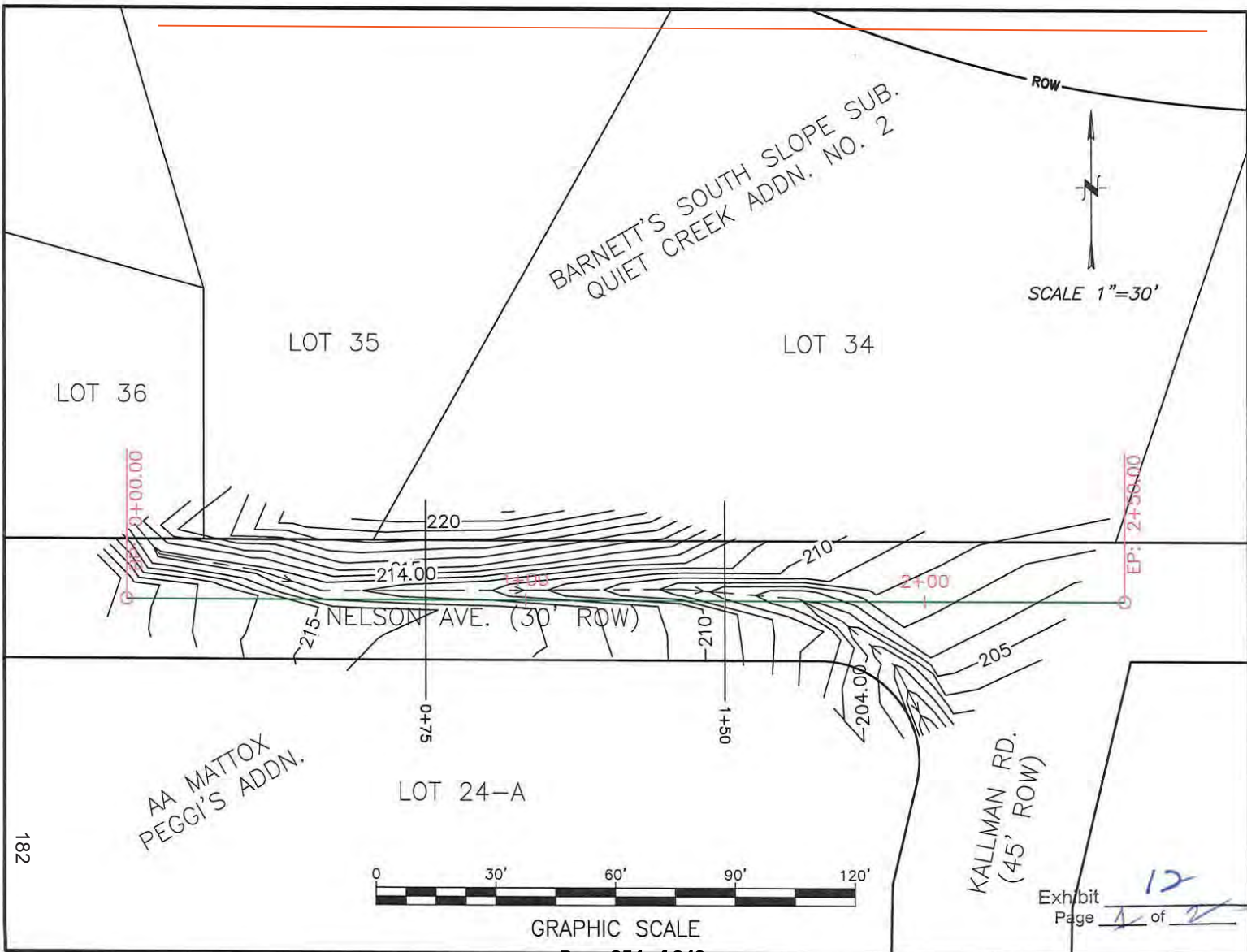
*Exclusion Note: It is the responsibility of the Owner(s) to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for the establishment of fence or boundary lines.*



**ASBUILT SURVEY**  
 Lot 24-A AA Mattox Peggi's Addition  
 as shown on Plat No. 99-64  
 Homer Recording District

Located within the  
 SE 1/4 Sec. 17, T6S, R13W, SM,  
 Third Judicial District, Alaska

Clients: Robert and Peggi Potton 4510 Heidi Cr Homer Ak 99603	Surveyed By: Roger W. Imhoff, RLS PO Box 2588 Homer Ak 99603
Date of Survey 7-03-01	File L25aamattox.vcd
Drawn RWI	FB 2001-4







**CITY OF HOMER**  
**APPLICATION & PERMIT TO CONSTRUCT AND MAINTAIN**  
**DRIVEWAY ON PUBLIC RIGHT-OF-WAY**

**PART 1: To Be Completed by Permittee**

839 Nelson Avenue Permit No: 2027

DRIVEWAY ADDRESS: Lot 36 Quiet Creek Park

Permittee: Echo Trading Company, LLC Date: 11-Jan-19  
 Address: P.O. Box 3368, Homer Alaska 99603 Phone: 907-299-2351  
 Lot: 26 Block: \_\_\_\_\_  
 Sub: Quiet Creek Park

CONTRACTOR: East Road Services

KPB Parcel Number: Not assigned  Residential  Commercial

Field inspection a notice required 24 hours in advance of construction.

Call Public Works Inspector at 235-3170.

The permittee certifies that: (1) he/she is the owner and/or authorized agent of the property, (2) that the conditions, restrictions and regulations of the City will be complied with, (3) that he/she will maintain the driveway in accordance with City standards, and (4) that the minimum clearance between the proposed finished driveway grade and the lowest aerial utility conductor shall not be less than 18 feet.

I have read the above application and know the contents thereof, the same is true and correct. I agree the above work will be done in accordance with all State and City laws and ordinances, and further agree to hold the City harmless from any and all claims of whatever kind or nature which may arise from activities under this permit.

Signed by Permittee \_\_\_\_\_ \$45.00 \_\_\_\_\_ (Initials)  
 Code 2105

**PART 2: For Public Works Department Use**

No  Yes Culvert Required Minimum CMP Culvert 18"x20'  
 No  Yes Paving Required Maximum driveway width at culvert: \_\_\_\_\_  
 Applicant required to install a culvert if later conditions warrant.

SPECIAL INSTRUCTIONS \_\_\_\_\_

Initial inspection by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Permit granted by: \_\_\_\_\_ Date: \_\_\_\_\_  
 Final inspection by: \_\_\_\_\_ Date: \_\_\_\_\_

Driveway  Does  Does not meet requirements  
 Improvements or corrections required: \_\_\_\_\_

CONSTRUCTION APPROVED BY: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Public Works Inspector)

PERMIT APPROVED BY: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Director of Public Works)

- DISTRIBUTION: 1 ~ Permittee (completed part 1)  
 2 ~ Inspector (permit granted)  
 3 ~ Planning Department (address file)  
 4 ~ Inspector (final inspection/and approval)

Received By: JEH  
 Paid By: Tony Neal  
 Date: 1-11-19  
 PAID CHK #1219 \$45

### DRIVEWAY CONSTRUCTION INSTRUCTIONS

A permit to use or occupy roads or streets with access or driveway approaches must be obtained before any work shall be undertaken within the limits of a street right-of-way. **The cost of all the construction AND maintenance of the work shall be borne by the applicant, his grantees, successors and assigns (11.80.090)**

Our inspector will review the driveway site with permittee and/or contractor before construction begins and will advise permittee and/or contractor of the City requirements and grant the permit accordingly. **24 hours notice in advance of construction is required - 235-3170.**

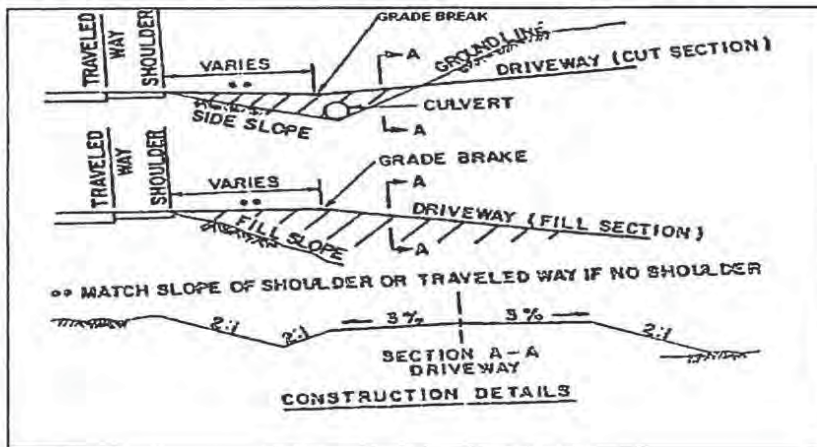
After the driveway is completed, our inspector will inspect the work. If it is acceptable, the inspector will note on the permit that the construction is approved. If not acceptable, the inspector will advise the permittee and/or contractor and note on permit why it is unacceptable to the City.

Should the permittee and/or contractor not know the exact date that the driveway construction will begin, the Public Works Inspector **must be notified at least 24 hours in advance as to when the work will begin.**

Any questions regarding the City's requirements regarding construction should be directed to the Public Works Inspector (235-3170).

#### **CONSTRUCTION NOTES:**

1. Stabilized fill material is required for the top two feet of the driveway for a distance of 15 feet from the shoulder line. Fill will not contain material exceeding two inches in diameter, and the top six inches within the R.O.W. must match the top course material of the road surface, however, not exceeding one inch in diameter.
2. Driveway will be constructed to match slope of shoulder or traveled way if no shoulder, for a distance as directed by the inspector.
3. Stabilized material for bedding for a minimum distance of six inches around the culvert will not contain material exceeding two inches in diameter.
4. All construction materials, methods and practices shall be in accordance with HMC Title 13, Standard Construction Practices.
5. Contractor must be licensed in the State of Alaska, bonded and insured to work in the City R.O.W.



244 HOMER CITY COUNCIL  
REGULAR MEETING MINUTES  
MARCH 22, 1999

Session 99-6, a Regular Meeting of the Homer City Council was called to order at 7:35 p.m. by Mayor Jack Cushing at the Homer City Hall Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and opened with the Pledge of Allegiance.

**PRESENT: COUNCILMEMBERS:** FENSKE, MARQUARDT, WADDELL, WELLES,  
YOURKOWSKI.

CALL TO ORDER

**STAFF:** CITY MANAGER KOEBERLEIN  
CITY CLERK CALHOUN  
CITY ATTORNEY TANS  
POLICE LT. ROBL  
INTERIM PUBLIC WORKS DIRECTOR JONKER  
LIBRARY DIRECTOR HELM

**ABSENT: COUNCILMEMBER:** PARKS (excused)

**AGENDA APPROVAL**

AGENDA  
APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The agenda was approved by consensus of the Council.

**PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

PUBLIC  
COMMENTS

Ginger Tornes reported that her father John Tornes and her brother James Tornes, both landscape architects, had drawn the Lake Street Triangle park conceptual that she distributed and displayed. She gave a brief description of the concept and history of the park. The salient points of this concept are:

LAKE STREET  
TRIANGLE  
PARK

1. Low maintenance. These trees and shrubs will need no pruning and will respond with a very small amount of water the first season. The wildflower/grass mix is perennial.
2. Plants are indigenous to Alaska and/or cold weather climates and have a natural resistance to moose.
3. Since this landscape provides a more of a back drop, the open space could be used for demonstration projects, it welcomes signage and an endless list of other items
4. Underground utilities have been considered.
5. This landscape project will not block the view of McDonalds.
6. This planting will not obscure sight distance.

Ms. Tornes felt it important that the City make a decision as soon as possible, so that work could commence by April. Her written comments are a part of the Council packet.

Robert Patton commented on the reconsideration of the Patton appeal. He reiterated the following:

PATTON  
APPEAL

- The KPB Planning staff reviewed the file on the AA Mattox preliminary plat and that it did not show the easement currently under review for vacation
- City staff did not request the easement common to lots 24 and 25
- The City Planning Commission did not request the easement.

~~VOTE: The third amendment passed by a majority vote.~~

HAMMELMAN YES	BRYSON YES	WHITMORE-PAINTER YES	BOSCACCI YES	CARPENTER YES	CLUTTS NO
COLEMAN ABSENT	GANNAWAY NO	HENSLEY ABSENT	JOHNSON NO	SKOGSTAD YES	SIX YES THREE NO TWO ABSENT

~~Chairman Hammelman asked the Commission if they needed to have the main motion as amended re-stated. No requests to have the main motion repeated were heard.~~

~~VOTE: The motion as amended passed by a majority vote.~~

HAMMELMAN YES	BRYSON YES	WHITMORE-PAINTER YES	BOSCACCI YES	CARPENTER YES	CLUTTS NO
COLEMAN ABSENT	GANNAWAY YES	HENSLEY ABSENT	JOHNSON YES	SKOGSTAD YES	EIGHT YES ONE NO TWO ABSENT

~~Chairman Hammelman said the Commission would recommend enactment of Ordinance 98-33 Substitute including the Commission's recommended amendments. He thanked everyone for their comments. He thanked Assembly Members Scalzi and Drathman for attending.~~

AGENDA ITEM E. UNFINISHED BUSINESS

- 3. Petition to vacate the entire of the fifteen foot wide drainage and underground utility easement within the easterly fifteen feet of Lot 24, AA Mattox 1958 Addition Unit 2 Amended (Plat 83-89 & 84-8 HRD); and vacate the ten foot wide utility easement within the westerly ten feet of Lot 25, of said AA Mattox subdivision; being within Section 17, T5S, R13W, Seward Meridian, Alaska. Within the City of Homer, KPB File - 98-264 — Carried forward from November 23, 1998

Staff report as read by Lisa Parker.

PC Meeting 1/26/99

Petitioners: Peggi L. Patton of Homer, Alaska

Purpose as stated in petition:

There is a house on Lot 24. Lot 25 is vacant. The owners may vacate the common lot line between the lots sometime in the coming year. For the present however, they wish to extend their garage easterly and develop the existing driveway on Lot 25 for access. The driveway for Lot 24 would be abandoned and reclaimed for lawn.

These plans and other construction plans require the removal of 15 foot utility and draining easement on Lot 24. The Pattons have offered and the City of Homer has agreed to dedicating a 10 foot drainage easement on Lot 25. There is an existing 10 foot utility easement already in place. Since a drainage and utility easements are not necessarily compatible, we therefore ask that the utility easement for Lot 25 also be vacated.

There is an existing 2 foot wide ditch close within Lot 25 handling the current water flow, primarily for breakup.

Notice of vacation mailings were sent to owners of property within a 300 foot radius.

During the November 23, 1998 public hearing, Bob Barnett of Homer spoke against the vacation. Following the hearing, the motion to postpone until January 26, 1999 carried.

Since the November meeting, the City of Homer, on January 5, 1999 submitted a letter wherein they state the City has no objection to the easement vacation as originally submitted. When water and sewer service would be extended to the north of the referenced subdivision, the City would plan to have the utilities placed in the Kallman right-of-way rather than in the referenced easement. The City prefers the utilities be placed in the right-of-way for the following reasons:

- 1) The utilities could serve the lots to the east of Kallman Road;
- 2) The existing 25' wide utility easement is marginal in width for accommodating both the water and sewer lines; and
- 3) Maintenance of the utilities would be more easily accomplished in the ROW than in an easement on private property. The City has also stated — *The existence of a utility easement on the referenced lots should not be interpreted to mean that the City would approve the location for placement of water and sewer mainlines.*

No other comments have been submitted since the November 23<sup>rd</sup> hearing.

Statement of non-objection — November hearing

Homer Electric Association  
PTI Communications  
GCI Cablevision — GCI has no objections to the vacation but has requested grandfather rights to provide service in the future to two existing CATV underground service drops.

Statement of objection — November hearing

Bernadine and Bob Barnett — no address provided. A signed letter was sent via fax. Mr. Barnett objected to the vacation stating the easements were intended (he believed) and required to provide services to adjoining property on the north.

City of Homer comments

9/16/98 City of Homer Public Works stated no objection with the understanding that a 10' drainage easement will be dedicated along the western property line of Lot 25.  
10/30/98 Handwritten on the 9/16/98 City of Homer Public Works letter is the notation "OK, does not need planning commission review" — signed by Eileen R. Bechtol.  
11/18/98 Homer Planning Commission meeting - Mr. Barnett requested a letter from the City indicating they had received an objection. The Planning Director agreed to do so.  
11/19/98 Memorandum from City of Homer Planning/Zoning advised that Mr. Barnett objected to the vacation; that he believed the easement was in place for future development of the property to the north of Nelson Avenue. The easement was to be used to bring the sewer main to the north property for development. The City Planning Department requested the City Public Works to see if there is a viable alternative.  
11/20/98 City of Homer Public Works - sent via E-mail. It has been verified in the field that the sewer mainline can be extended through the Kallman ROW rather than exclusively through the existing utility easement between Lots 24 and 25 of AA Mattox Sub. It may require running additional piping, but the Kallman ROW provides an adequate corridor for future utility expansion to Barnett's Subdivision.

Borough staff has reviewed the file for A.A. Mattox 1958 Addition Unit 2 and made the following findings.  
The preliminary plat did not show the easements currently under review for vacation.  
The City staff did not request the easements along the lot line common to Lots 24 and 25; nor did the City Commission.  
The Borough staff did not request the easements along the lot line common to Lots 24 and 25, nor did the Borough Plat Committee or Planning Commission.  
The utility companies reviewing the plat did not request the easement in this location.  
The plat was filed on September 9, 1983 in the Homer Recording District as Plat 83-89 without these easements.  
On February 7, 1984, an amended plat was filed in the Homer Recording District as Plat 84-8. The plat was amended to add these easements, as well as other drainage easements.

**FINDINGS**

1. No utility company objects to the vacation.
2. The City has stated no objections.
3. The City has advised that Kallman right-of-way provides an adequate corridor for future utility expansion to Barnett's Subdivision.
4. The existing easements were not requested or recommended by either the City or the Borough.
5. GCI Cablevision has requested rights to provide service in the future to two existing CATV underground service drops; however, they did not provide information showing the location of these existing facilities.

Based on the above findings and facts, staff has no basis upon which to recommend a denial of the vacation and is recommending the vacation be approved.

**STAFF RECOMMENDATIONS:**

- A. Planning Commission make their findings, and approve KPBPC Resolution 99-03, thereby granting the vacation subject to the following conditions:
  1. Granting the ten foot drainage easement within the westerly ten feet of Lot 25, as requested by City of Homer Public Works Department.
  2. Granting easement for use of GCI's existing facilities.

**NOTE: If the vacation is denied, the petitioner has eight calendar days in which to appeal the Planning Commission denial. Written appeal must be submitted to the Homer City Clerk.**

**END OF STAFF REPORT**

**MOTION:** Commissioner Carpenter moved, seconded by Commissioner Boscacci, to concur with, accept the findings, and approve KPBPC Resolution 99-03, thereby granting the vacation subject to staff recommendations.

Commissioner Gannaway opposed the motion. Mr. Barnett is being asked to put utilities along more than 400' of Kallman Road. However, the distance along the utility easement is about 100'. Commissioner Gannaway understood the expenses involved. Mr. Barnett will not recover the money he will spend on the utilities because the City does not refund money paid for utilities. The proposed vacation will force Mr. Barnett to spend three times the amount to put in utilities.

1. **Bob Barnett**

Mr. Barnett did not think much development would occur on the northern side in the near future. The extra cost of running a sewer line several hundred feet unnecessarily seemed like a ridiculous requirement. The easement was put in by the developer so the property to the north could be served from the cul-de-sac. Mr. Barnett thought it was unreasonable to vacate the easement.

Recalling previous discussions, someone asked if it would be acceptable to move the easement to the east or west. Mr. Barnett would not object if the easement is moved either to the east or west. He did not want the easement vacated.

2. **Roger Imhoff**

Mr. Imhoff said he was representing Peggy Patton. He noticed an omission from the City of Homer comments. An additional letter dated January 5, 1999 was written. In trying to resolve everyone's concerns, he asked the Homer Public Works Department if they would object to moving the easement 25' to the eastern side of Lot 25. The Public Works Department said they did not care about the location of the easement on the lot because Mr. Barnett had to use Kallman Road if he wanted to develop the property to the north. The Public Works Department does not want the water/sewer lines going through a private lot. They want the lines in the right-of-way where they can work on them without disrupting private property.

Commissioner Gannaway commented that water and sewer lines crossed private property throughout Homer.

He added that installing utility lines costs more than \$100 per foot.

3. Bob Barnett

Mr. Barnett said any property to the north that may be sold in the future will be large enough to accommodate on-site water. Homes with wells are in the area. However, sewer service is another matter. Sewer service must be installed before water is installed. Mr. Barnett said he would appreciate it very much if the Commission denied the vacation.

Commissioner Johnson preferred the easement be moved to the west or east so the petitioner can develop her property and Mr. Barnett can get a sewer line across the lot if the City will concur. If the sewer line is installed along Kallman in the future, the easement can be vacated at that time. Commissioner Johnson did not know if the easement should be on the eastern or western side.

Commissioner Gannaway said main lines and manholes were on private property within the City. Chairman Hammelman asked Commissioner Gannaway if he had suggestions about relocating the easement to the east or west. Commissioner Gannaway declined. He pointed out the subject easement was existing.

Referring to the map on Page 89 of the mailout packet, Commissioner Johnson noted it appeared if the easement were moved to the east a short distance, the property owner could proceed with her development and Mr. Barnett could accomplish what he would like to do.

Commissioner Johnson asked Mr. Imhoff if the property owner would object if the easement were moved to Lot 25. Mr. Imhoff asked Commissioner Johnson if he wanted to move the easement the entire 25'. Commissioner Johnson replied he wanted to move it the necessary distance. Mr. Imhoff could not agree to this suggestion without first talking to the property owner. Just because the easement exists does not mean the City will allow the lines to be placed in the easement if Mr. Barnett develops his property in the future.

Commissioner Whitmore-Painter asked who decided where the sewer lines would be installed. Commissioner Gannaway replied the lines were usually installed in the road rights-of-way. In this case there is no road right-of-way. He thought the Public Works Department decided the location of the utility lines. Commissioner Whitmore-Painter said Public Works stated they would not install the lines in the easement.

Ms. Parker commented that when a property owner wants to develop his property, he/she will talk with the City and work together toward a common goal.

Chairman Hammelman re-stated the motion.

Commissioner Carpenter thought the letter from the Homer Public Works Department was unclear. He read a portion of the letter:

*The existence of a utility easement on the referenced lots should not be interpreted to mean that the City would approve the location for placement of water and sewer mainlines.*

**VOTE:** The motion failed by a majority vote.

HAMMELMAN NO	BRYSON YES	WHITMORE-PAINTER YES	BOSCACCI NO	CARPENTER NO	CLUTTS NO
COLEMAN ABSENT	GANNAWAY NO	HENSLEY ABSENT	JOHNSON NO	SKOGSTAD YES	SIX NO THREE YES TWO ABSENT

**AGENDA ITEM E. UNFINISHED BUSINESS**

Session 19-10, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on May 15, 2019 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BANKS, SMITH, VENUTI, HIGHLAND, PETSKA-RUBACLAVA

ABSENT: COMMISSIONER BOS, BENTZ (EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

The Commission conducted a worksession prior to the meeting on the subject of building height maximums in the East End Mixed Use District with Fire Chief Purcell, Alan Engebretsen and Ken Moore that included previous discussion points of fire safety and building height in general.

**APPROVAL OF THE AGENDA**

Chair Venuti called for a motion to approve the agenda.

HIGHLAND/SMITH – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**PUBLIC COMMENT**

**RECONSIDERATION**

**ADOPTION OF CONSENT AGENDA**

- A. Approval of minutes of May 1, 2019
- B. Drainage Easement Vacation Request at 4510 Heidi Court
- C. Time extension request for Sterling Hwy/Main Street AKDOT Right of Way Acquisition Preliminary Plat

Chair Venuti requested a motion to approve the Consent Agenda.

HIGHLAND/BANKS - SO MOVED.



**From:** Carey Meyer  
**Sent:** Monday, May 13, 2019 8:47 AM  
**To:** Travis Brown  
**Subject:** RE: Heidi Court drainage easement vacation

Mr. Brown,

The Public Works Department has no objection to vacating the drainage easement across Lot 24-A, AA Mattox – Peggi's Addition.

We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right-of-way.

In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.

**Carey S. Meyer, P.E., MPA**

Public Works Director/City Engineer  
City of Homer, Alaska  
3575 Heath Street  
Homer, AK 99603  
[cmeyer@ci.homer.ak.us](mailto:cmeyer@ci.homer.ak.us)  
(p) 907-435-3124  
(f) 907-235-3145  
(c) 907-399-7232

---

**From:** Travis Brown <[tbrown@ci.homer.ak.us](mailto:tbrown@ci.homer.ak.us)>  
**Sent:** Friday, May 10, 2019 12:26 PM  
**To:** Carey Meyer <[CMeyer@ci.homer.ak.us](mailto:CMeyer@ci.homer.ak.us)>  
**Subject:** Heidi Court drainage easement vacation

Carey,

Thanks for providing an email for the commission to see. I attached the rest of the documents associated with this request so the references are at your fingertips.

Travis Brown  
Planning Technician  
City of Homer  
Planning and Zoning Office  
(907)235-3106



**ENSTAR Natural Gas Company**  
A DIVISION OF SEMCO ENERGY  
Engineering Department  
Right of Way Section  
401 E. International Airport Road  
P. O. Box 190288  
Anchorage, Alaska 99519-0288  
(907) 277-5551  
FAX (907) 334-7798

April 25, 2019

Peggi Patton  
4510 Heidi Ct  
Homer, AK 99603

Re: Letter of Non-Objection – Drainage Easement Vacation

To whom it may concern:

ENSTAR Natural Gas Company has no objection to the vacation of the existing ten foot (10 FT) wide drainage easement, within Lot 24-A, AA Mattox Subdivision Peggi's Addition, according to Plat No. 99-64, Records of the Homer Recording District, Third Judicial District, State of Alaska.

Sincerely,

Cassie Acres  
Right of Way & Compliance Technician  
ENSTAR Natural Gas Company



April 26, 2019

To Whom It May Concern:

RE: Vacating of 10' Drainage Easement

Please be advised that Alaska Communications (ACS) has no objection to vacating the 10' Drainage Easement that runs north-south across the middle of lot 24A of the AA Mattox Subdivision Peggi's Addition (99-64).

Byron Jackson

A handwritten signature in black ink that reads 'Byron Jackson'.

ACS OSP Network Engineer III  
151 Warehouse Dr  
Soldotna, AK 99669  
(907) 714-8791  
[Byron.Jackson@acsalaska.com](mailto:Byron.Jackson@acsalaska.com)



April 25, 2019

Peggi Patton  
4510 Heidi Court  
Homer, AK 99603

Dear Ms. Patton,

Provided the 10 foot utility easement along the Heidi Court ROW remains, GCI has no objection to vacating the 10 foot drainage easement running through Lot 24-A, AA Mattox Peggi's Addition, 4510 Heidi Court, between Nelson Avenue and Heidi Court.

Sincerely

A handwritten signature in black ink that reads "Bradley Beck". The signature is written in a cursive, slightly slanted style.

Bradley Beck  
Manager OSP O&M

**From:** [tonyneal@popsiefishco.com](mailto:tonyneal@popsiefishco.com)  
**To:** [Reif, Jordan](#); [Sweppy, Maria](#)  
**Cc:** ["Susannah Webster"](#); ["Carey Meyer"](#); [Andy.Mitzel@usace.army.mil](mailto:Andy.Mitzel@usace.army.mil)  
**Subject:** vacation of drainage easement Lot 24A, AA Mattox Peggi addition  
**Date:** Saturday, June 08, 2019 12:49:38 PM  
**Attachments:** [image003.png](#)

---

We have received Notice of Proposed Utility Easement Vacation on Lot 24-A, AA Mattox Peggi's Addition. The notice allows written comments to be received by e mail to Jordan Reif. Please respond that this message is received, or we will need to send a certified Mail.

I am in western Alaska and cannot attend the meeting. However, we are totally opposed to the vacation and will use all legal means to prevent it. The easement that is under consideration for vacation drains Wetlands and extensive area in Quiet Creek Park and areas above.

1. We refer you to Quiet Creek Park subdivision and the extensive public record on concerns about drainage, storm water, Wetlands, and related, and all the Borough Planning Commission concerns to meet public comments, and the regulations and constraints imposed on Quiet Creek Park to protect drainage for the public interest.
2. The drainage at issue, delineated official legal Wetlands regulated by the US Army Corps of Engineers. It is, in the words of the Corps of Engineers "waters to the United States" and regulated as such.
3. The Pattons, themselves, went above their property line, entered the Nelson right of way, entered our property, and built an earth fill dam, damming the flow down the natural water flow protected by this drainage easement. They dammed the flow to keep it from the drainage easement. They went on to Wetlands in Violation of the Corps regulation, with no permit and no notice. They dug a ditch with an excavator diverting the dammed water east from its natural southerly flow down the center of the Nelson Avenue public right of way. The water now empties on to the Kalman Street right of way where it has created a swamp.
4. The Pattons may claim they have City approval to enter on the Wetlands, dam the drainage, and divert the flow down Nelson. However, there is no record of the legally required City permit that is required to be issued to do work on a City right of way.
5. The Nelson right of way is our only legal access to our property at the end of Nelson, we have been forced to create a new easement for access because Nelson is unbuildable, but Nelson remains a legal public access for several lots.
6. We did apply for and obtain a driveway construction permit from the City of Homer (something the Pattons did not do ). This was to build our legal access to our property on Nelson Avenue.
7. However, upon our inspection and after hiring a surveyor, we discovered the Pattons had dug the unregulated, non-permitted, drainage diversion right down the middle of the Nelson access, making it impossible to build our driveway. Water flowing was eastward toward Kalman in an unregulated amount, creating a swamp and making the use of Nelson as the intended public access impossible.
8. The petition submitted to the Borough in support of the vacation is untrue, a misrepresentation, fraudulent I suppose, since the truth is known by the Pattons. The drainage has not been "unused" since 1984. Water has not flowed in the drainage since the Pattons dammed it off, but that wasn't 1984 nor does it create the easement as "unused". The "alternative corridor" said to exist on Nelson is an excavated ditch dug by the Pattons down the middle of the right of way.

Therefore we are totally and legally opposed to the vacation of the drainage easement. We simply will not permit vacation without a legally approved alternative.

One solution is to have the Pattons remove the dam and allow the Wetlands to drain naturally on the drainage easement so we can build an access to our property.

We would accept an alternative for the Pattons by accepting a diversion ditch along the edge of the Nelson right of way as long as there was enough space to allow us to build our access, and the diversion was approved by City of Homer and Corps of Engineers and any other required permitting

agency and we were indemnified for working in Wetlands and along the right of way where excess water was flowing, having been diverted from its natural flow. If permitted, the Pattons could hire a surveyor and contractor to remove the unregulated and un-permitted ditch down the middle of Nelson and replace it with a ditch on the edge of the right of way and create a passable driveway access, and ditch and clean up the swamp mess on Kalman.

Again, we are totally and legally opposed to this vacation without an officially approved alternative that does not restrict our legal access.

Thank you, Tony Neal, Member-Manager for Echo Trading Company, LLC.

**Tony Neal**

**907-299-2351**

[www.PopsieFishCo.com](http://www.PopsieFishCo.com)



**From:** [peggi\\_patton](mailto:peggi_patton)  
**To:** [Reif, Jordan](mailto:jreif@kpb.us)  
**Subject:** Re: AA Mattox Peggi's Addition Lot 24-A Drainage Easement Vacation KPB 2019-048V  
**Date:** Tuesday, June 11, 2019 6:42:38 AM  
**Attachments:** [image001.png](#)

---

Dear Jordan

Mr Neal is incorrect. The drainage easement on our property has not been used for above property drainage. We did not create the drainage on the Nelson ave ROW I encourage the borough to speak with Kerry Meyer at the City of homer.

Sent from my iPhone

On Jun 10, 2019, at 8:38 AM, Reif, Jordan <[jreif@kpb.us](mailto:jreif@kpb.us)> wrote:

Hi Peggi,

Attached please find a comment from the public on AA Mattox Peggi's Addition Lot 24-A Drainage Easement Vacation KPB 2019-048V. The comment will be presented to the Planning Commission for their review.

Best,

**Jordan Reif**  
Platting Technician  
(907) 714-2200  
(907) 714-2378 Fax



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to the public upon request.

<KPB 2019-048V Neal Comment 6\_10\_19.pdf>

**From:** [Carey Meyer](#)  
**To:** [Reif, Jordan](#); [Sweppy, Maria](#)  
**Cc:** [Tony Neal \(tonyneal@popsiefishco.com\)](#)  
**Subject:** RE: vacation of drainage easement Lot 24A, AA Mattox Peggi addition  
**Date:** Wednesday, June 12, 2019 12:42:44 PM  
**Attachments:** [image002.png](#)  
[photos of Nelson Avenue culvert conditions prior to removal.pdf](#)

---

Mr. Huff,

Although I have expressed my recommendations (in support of the vacation of the drainage easement) to the Homer Advisory Planning Commission (through Planning Department staff), I wanted to respond to the email from Tony Neal (see [below](#)).

**Carey S. Meyer, P.E., MPA**

Public Works Director/City Engineer  
City of Homer, Alaska  
3575 Heath Street  
Homer, AK 99603  
[cmeyer@ci.homer.ak.us](mailto:cmeyer@ci.homer.ak.us)  
(p) 907-435-3124  
(f) 907-235-3145  
(c) 907-399-7232

---

**From:** [tonyneal@popsiefishco.com](mailto:tonyneal@popsiefishco.com) <[tonyneal@popsiefishco.com](mailto:tonyneal@popsiefishco.com)>  
**Sent:** Saturday, June 8, 2019 11:47 AM  
**To:** [jreif@kpb.us](mailto:jreif@kpb.us); [msweppy@kpb.us](mailto:msweppy@kpb.us)  
**Cc:** 'Susannah Webster' <[susannahwebster@popsiefishco.com](mailto:susannahwebster@popsiefishco.com)>; Carey Meyer <[CMeyer@ci.homer.ak.us](mailto:CMeyer@ci.homer.ak.us)>; [Andy.Mitzel@usace.army.mil](mailto:Andy.Mitzel@usace.army.mil)  
**Subject:** vacation of drainage easement Lot 24A, AA Mattox Peggi addition

We have received Notice of Proposed Utility Easement Vacation on Lot 24-A, AA Mattox Peggi's Addition. The notice allows written comments to be received by e mail to Jordan Reif. Please respond that this message is received, or we will need to send a certified Mail.

I am in western Alaska and cannot attend the meeting. However, we are totally opposed to the vacation and will use all legal means to prevent it. The easement that is under consideration for vacation drains Wetlands and extensive area in Quiet Creek Park and areas above.

1. We refer you to Quiet Creek Park subdivision and the extensive public record on concerns about drainage, storm water, Wetlands, and related, and all the Borough Planning Commission concerns to meet public comments, and the regulations and constraints imposed on Quiet Creek Park to protect drainage for the public interest. **Mr. Neal has protected wetlands and the existing drainage features within his subdivision development.**
2. The drainage at issue, delineated official legal Wetlands regulated by the US Army Corps of Engineers. It is, in the words of the Corps of Engineers "waters to the United States" and regulated as such. **I meet in Homer with Corps personnel regarding this issue. There is no reason to believe that there are any**



wetlands within the drainage easement proposed to be vacated or below in the developed subdivision. The Corps representative was not concerned that the work completed by the Pattons was a regulatory issue. Future work along this Nelson Ave./Kallman St. corridor might require coordination with the Corps.

3. The Pattons, themselves, went above their property line, entered the Nelson right of way, entered our property, and built an earth fill dam, damming the flow down the natural water flow protected by this drainage easement. They dammed the flow to keep it from the drainage easement. They went on to Wetlands in Violation of the Corps regulation, with no permit and no notice. They dug a ditch with an excavator diverting the dammed water east from its natural southerly flow down the center of the Nelson Avenue public right of way. The water now empties on to the Kalman Street right of way where it has created a swamp. Contractor and property owner say all work occurred within the Nelson Avenue right-of-way; admit that they removed the existing culvert (permission granted by Public Works); no ditching was completed within Nelson Avenue. Surface water always was connected to an existing ditch in the center of Nelson Avenue. (See photos taken prior to work being completed showing water always flowed down the center of Nelson Avenue).
4. The Pattons may claim they have City approval to enter on the Wetlands, dam the drainage, and divert the flow down Nelson. However, there is no record of the legally required City permit that is required to be issued to do work on a City right of way. The City never issues a permit to do work in wetlands. Verbal permission was given to remove the badly deteriorated "culvert".
5. The Nelson right of way is our only legal access to our property at the end of Nelson, we have been forced to create a new easement for access because Nelson is unbuildable, but Nelson remains a legal public access for several lots. In my opinion, nothing that the Pattons did made Nelson Avenue unbuildable.
6. We did apply for and obtain a driveway construction permit from the City of Homer (something the Pattons did not do ). This was to build our legal access to our property on Nelson Avenue. No comment.
7. However, upon our inspection and after hiring a surveyor, we discovered the Pattons had dug the unregulated, non-permitted, drainage diversion right down the middle of the Nelson access, making it impossible to build our driveway. Water flowing was eastward toward Kalman in an unregulated amount, creating a swamp and making the use of Nelson as the intended public access impossible. The Pattons did not dig a ditch down the center of Nelson. The photos show this "ditch" pre-existed any work by the Pattons.
8. The petition submitted to the Borough in support of the vacation is untrue, a misrepresentation, fraudulent I suppose, since the truth is known by the Pattons. The drainage has not been "unused" since 1984. Water has not flowed in the drainage since the Pattons dammed it off, but that wasn't 1984 nor does it create the easement as "unused". The "alternative corridor" said to exist on Nelson is an excavated ditch dug by the Pattons down the middle of the right of way. No comment.

Therefore we are totally and legally opposed to the vacation of the drainage easement. We simply will not permit vacation without a legally approved alternative.

One solution is to have the Pattons remove the dam and allow the Wetlands to drain naturally on the drainage easement so we can build an access to our property.

We would accept an alternative for the Pattons by accepting a diversion ditch along the edge of the

Nelson right of way as long as there was enough space to allow us to build our access, and the diversion was approved by City of Homer and Corps of Engineers and any other required permitting agency and we were indemnified for working in Wetlands and along the right of way where excess water was flowing, having been diverted from its natural flow. If permitted, the Pattons could hire a surveyor and contractor to remove the unregulated and un-permitted ditch down the middle of Nelson and replace it with a ditch on the edge of the right of way and create a passable driveway access, and ditch and clean up the swamp mess on Kalman.

Again, we are totally and legally opposed to this vacation without an officially approved alternative that does not restrict our legal access.

Thank you, Tony Neal, Member-Manager for Echo Trading Company, LLC.

**Tony Neal**

**907-299-2351**

**[www.PopsieFishCo.com](http://www.PopsieFishCo.com)**





This photo (taken prior to culvert removal) looks north across the Nelson. Note that the “ditch” is turning east down Nelson Avenue.



This photo looks west along Nelson Avenue and shows that surface water ran down the center of Nelson Avenue prior to culvert removal.



This photo looks north at the downstream end of the culvert that was removed.

**From:** [tonyneal@popsiefishco.com](mailto:tonyneal@popsiefishco.com)  
**To:** [Reif, Jordan](#); [Sweppz, Maria](#)  
**Cc:** ["Susanah Webster"](#); ["Carey Meyer"](#)  
**Subject:** Peggi addition drainage easement  
**Date:** Tuesday, June 18, 2019 6:52:34 PM  
**Attachments:** [image002.png](#)

---

Hello Jordan,

This supplements our comments to the Planning Commission for the 24 June meeting.

We will not accept vacation of the drainage easement unless there is a Court order to do so.

We will accept a compromise. We will agree to the vacation of the drainage easement if Nelson Avenue is restored to the buildable public access that it was intended to be and once was, and the restoration is paid for by the responsible parties and accepted by the permitting agencies. If the creek also drains on Nelson, not a problem as long as we have buildable and maintainable access. We intend to move for our own Court order to accomplish this, if no compromise is reached. We own property that is served by the Nelson Public Access right of way.

The creek in question is pictured in Carey Meyer's first photo. The man and the creek are on our property, in 2017. In 1999 that creek flowed naturally through our property, across Nelson Avenue, and down the drainage easement shown on the 1999 plat "Peggi's Addition" approved by the Borough and attached to the Patton application, and into City ditch on Heidi Court.

In 1999, Nelson Avenue was a dry public easement and buildable.

After the Borough approved Peggi's Addition (with drainage easement intact), the Pattons caused the creek to be dammed and the water to be diverted down the middle of Nelson and onto the Kalman Street right of way, making a swamp of Kalman and making Nelson unbuildable. This was before 2017 when they involved the City in removing an old culvert and Carey's photos were taken. In our opinion, there is no public interest in the easement damming and creek diversion. This was only for the personal financial self-interest of the Pattons.

1. Carey Meyer is in error when he writes the Planning Commission "Surface water always was connected to an existing ditch in the center of Nelson Avenue. ...." Carey is again in error when he writes "(See photos taken prior to work being completed showing water always flowed down the center of Nelson Avenue)". Neither of these comments are true.

Carey's photo looking east on Nelson, with a man's back to the camera, shows the dam ... he is standing on it... and shows the ditch dug onto Nelson, turning the water onto Nelson. The ditch material was cast to the side, creating sort of a levee. Clearly, this ditch as shown in the photo is not a natural waterway. Again, water diverted down Nelson is 100% man-made.

We want the buildable access to our property that is expected on a public right of way easement and existed on Nelson until it was destroyed for the personal financial self-interest of the Pattons.

Thank you,

**Tony Neal**  
907-299-2351  
[www.PopsieFishCo.com](http://www.PopsieFishCo.com)

Session 19-10, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on May 15, 2019 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BANKS, SMITH, VENUTI, HIGHLAND, PETSKA-RUBACLAVA

ABSENT: COMMISSIONER BOS, BENTZ (EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

The Commission conducted a worksession prior to the meeting on the subject of building height maximums in the East End Mixed Use District with Fire Chief Purcell, Alan Engebretsen and Ken Moore that included previous discussion points of fire safety and building height in general.

**APPROVAL OF THE AGENDA**

Chair Venuti called for a motion to approve the agenda.

HIGHLAND/SMITH – SO MOVED.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**PUBLIC COMMENT**

**RECONSIDERATION**

**ADOPTION OF CONSENT AGENDA**

- A. Approval of minutes of May 1, 2019
- B. Drainage Easement Vacation Request at 4510 Heidi Court
- C. Time extension request for Sterling Hwy/Main Street AKDOT Right of Way Acquisition Preliminary Plat

Chair Venuti requested a motion to approve the Consent Agenda.

HIGHLAND/BANKS - SO MOVED.

**From:** Carey Meyer  
**Sent:** Monday, May 13, 2019 8:47 AM  
**To:** Travis Brown  
**Subject:** RE: Heidi Court drainage easement vacation

Mr. Brown,

The Public Works Department has no objection to vacating the drainage easement across Lot 24-A, AA Mattox – Peggi's Addition.

We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right-of-way.

In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.

**Carey S. Meyer, P.E., MPA**

Public Works Director/City Engineer  
City of Homer, Alaska  
3575 Heath Street  
Homer, AK 99603  
[cmeyer@ci.homer.ak.us](mailto:cmeyer@ci.homer.ak.us)  
(p) 907-435-3124  
(f) 907-235-3145  
(c) 907-399-7232

---

**From:** Travis Brown <[tbrown@ci.homer.ak.us](mailto:tbrown@ci.homer.ak.us)>  
**Sent:** Friday, May 10, 2019 12:26 PM  
**To:** Carey Meyer <[CMeyer@ci.homer.ak.us](mailto:CMeyer@ci.homer.ak.us)>  
**Subject:** Heidi Court drainage easement vacation

Carey,

Thanks for providing an email for the commission to see. I attached the rest of the documents associated with this request so the references are at your fingertips.

Travis Brown  
Planning Technician  
City of Homer  
Planning and Zoning Office  
(907)235-3106



Session 19-25 a Regular Meeting of the Homer City Council was called to order on September 4, 2019 by Mayor Ken Castner at 5:30 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: ADERHOLD, ERICKSON, LORD, SMITH, STROOZAS, VENUTI

**STAFF:** CITY CLERK JACOBSEN  
CITY ATTORNEY WELLS  
CITY ATTORNEY GOLDSMITH

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

The agenda was approved by consensus of the Council.

**PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA** (3 minute time limit)

**PENDING BUSINESS**

- A. Vacation of a 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition granted by AA Mattox Peggi's Addition (Plat HM 99-64) within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V.
  - i. Letter from Max Best KPB Planning Director
  - ii. KPB Planning Commission Packet Materials
  - iii. KPB Approved Minutes
  - iv. Correspondence from Echo Trading Company requesting Veto of KPB Approval of the vacation of a 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition granted by AA Mattox Peggi's Addition

Mayor Castner convened the hearing before the Homer City Council on the Petition to the Kenai Peninsula Borough Planning Director for Vacation of a Drainage Easement at 4510 Heidi Court. According to Kenai Peninsula Borough Code of Ordinance 20.70.110, vacation of a public easement within the City boundaries "may not be approved without the consent of the city council." Council has 30 days to veto the Kenai Peninsula Borough Planning Commission's consent to the vacation. If Council fails to issue a veto within that time period, Council is considered to have consented to the vacation.

ATTORNEY SCOPE DISCLOSURE

Mayor Castner disclosed that City Attorney Wells has advised the City regarding the veto process and conversed with members of the City Administration, including the City Manager, City Planner, and Public Works Director, as well as members of the Borough legal department, regarding this hearing. She has also corresponded with Robert Malloy, an attorney representing Echo Trading Post, regarding Council's veto power and the Borough's vacation process. That correspondence has been included in the hearing materials and distributed to the parties. Ms. Wells is here today to give Council recommendations regarding the hearing process, standards of review, and general procedures. Ms. Wells drafted a hearing agenda that was given to the parties and made publicly available as well as the Hearing Outline I am using to chair this hearing. However, Ms. Wells will not enter into deliberations with Council or advise Council regarding its substantive findings.

He asked if any party, or Council member objected to Ms. Wells' participation in this hearing.

No objection was expressed by Council or the parties.

#### GENERAL INTRODUCTION & ESTABLISHING STANDARD OF REVIEW

Mayor Castner provided an overview of the case, in which the Kenai Peninsula Borough Planning Commission granted the vacation request on June 24, 2019. Due to procedural matters outside the scope of Council's veto authority and this hearing, the Borough adopted August 12, 2019 as the date from which the 30-day period for veto/consent would run. As a result, Homer City Council must issue its veto or consent before September 11, 2019 or its silence will be seen as consent to the Borough Planning Commission's authorization of the vacation. This procedure is required under both the Kenai Peninsula Borough Code of Ordinances as well as Alaska Statute 29.40.140.

While the Kenai Peninsula Borough Code of Ordinances grants the City Council "veto authority" in this matter, it does not require Council to apply a specific standard of review when considering the vacation or to issue findings regarding Council's decision to veto or not veto. Further, the Borough, which is the platting authority authorized to act in this matter, has adopted a comprehensive procedure for reviewing and making findings regarding vacations. While the Homer Planning Commission is given an opportunity to comment during that process, and Council retains the right to veto the Borough's decision, neither the Commission nor this Council acts as a fact finder in the vacation process.

Mayor Castner asked for a motion from City Council to limit the scope of Council's review of the Borough's vacation consent to the following:

Council may only veto a vacation authorized by the Borough Planning Commission and deferred to Council by the Borough for its consent if the majority of Council members present

at a hearing on the matter find that the vacation may have a negative impact on real property or improvements within the City and no viable alternative option exists to mitigate the impact.

STROOZAS/LORD MOVED TO ACCEPT THAT STANDARD OF REVIEW.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PRESENTATION OF EVIDENCE

Mayor Castner addressed Council's treatment of materials submitted to Council at or for consideration at this hearing and explained the City Attorney proposed Council adopt the following standard regarding evidence and supplemental materials during this hearing:

In determining whether or not to veto the Borough Planning Commission's decision, Council will rely upon the record that was before the Borough Planning Commission and any findings issued by the Borough Planning Commission.

Council may consider documents submitted to Council after the Borough Planning Commission's decision was issued so long as both parties and Council receive these documents before the hearing and the documents are demonstrative in nature and are not submitted to establish or contest facts. The City Council does not act as a fact finder in the vacation proceeding.

LORD/VENUTI MOVED TO ADOPT THE EVIDENCE STANDARD AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

THE HEARING SCHEDULE

Mayor Castner explained tonight's process. To reiterate, this hearing will begin with a staff overview that will be no more than 5 minutes with 5 minutes reserved for Council's questions of staff. Parties of record in the Borough proceeding will then each be given 15 minutes to

address Council. They may reserve a portion of their time before starting their presentations for rebuttal.

City Planner Abboud provided a brief overview of the City's process of the Planning Department receiving the materials from the Borough, requesting review from the City Engineer, and providing all information to the Homer Planning Commission for their review and for public comment.

There were no questions from the Council and Mayor Castner opened the floor to the parties.

AnnaLisa Cox commented that she followed the Boroughs process for requesting a drainage easement, cited excerpts from Borough Code regarding utility easements, explained adequate public space exists. She requests the Council not veto the vacation.

Susanna Webster, representative for Echo Trading, commented in support of vetoing the vacation explaining the process wasn't followed properly as Mr. Neal did not receive notice of the vacation before the City made recommendations to the Borough and the inadequate ditching in the right of way and needs to be dealt with properly.

Council had no questions for the parties.

LORD/STROOZAS MOVED TO AFFIRM THE VACATION OF THE EASEMENT.

Councilmember Lord commented that an alternative option exists to mitigate the impact, it appears the Borough did the fact finding for their decision on the easement, and the easement on the property is less than ideal.

Councilmember Smith commented he is uncomfortable affirming due to the claim that Mr. Neal didn't have an opportunity to interact on the municipal level. He would prefer they fall silent on the issue.

Councilmember Aderhold shared her discomfort with either decision to affirm or veto. Donna wholly uncomfortable with either decision.

There was discussion to clarify if the Council chooses not to support the motion they will neither be vetoing nor giving consent, but will remain silent on the issue.

VOTE: NO: VENUTI, ADERHOLD, SMITH, ERICKSON, LORD, STROOZAS

Motion failed.

There brief comments clarifying the Councils silence regarding the vacation means they neither affirm nor veto the Boroughs decision regarding the easement.

**NEW BUSINESS**

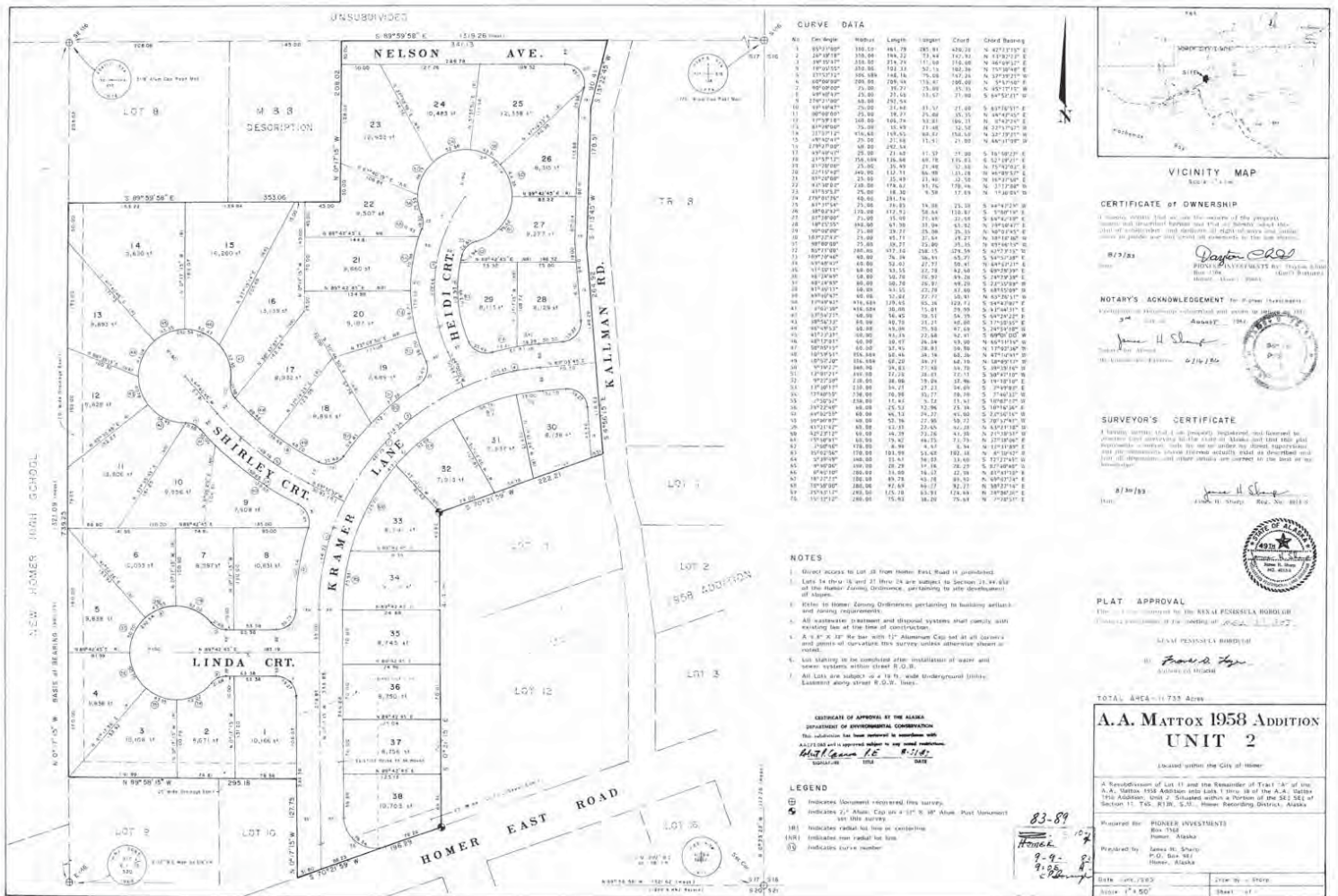
**COMMENTS OF THE AUDIENCE**

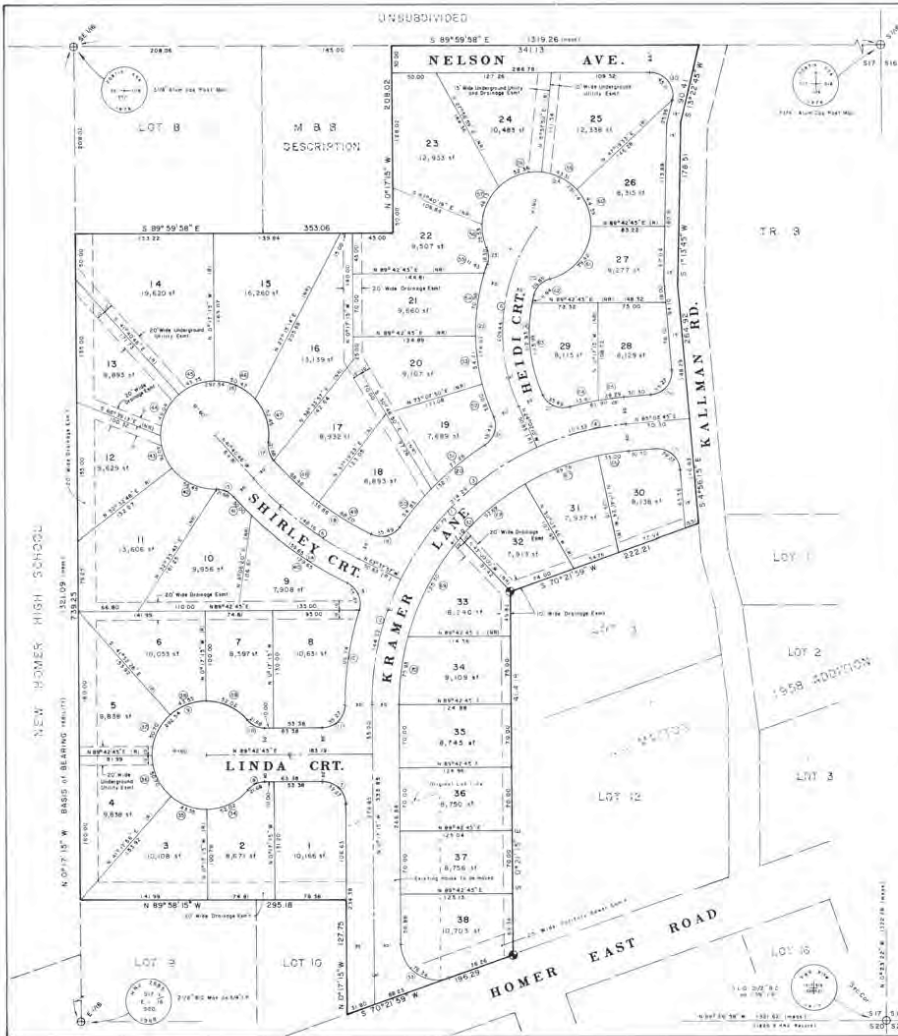
**ADJOURNMENT**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 6:10 p.m. The next regular Meeting is Monday, September 9, 2019 at 6:00 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.

\_\_\_\_\_  
Melissa Jacobsen, MMC, City Clerk

Approved:\_\_\_\_\_





**CURVE DATA**

Sta	Cur Angle	Radius	Length	Tangent	Chord	Chord Bearing
1	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
2	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
3	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
4	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
5	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
6	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
7	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
8	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
9	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
10	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
11	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
12	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
13	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
14	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
15	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
16	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
17	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
18	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
19	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
20	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
21	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
22	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
23	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
24	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
25	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
26	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
27	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
28	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
29	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
30	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
31	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
32	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
33	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
34	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
35	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
36	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
37	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
38	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E
39	90°00'00"	0.00	0.00	0.00	0.00	N 0°00'00" E



VICINITY MAP  
Scale: 1" = 1 mi.

**CERTIFICATE OF OWNERSHIP**  
I hereby certify from my own file records of the property shown and described herein and that I am hereby doing this in order to certify and declare the right of ways and public use to public use and grant all easements to the lot shown:

**NOTARY ACKNOWLEDGMENT**  
I hereby certify that I am a duly qualified Notary Public in and for the State of Alaska, and that I am hereby doing this in order to certify and declare the right of ways and public use to public use and grant all easements to the lot shown:

**SURVEYOR'S CERTIFICATE**  
I hereby certify that I am a duly qualified Surveyor in and for the State of Alaska, and that I am hereby doing this in order to certify and declare the right of ways and public use to public use and grant all easements to the lot shown:

**NOTES**

- Direct access to Lot 11 from Homer East Road is prohibited.
- Lots 14 and 15 and 17 thru 24 are subject to Section 21 as set out in the Home Rearing Ordinance pertaining to site development of villages.
- Refer to Home Rearing Ordinance pertaining to building setback and zoning requirements.
- All wastewater treatment and disposal systems shall comply with existing law at the time of construction.
- A 5' 0" x 10' 0" Bar with 1/2" Aluminum Cap set at all corners and joints of curbs where this survey unless otherwise shown or noted.
- Lot 11 shall be completed after installation of water and sewer systems within street R.O.S. lines.
- All lots are subject to a 75 ft. wide Underground Utility Easement along street R.O.S. lines.

**AMENDMENT CERTIFICATION**  
This plat was approved by the KENAI PENINSULA BOROUGH Planning Commission at the meeting of 8/24/2020.

**PLAT APPROVAL**  
This plat was approved by the KENAI PENINSULA BOROUGH Planning Commission at the meeting of 8/24/2020.

**NOTARY ACKNOWLEDGMENT**  
I hereby certify that I am a duly qualified Notary Public in and for the State of Alaska, and that I am hereby doing this in order to certify and declare the right of ways and public use to public use and grant all easements to the lot shown:

**LEGEND**

- (S) indicates monument recovered this survey
- (M) indicates 1/2" Alum. Cap on a 1/2" x 10" Alum. Post monument set this survey.
- (B) indicates radial tie line or centerline.
- (L) indicates line not radial tie line.
- (C) indicates curve number.

**AMENDED**  
TOTAL AREA: 11,733 ACRES

**A.A. MATTOX 1958 ADDITION UNIT 2**  
Located within the City of Homer

A Resubdivision of Lot 11 and the Remainder of Tract "A" of the A.A. Mattox 1958 Addition into Lots 1 thru 38 of the A.A. Mattox 1958 Addition, Unit 2, Situated within a Portion of the SEC 36 of Section 11, T4S, R11E, S.31, Homer Recording District, Alaska

Prepared by: PIONEER INVESTMENTS  
Box 154  
Homer, Alaska

Prepared by: James H. Stary  
P.O. Box 981  
Homer, Alaska

Date: 08/24/2020  
Scale: 1" = 50'

HM 99-64



**LEGEND**

- Found 5/8" rebar as per Plat No. 84-8 HRD
- Found 2" Aluminum Cap on 5/8" steel rebar 5780-S 1997

- NOTES**
- All wastewater disposal systems shall comply with existing applicable laws at the time of construction.
  - No permanent structures shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
  - Books of Bearings - AA Mattox 1958 Addition Unit 2 Amended as shown on Record Plat 84-8 Homer Recording District. Dimensions are record.
  - Utility and Drainage Easements as shown on the Record Plat 84-8 HRD were vacated by action of the Homer City Council at their meeting on March 22, 1999.
  - The 25 ft water and sewer easement as shown hereon is not in use this date. Any use of this easement must be approved by the City of Homer Public Works Dept. and the ground must be restored to its original condition after construction. Furthermore, this easement shall be vacated by request of the City of Homer if water and sewer mains are placed in Kallman Road.
  - General easement for electric lines or system is recorded in Book 19 Page 82 HRD in favor of Homer Electric Association no definite location given.
  - Covenants affecting the lot shown hereon are on file at the Homer office of the State Recorder. See Bl. M 1263, Bl. 145 P201, Bl. 145 P368, Bl. 152 P253, Bl. 169 P475.



**WASTEWATER DISPOSAL**

Plans for wastewater that meet regulatory requirements are on file at the State of Alaska Department of Environmental Conservation.

*Roger W. Inhoff August 6, 1999*  
 Roger W. Inhoff LS 5750 Date

**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

May 24, 1999

KENAI PENINSULA BOROUGH  
 By: *Max Reed*  
 Authorizing Official

**SURVEYORS CERTIFICATE**

I hereby certify that I am a Registered Land Surveyor and that this plat represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that the dimensions and other details are correct to the best of my knowledge.

*Roger W. Inhoff August 6, 1999*  
 Roger W. Inhoff LS 5750 Date

99-64 2000

RECORDED REC DIST  
 HOMER  
 Date 11/16/99  
 11  
 Prepared by  
 Roger Inhoff, RLS  
 PO Box 2588  
 Homer AK 99603

**OWNERSHIP CERTIFICATE**

We hereby certify that we are the owners of the real property shown and described herein and that we hereby adopt this plan of subdivision and by our free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

We further certify that the Deed of Trust affecting this property does not contain restrictions which would prohibit this subdivision or require signature and approval of the beneficiary.

*Robert D. Patton* owner of former Lot 24  
 Robert D. Patton Date  
 4510 Heidi Court  
 Homer AK 99603

*Peggy L. Patton* owner of former Lots 24 and 25  
 Peggy L. Patton Date  
 aka Peggy L. Forrester  
 Homer AK 99603

Notary's Acknowledgment  
 Subscribed and sworn to before me this 13 day of August 1999

for Robert D. Patton and Peggy L. Patton

*Maureen Dawn*  
 Notary Public for Alaska  
 My Commission Expires 7-30-02



Vicinity Map 1" = 1000 ft



**AA Mattox  
 Peggy's Addition**

Being a Replat of Lots 24 and 25 AA Mattox 1958 Addition Unit 2 Amended as shown on Record Plat 84-8 Homer Recording District

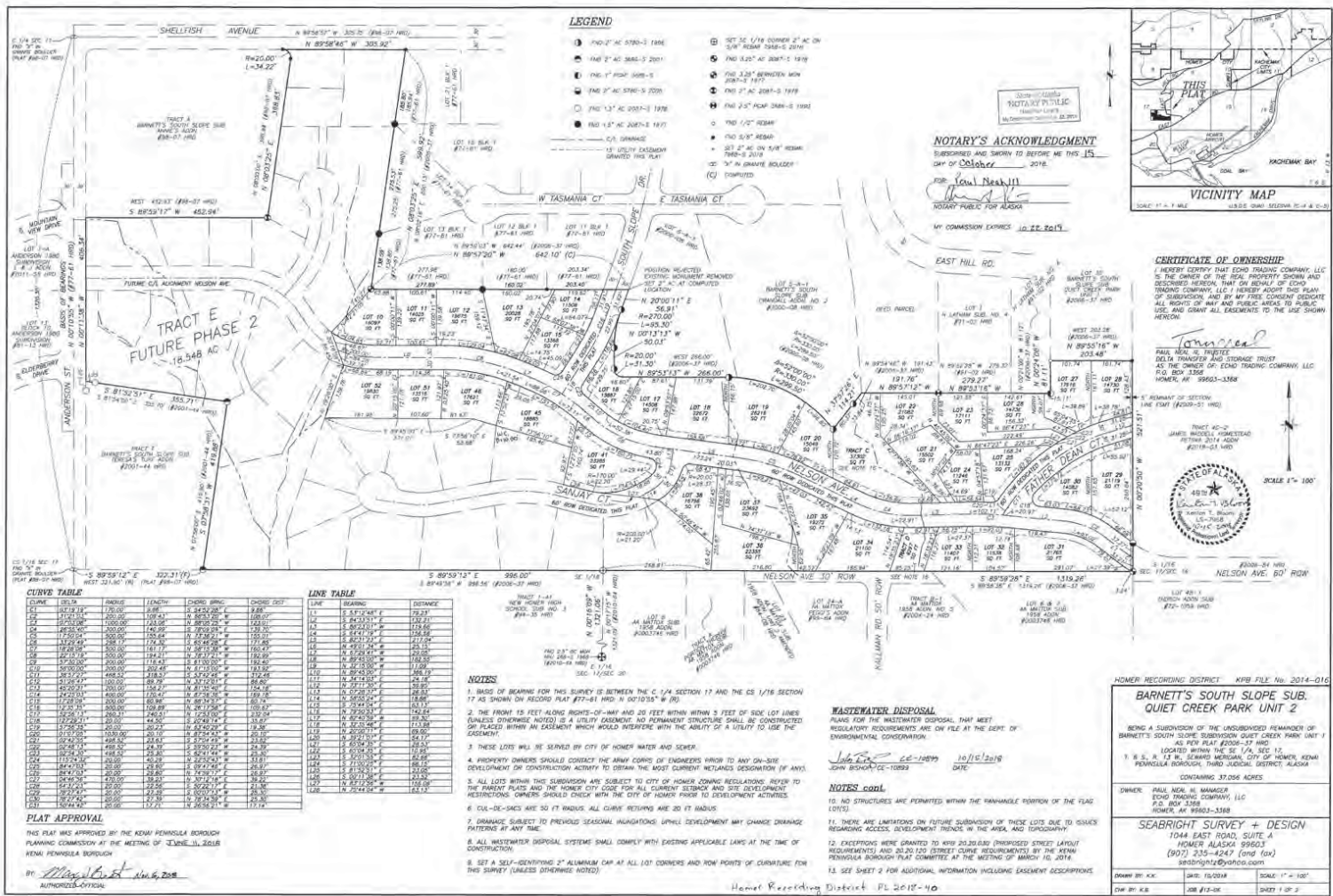
Located within the SE 1/4 SE 1/4 Sec. 17, T8S, R13W, S4M in the City of Homer Third Judicial District, Alaska

Contains 0.524 Acres, more or less

Clients: Robert and Peggy Patton 4510 Heidi Court Homer AK 99603	Surveyor: Roger W. Inhoff, RLS PO Box 2588 Homer AK 99603
Drawn: PW	Date: 3-23-99
Scale 1" = 50 ft	File: patton.vid

KPB File No. 98-264





**LEGEND**

- ① 760.2' AC 5780-5 1996
- ② 740.2' AC 3845-5 2001
- ③ 740.1' AC 3048-5
- ④ 740.2' AC 5780-5 2000
- ⑤ 740.1' AC 2007-5 1976
- ⑥ 740.1' AC 2007-5 1976
- ⑦ 740.1' AC 2007-5 1976
- ⑧ 740.1' AC 2007-5 1976
- ⑨ 740.1' AC 2007-5 1976
- ⑩ 740.1' AC 2007-5 1976
- ⑪ 740.1' AC 2007-5 1976
- ⑫ 740.1' AC 2007-5 1976
- ⑬ 740.1' AC 2007-5 1976
- ⑭ 740.1' AC 2007-5 1976
- ⑮ 740.1' AC 2007-5 1976
- ⑯ 740.1' AC 2007-5 1976
- ⑰ 740.1' AC 2007-5 1976
- ⑱ 740.1' AC 2007-5 1976
- ⑲ 740.1' AC 2007-5 1976
- ⑳ 740.1' AC 2007-5 1976
- ㉑ 740.1' AC 2007-5 1976
- ㉒ 740.1' AC 2007-5 1976
- ㉓ 740.1' AC 2007-5 1976
- ㉔ 740.1' AC 2007-5 1976
- ㉕ 740.1' AC 2007-5 1976
- ㉖ 740.1' AC 2007-5 1976
- ㉗ 740.1' AC 2007-5 1976
- ㉘ 740.1' AC 2007-5 1976
- ㉙ 740.1' AC 2007-5 1976
- ㉚ 740.1' AC 2007-5 1976
- ㉛ 740.1' AC 2007-5 1976
- ㉜ 740.1' AC 2007-5 1976
- ㉝ 740.1' AC 2007-5 1976
- ㉞ 740.1' AC 2007-5 1976
- ㉟ 740.1' AC 2007-5 1976
- ㊱ 740.1' AC 2007-5 1976
- ㊲ 740.1' AC 2007-5 1976
- ㊳ 740.1' AC 2007-5 1976
- ㊴ 740.1' AC 2007-5 1976
- ㊵ 740.1' AC 2007-5 1976
- ㊶ 740.1' AC 2007-5 1976
- ㊷ 740.1' AC 2007-5 1976
- ㊸ 740.1' AC 2007-5 1976
- ㊹ 740.1' AC 2007-5 1976
- ㊺ 740.1' AC 2007-5 1976
- ㊻ 740.1' AC 2007-5 1976
- ㊼ 740.1' AC 2007-5 1976
- ㊽ 740.1' AC 2007-5 1976
- ㊾ 740.1' AC 2007-5 1976
- ㊿ 740.1' AC 2007-5 1976

**NOTARY ACKNOWLEDGMENT**

Subscribed and sworn to before me this 15th day of October, 2016.

For: *Paul Neak III*

Notary Public for Alaska

My Commission Expires 10.12.2019

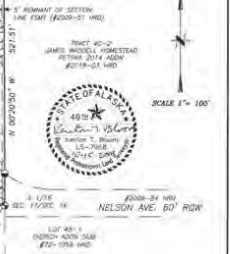


**CERTIFICATE OF OWNERSHIP**

I HEREBY CERTIFY THAT ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY AGREE TO THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEEDGATE ALL RIGHTS OF WAY AND PUBLIC RIGHTS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE SHOWN HEREON.

*Paul Neak III*

Paul Neak III, President  
ECHO TRADING COMPANY, LLC  
1000 W. 10th St.  
Kenai, AK 99503-1368



**CURVE TABLE**

LINE	BEARING	LENGTH	CHORD BEARING	CHORD DIST.
C1	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C2	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C3	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C4	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C5	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C6	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C7	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C8	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C9	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C10	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C11	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C12	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C13	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C14	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C15	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C16	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C17	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C18	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C19	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C20	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C21	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C22	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C23	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C24	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C25	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C26	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C27	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C28	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C29	S 89°52'12" E	176.20	S 89°52'12" E	176.20
C30	S 89°52'12" E	176.20	S 89°52'12" E	176.20

**LINE TABLE**

LINE	BEARING	LENGTH
L1	S 89°52'12" E	176.20
L2	S 89°52'12" E	176.20
L3	S 89°52'12" E	176.20
L4	S 89°52'12" E	176.20
L5	S 89°52'12" E	176.20
L6	S 89°52'12" E	176.20
L7	S 89°52'12" E	176.20
L8	S 89°52'12" E	176.20
L9	S 89°52'12" E	176.20
L10	S 89°52'12" E	176.20
L11	S 89°52'12" E	176.20
L12	S 89°52'12" E	176.20
L13	S 89°52'12" E	176.20
L14	S 89°52'12" E	176.20
L15	S 89°52'12" E	176.20
L16	S 89°52'12" E	176.20
L17	S 89°52'12" E	176.20
L18	S 89°52'12" E	176.20
L19	S 89°52'12" E	176.20
L20	S 89°52'12" E	176.20
L21	S 89°52'12" E	176.20
L22	S 89°52'12" E	176.20
L23	S 89°52'12" E	176.20
L24	S 89°52'12" E	176.20
L25	S 89°52'12" E	176.20
L26	S 89°52'12" E	176.20
L27	S 89°52'12" E	176.20
L28	S 89°52'12" E	176.20
L29	S 89°52'12" E	176.20
L30	S 89°52'12" E	176.20

**NOTES**

1. BASIS OF BEARING FOR THIS SURVEY IS BETWEEN THE C 1/4 SECTION 17 AND THE GS 1/16 SECTION 17 AS SHOWN ON RECORD PLAT 877-81 HMO. N 80°23'00" W 80.
2. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND 20 FEET WITHIN 5 FEET OF SIDE LOT LINES (UNLESS OTHERWISE NOTED) IS A UTILITY EASEMENT; NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THESE LOTS WILL BE SERVED BY CITY OF KENAI WATER AND SEWER.
4. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS WITHIN 90 DAYS OF ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT METRIC DESIGNATION (IF ANY).
5. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF KENAI ZONING REGULATIONS, REFER TO THE PARENT PLATS AND THE KENAI CITY CODE FOR ALL CURRENT ZONING AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF KENAI PRIOR TO DEVELOPMENT ACTIVITIES.
6. CUL-DE-SACS ARE 30 FT RADIUS ALL CURVE RATINGS ARE 30 FT RADIUS.
7. DRAINAGE SUBJECT TO PREVIOUS SEASONAL INDICATIONS UNLESS DEVELOPMENT MAY CHANGE DRAINAGE PATTERNS AT ANY TIME.
8. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
9. SET A SELF-IDENTIFYING 2" ALUMINUM CAP AT ALL LOT CORNERS AND NON POINTS OF CURVATURE FOR THIS SURVEY (UNLESS OTHERWISE NOTED).

**WASTEWATER DISPOSAL**

PLANS FOR THE WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS AND ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

*John Boshart* 10/16/2016  
DATE

**NOTES cont.**

10. NO STRUCTURES ARE PERMITTED WITHIN THE HANNAH HARBOR OF THE PLAT (1075).
11. THERE ARE LIMITATIONS ON FUTURE SUBDIVISION OF THESE LOTS DUE TO ISSUES REGARDING ACCESS, DEVELOPMENT, TRAILS AND THE AREA AND TOPOGRAPHY.
12. EXCEPTIONS WERE GRANTED TO ARMY 20.20.80 (IMPROVED STREET LAYOUT REQUIREMENTS) AND 20.20.120 (STREET CURVE REQUIREMENTS) BY THE KENAI PENINSULA BOROUGH THAT COMMITTEE AT THE MEETING OF MARCH 10, 2014.
13. SEE SHEET 2 FOR ADDITIONAL INFORMATION INCLUDING EASEMENT OCCUPATIONS.

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF JUNE 13, 2016 KENAI PENINSULA BOROUGH

BY: *William C. East* June 13, 2016  
APPROVED OFFICIAL

HOMER RECORDING DISTRICT KPB FILE NO. 2014-016

**BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK UNIT 2**

BEING A SUBDIVISION OF THE UNDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 1 AS PER PLAT 87006-37 HMO.

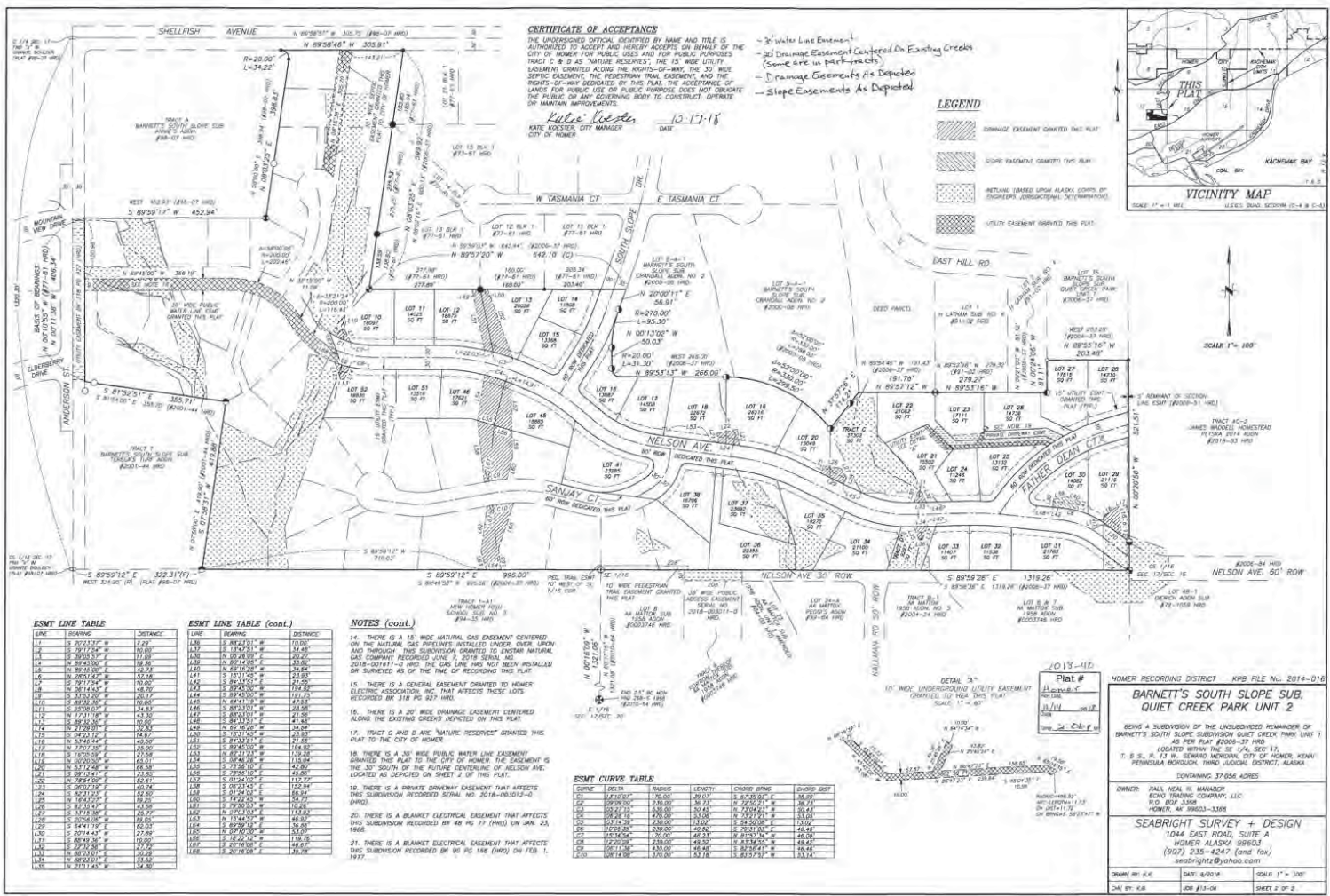
LOCATED WITHIN THE S 1/4, SEC. 12, T 18 S, R 12 W, SEWARD MERIDIAN, CITY OF KENAI, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA.

CONTAINING 37.056 ACRES

DRAWN BY: PAUL NEAK III, MANAGER  
ECHO TRADING COMPANY, LLC  
P.O. BOX 3368  
KENAI, AK 99503-1368

SEABRIGHT SURVEY + DESIGN  
1044 EAST ROAD, SUITE 4  
KENAI, ALASKA 99503  
(907) 235-4247 (land fax)  
seabright@seabright.com

FORM BY KIC DATE 11/20/04 SCALE 1" = 100'  
DWG BY KIB JOB #12-06 SHEET 1 OF 2



**CERTIFICATE OF ACCEPTANCE**  
 THE UNDERSIGNED OFFICIAL, IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES TRACT C & D AS NATURE RESERVES, THE 15' WIDE UTILITY EASEMENT GRANTED ALONG THE RIGHTS-OF-WAY, THE 30' WIDE SEPTIC EASEMENT THE RESTRICTION TRAIL EASEMENT, AND THE RIGHTS-OF-WAY DEICATED BY THIS PLAN, THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE OR MAINTAIN IMPROVEMENTS.

*Kate Koester*  
 KATE KOESTER, CITY MANAGER  
 DATE: 12-17-18

- 30' Water Line Easement
- 30' Drainage Easement Centered On Existing Creeks
- Same As In Tract A-1-0
- Drainage Easements As Depicted
- Slope Easements As Depicted

**LEGEND**

- DRAINAGE EASEMENT GRANTED THIS PLAN
- SLOPE EASEMENT GRANTED THIS PLAN
- RETAINS (BASED UPON ALASKA CODES BY ENGINEERS, PROFESSIONAL DETERMINATIONS)
- UTILITY EASEMENT GRANTED THIS PLAN



**ESMT LINE TABLE**

LINE	BEARING	DISTANCE
L11	S 29°27'17" W	12.29
L12	S 29°17'54" W	10.00
L13	S 29°20'37" W	12.29
L14	N 89°58'46" W	18.94
L15	N 89°58'46" W	452.94
L16	N 89°58'46" W	18.94
L17	S 29°20'37" W	12.29
L18	S 29°17'54" W	10.00
L19	S 29°27'17" W	12.29
L20	S 29°20'37" W	12.29
L21	S 29°20'37" W	12.29
L22	S 29°20'37" W	12.29
L23	S 29°20'37" W	12.29
L24	S 29°20'37" W	12.29
L25	S 29°20'37" W	12.29
L26	S 29°20'37" W	12.29
L27	S 29°20'37" W	12.29
L28	S 29°20'37" W	12.29
L29	S 29°20'37" W	12.29
L30	S 29°20'37" W	12.29
L31	S 29°20'37" W	12.29
L32	S 29°20'37" W	12.29
L33	S 29°20'37" W	12.29
L34	S 29°20'37" W	12.29
L35	S 29°20'37" W	12.29
L36	S 29°20'37" W	12.29
L37	S 29°20'37" W	12.29
L38	S 29°20'37" W	12.29
L39	S 29°20'37" W	12.29
L40	S 29°20'37" W	12.29
L41	S 29°20'37" W	12.29
L42	S 29°20'37" W	12.29
L43	S 29°20'37" W	12.29
L44	S 29°20'37" W	12.29
L45	S 29°20'37" W	12.29
L46	S 29°20'37" W	12.29
L47	S 29°20'37" W	12.29
L48	S 29°20'37" W	12.29
L49	S 29°20'37" W	12.29
L50	S 29°20'37" W	12.29
L51	S 29°20'37" W	12.29
L52	S 29°20'37" W	12.29
L53	S 29°20'37" W	12.29
L54	S 29°20'37" W	12.29
L55	S 29°20'37" W	12.29
L56	S 29°20'37" W	12.29
L57	S 29°20'37" W	12.29
L58	S 29°20'37" W	12.29
L59	S 29°20'37" W	12.29
L60	S 29°20'37" W	12.29
L61	S 29°20'37" W	12.29
L62	S 29°20'37" W	12.29
L63	S 29°20'37" W	12.29
L64	S 29°20'37" W	12.29
L65	S 29°20'37" W	12.29
L66	S 29°20'37" W	12.29
L67	S 29°20'37" W	12.29
L68	S 29°20'37" W	12.29
L69	S 29°20'37" W	12.29
L70	S 29°20'37" W	12.29
L71	S 29°20'37" W	12.29
L72	S 29°20'37" W	12.29
L73	S 29°20'37" W	12.29
L74	S 29°20'37" W	12.29
L75	S 29°20'37" W	12.29
L76	S 29°20'37" W	12.29
L77	S 29°20'37" W	12.29
L78	S 29°20'37" W	12.29
L79	S 29°20'37" W	12.29
L80	S 29°20'37" W	12.29
L81	S 29°20'37" W	12.29
L82	S 29°20'37" W	12.29
L83	S 29°20'37" W	12.29
L84	S 29°20'37" W	12.29
L85	S 29°20'37" W	12.29
L86	S 29°20'37" W	12.29
L87	S 29°20'37" W	12.29
L88	S 29°20'37" W	12.29
L89	S 29°20'37" W	12.29
L90	S 29°20'37" W	12.29
L91	S 29°20'37" W	12.29
L92	S 29°20'37" W	12.29
L93	S 29°20'37" W	12.29
L94	S 29°20'37" W	12.29
L95	S 29°20'37" W	12.29
L96	S 29°20'37" W	12.29
L97	S 29°20'37" W	12.29
L98	S 29°20'37" W	12.29
L99	S 29°20'37" W	12.29
L100	S 29°20'37" W	12.29

**ESMT LINE TABLE (cont.)**

LINE	BEARING	DISTANCE
L101	S 29°20'37" W	12.29
L102	S 29°20'37" W	12.29
L103	S 29°20'37" W	12.29
L104	S 29°20'37" W	12.29
L105	S 29°20'37" W	12.29
L106	S 29°20'37" W	12.29
L107	S 29°20'37" W	12.29
L108	S 29°20'37" W	12.29
L109	S 29°20'37" W	12.29
L110	S 29°20'37" W	12.29
L111	S 29°20'37" W	12.29
L112	S 29°20'37" W	12.29
L113	S 29°20'37" W	12.29
L114	S 29°20'37" W	12.29
L115	S 29°20'37" W	12.29
L116	S 29°20'37" W	12.29
L117	S 29°20'37" W	12.29
L118	S 29°20'37" W	12.29
L119	S 29°20'37" W	12.29
L120	S 29°20'37" W	12.29
L121	S 29°20'37" W	12.29
L122	S 29°20'37" W	12.29
L123	S 29°20'37" W	12.29
L124	S 29°20'37" W	12.29
L125	S 29°20'37" W	12.29
L126	S 29°20'37" W	12.29
L127	S 29°20'37" W	12.29
L128	S 29°20'37" W	12.29
L129	S 29°20'37" W	12.29
L130	S 29°20'37" W	12.29
L131	S 29°20'37" W	12.29
L132	S 29°20'37" W	12.29
L133	S 29°20'37" W	12.29
L134	S 29°20'37" W	12.29
L135	S 29°20'37" W	12.29
L136	S 29°20'37" W	12.29
L137	S 29°20'37" W	12.29
L138	S 29°20'37" W	12.29
L139	S 29°20'37" W	12.29
L140	S 29°20'37" W	12.29
L141	S 29°20'37" W	12.29
L142	S 29°20'37" W	12.29
L143	S 29°20'37" W	12.29
L144	S 29°20'37" W	12.29
L145	S 29°20'37" W	12.29
L146	S 29°20'37" W	12.29
L147	S 29°20'37" W	12.29
L148	S 29°20'37" W	12.29
L149	S 29°20'37" W	12.29
L150	S 29°20'37" W	12.29

- NOTES (cont.)**
14. THERE IS A 15' WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPES INSTALLED UNDER OVER GROW AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 9, 2018 SERIAL NO. 2018-001411-0 AND THE GAS LINE HAS NOT BEEN INSTALLED OR SUNDERS AS OF THE TIME OF RECORDING THIS PLAN.
  15. THERE IS A GENERAL EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION, INC. THAT AFFECTS THESE LOTS RECORDED BY 118 PG 827 HRS.
  16. THERE IS A 20' WIDE DRAINAGE EASEMENT CENTERED ALONG THE EXISTING CREEKS DEPICTED ON THIS PLAN TO THE CITY OF HOMER.
  17. TRACT C AND D ARE "NATURE RESERVES" GRANTED THIS PLAN TO THE CITY OF HOMER.
  18. THERE IS A 30' WIDE PUBLIC WATER LINE EASEMENT GRANTED THIS PLAN TO THE CITY OF HOMER THE EASEMENT IS THE 30' SOUTH OF THE FUTURE CENTERLINE OF NELSON AVE. LOCATED AS DEPICTED ON SHEET 2 OF THIS PLAN.
  19. THERE IS A PRIVATE DRIVEWAY EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED SERIAL NO. 2018-083012-0 (HRS).
  20. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BY 48 PG 77 (HRS) ON JAN 23, 1988.
  21. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BY 66 PG 188 (HRS) ON FEB. 1, 1977.

**ESMT CURVE TABLE**

CURVE	BEARING	RADIUS	LENGTH	CHORD BEING	CHORD BEIT
C1	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C2	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C3	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C4	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C5	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C6	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C7	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C8	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C9	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C10	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C11	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C12	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C13	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C14	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C15	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C16	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C17	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C18	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C19	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07
C20	S 29°20'37" W	176.00	49.07	S 29°20'37" W	49.07

**NOTES**

1. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE SAID EASEMENT.
2. THIS LOT IS SERVED BY CITY OF HOMER WATER AND SEWER.
3. DEVELOPMENT ON THIS LOT IS SUBJECT TO HOMER CITY CODE.
4. PROPERTY OWNER SHOULD CONTACT THE ARMY CORPS OF ENGINEERS FROM TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLAND DESIGNATION (IF ANY). PROPERTY OWNERS ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE AND FEDERAL PERMITS.
5. EXCEPTIONS TO KPB 20.30.030 (EXTENSION OF RIGHT-OF-WAY FOR NELSON AVE.) & KPB 20.30.170 (BLOCK LENGTH) WERE GRANTED BY THE KENAI PENINSULA PLANNING COMMISSION AT THE MEETING OF MAY 28, 2019.
6. AN EXCEPTION TO KPB 20.30.100 (DEDICATION OF A CUL-DE-SAC AT THE END OF NELSON AVE.) WAS GRANTED BY THE KENAI PENINSULA PLANNING COMMISSION AT THE MEETING OF MAY 28, 2019.
7. THE 30' WIDE PUBLIC ACCESS EASEMENT RECORDED SERIAL NO. 2018-003011-0 HRD WAS VACATED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF APRIL 8, 2019. THE VACATION WAS APPROVED BY THE HOMER CITY COUNCIL AT THE MEETING OF APRIL 22, 2019.
8. THE 10' WIDE PEDESTRIAN EASEMENT GRANTED THIS PLAT TO THE CITY OF HOMER IS NOT AFFECTED BY THE VACATION OF THE 30' WIDE PUBLIC ACCESS EASEMENT.

**GPS CONTROL DATA**

1. BASIS OF COORDINATES FOR THIS SURVEY IS FROM GPS STATIC OBSERVATIONS TAKEN ON THE MONUMENT POSITIONS AS SHOWN ON THIS PLAT. HADRS ALASKA STATE PLANE GRID COORDINATES OBTAINED FROM THE GPS OBSERVATIONS WERE BASED ON THE NGS PUBLISHED VALUES FOR USCGS TRISTATION "HOMER".
2. TRUE BEARINGS AND DISTANCES WERE DETERMINED BY ROTATING AND SCALING FROM GRID USING USCGS TRISTATION "HOMER" AS A SCALING POINT. TRUE BEARINGS WERE DETERMINED BY ROTATING GRID INVERSE AZIMUTHS -117°13.4". TRUE DISTANCES WERE OBTAINED BY DIVIDING GRID INVERSE DISTANCES BY 0.999986698.
3. THE RESULTING SCALED COORDINATES WERE TRANSLATED TO A LOCAL COORDINATE SYSTEM BASED ON USCGS TRISTATION "HOMER". N=100,000 E=100,000. ALL COORDINATE VALUES REPRESENT GROUND DISTANCES ORIENTED TO TRUE NORTH.

**LEGEND**

- ⊕ FND 2" AC ON 5/8" REBAR 1988-S 2018
- ⊙ FND 1.5" AC 4015-S 1983
- ⊖ RECORDED 1.5" AC 4015-S 1983 (HM #0840008)
- FND 5/8" REBAR
- ⚡ SET 2" AC ON 5/8" REBAR 1988-S 2019
- (M) MEASURED
- (C) COMPUTED
- 30' WIDE PUBLIC ACCESS EASEMENT VACATED THIS PLAT

**WASTEWATER DISPOSAL**

PLANS FOR WASTEWATER DISPOSAL THAT MEET THE REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.



**CERTIFICATE OF ACCEPTANCE**

THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE 10' WIDE PEDESTRIAN EASEMENT GRANTED THIS PLAT. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE OR MAINTAIN IMPROVEMENTS.

*Kate Koester* 8-27-19  
 KATE KOESTER, CITY MANAGER DATE

**NOTARY'S ACKNOWLEDGMENT**

FOR: Paul Neal III  
 ACKNOWLEDGED BEFORE ME THIS 27  
 DAY OF August, 2019  
 NOTARY PUBLIC FOR ALASKA  
 MY COMMISSION EXPIRES 10-27-2019

State of Alaska  
 NOTARY PUBLIC  
 Heather Lawton  
 My Commission Expires 03-31-2021

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF May 28, 2019

BY: *Scott Hill* 8/30/2019  
 AUTHORIZED OFFICIAL DATE  
 KENAI PENINSULA BOROUGH

**CERTIFICATE OF OWNERSHIP**

I HEREBY CERTIFY THAT ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

*Paul Neal III*  
 PAUL NEAL III, TRUSTEE  
 DELTA TRANSFER AND STORAGE TRUST  
 AS THE OWNER OF: ECHO TRADING COMPANY, LLC  
 P.O. BOX 3368  
 HOMER, AK 99603-3368

HOMER RECORDING DISTRICT KPB FILE NO. 2019-028

**AA MATTOX GWEN'S 2019 ADDN.**

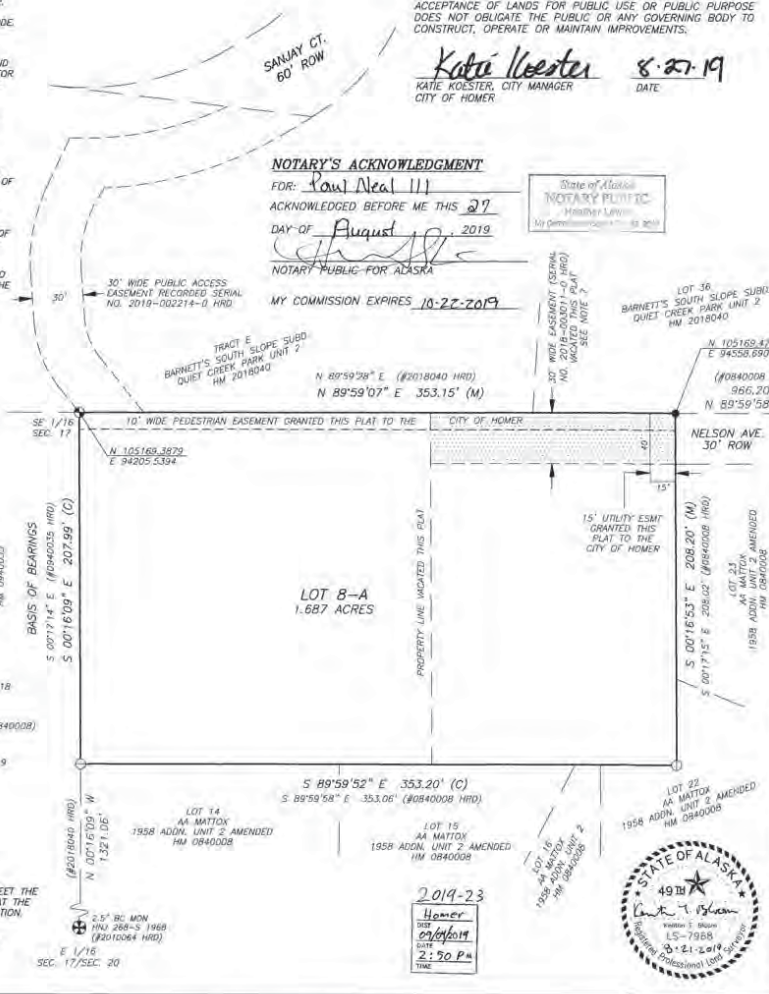
A REPLAT OF LOT 8 AND TRACT A PORTION THEREOF, AA MATTOX 1958 ADDN (HM 0003746) LOCATED WITHIN THE NW 1/4 SE 1/4 SE 1/4, SEC. 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA CONTAINING 1.687 ACRES

**SEABRIGHT SURVEY + DESIGN  
 KENTON T. BLOOM, P.L.S.**

1044 EAST ROAD, SUITE A  
 HOMER, ALASKA 99603  
 (907) 299-1031

CLIENT: ECHO TRADING COMPANY, LLC  
 P.O. BOX 3368, HOMER, AK 99603

DRAWN BY: KK CHKD BY: KB JOB #2019-03  
 DATE: 8/20/2019 SCALE: 1"=40' SHEET #1 OF 1



2019-23  
 Homer  
 DATE: 8/27/2019  
 TIME: 2:30 PM

**NOTES**

1. BASIS OF READING FOR THIS SURVEY IS FROM THE PLAT OF AA MATTOX OWEN'S 2019 ADDITION (HM 2019-23).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. LOT 14-A IS SERVED BY CITY OF HOMER WATER AND SEWER. WITH CITY APPROVAL, LOT 8-A-1 COULD BE CONNECTED TO CITY OF HOMER WATER AND SEWER IN THE FUTURE. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
4. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
5. ORIGINAL CORNERS WERE FOUND DISTURBED. SET NEW CORNER MARKERS AT PROPOSED POSITIONS.
6. FORMER LOT 14 IS AFFECTED BY COVENANTS, CONDITIONS, AND RESTRICTIONS RECORDED WITHIN BOOK 141, PAGE 263 (ENCL) AND THE AMENDMENTS RECORDED WITHIN BOOK 145, PAGE 301, BOOK 146, PAGE 868, BOOK 152, PAGE 388 AND BOOK 169, PAGE 478 (ENCL).
7. EXCEPTIONS TO KRS 30.30.03(B) (EXTENSION OF THE NELSON AVENUE RIGHT-OF-WAY), AND 30.30.100 (DEDICATION OF A CUL-DE-SAC AT THE END OF THE NELSON AVENUE RIGHT-OF-WAY) WERE GRANTED TO AA MATTOX OWEN'S 2019 ADDITION, HM 2019-23 AND THAT FOR THE PLANNING COMMISSION THE EXCEPTIONS ARE BEING CARRIED FORWARD TO THIS PLATTING ACTION.
8. AN EXCEPTION TO KRS 30.30.170 (BLOCK LENGTH) WAS GRANTED TO AA MATTOX OWEN'S 2019 ADDITION, HM 2019-23 AND THAT, PER THE PLANNING COMMISSION, THE EXCEPTIONS ARE BEING CARRIED FORWARD TO THIS PLATTING ACTION.

**WASTEWATER DISPOSAL**  
 PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.  
 By: *Stephan C. Smith* 15-7536 1/15/19  
 SURVEYOR LICENSEE STATE OF ALASKA

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF NOV. 12, 2019.  
 By: *Mark H. Groat* 021-1000  
 ALLEGED OFFICIAL KENAI PENINSULA BOROUGH



**BENEFICIAL INTEREST HOLDER APPROVAL**

By: *Shane F. Kallala*  
 HORIZON ELECTRONIC REGISTRATION SYSTEMS, LLC  
 AS AGENT FOR ALASKA USA MORTGAGE COMPANY, LLC, ISAGA  
 BY MARY T. KOBELSKI  
 ITS VICE PRESIDENT

**CERTIFICATE OF OWNERSHIP**

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT WE HEREBY ACCEPT THIS PLAT OF SUBDIVISION, AND BY OUR FREE CONSENT DELEGATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

FOR: PAUL NEAL II, TRUSTEE  
 DELTA STORAGE AND TRANSFER TRUST  
 AS THE OWNER OF ECHO TRADING COMPANY, LLC  
 PO BOX 3368  
 HOMER, ALASKA 99603  
 LOT 8-A, AA MATTOX OWEN'S 2019 ADDITION  
 MARRIANE APPLIN  
 4300 SHIPLEY COURT  
 HOMER, ALASKA 99603  
 LOT 14, AA MATTOX 1958 ADDITION UNIT 2, AMENDED  
 DAVID APPLIN  
 4300 SHIPLEY COURT  
 HOMER, ALASKA 99603  
 LOT 14, AA MATTOX 1958 ADDITION UNIT 2, AMENDED.

**NOTARY'S ACKNOWLEDGMENT**

FOR: PAUL NEAL II  
 ACKNOWLEDGED BEFORE ME THIS 21<sup>ST</sup> DAY OF JANUARY 2019.  
 NOTARY PUBLIC FOR ALASKA  
 MY COMMISSION EXPIRES: 10-11-2023

**NOTARY'S ACKNOWLEDGMENT**

FOR: MARRIANE APPLIN AND DAVID APPLIN  
 ACKNOWLEDGED BEFORE ME THIS 21<sup>ST</sup> DAY OF JANUARY 2019.  
 NOTARY PUBLIC FOR ALASKA  
 MY COMMISSION EXPIRES: 3/18/23

**CERTIFICATE OF ACCEPTANCE**

THE UNDERSIGNED OFFICIAL, DETERMINED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS, SHOWN ON THIS PLAT IDENTIFIED AS FOLLOWS:

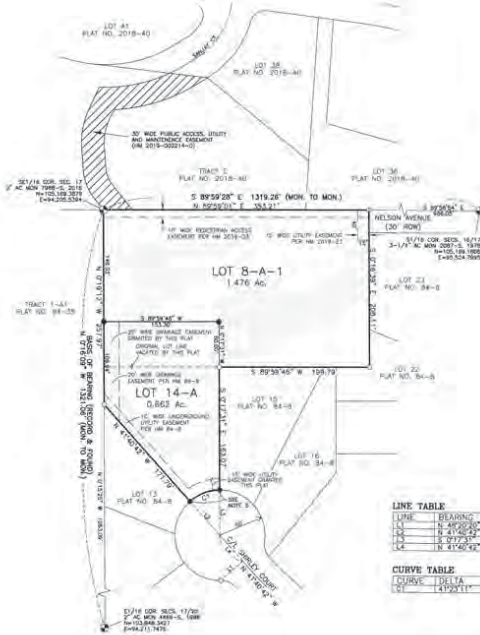
THE ADDITIONAL 5 FEET OF UTILITY EASEMENT BEYOND THE EXISTING 10 FOOT WIDE UTILITY EASEMENT ALONGING THE SHERLEY COURT RIGHT-OF-WAY PER HM 84-8.  
 A 20 FOOT WIDE EASEMENT ALONG THE WEST BOUNDARY OF LOT 14-A TO PROVIDE A CONNECTION FROM THE EXISTING DRAINAGE EASEMENT ON THE WEST BOUNDARY OF FORMER LOT 14 TO THE NEW BOUNDARY OF LOT 8-A-1.

THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

By: *Katie Koester* DATE: 01/21/20  
 KATIE KOESTER, CITY MANAGER  
 CITY OF HOMER, ALASKA

**LEGEND**

- INDICATES PRIMARY MONUMENT RECOVERED. THIS SURVEY AS SHOWN
- INDICATES 14-1/2" ALCAP (4015-S 1985) RECOVERED THIS SURVEY
- INDICATES 8/8" REBAR RECOVERED THIS SURVEY
- INDICATES 2" ALCAP ON 0/27° BEARS (7538-S, 2019) SET THIS SURVEY
- INDICATES SLOPES EXCEEDING 20%



**LINE TABLE**

LINE	BEARING	DISTANCE
11 <td>N 89°52'28" E</td> <td>1319.26'</td>	N 89°52'28" E	1319.26'
12 <td>S 89°52'28" E</td> <td>1319.26'</td>	S 89°52'28" E	1319.26'
13 <td>N 89°52'28" E</td> <td>1319.26'</td>	N 89°52'28" E	1319.26'
14 <td>S 89°52'28" E</td> <td>1319.26'</td>	S 89°52'28" E	1319.26'

**CURVE TABLE**

CURVE	BEVLA	RADIUS	LENGTH	CHORD BEING	CHORD DIST
11	49.52°	100'	131.93'	131.93'	131.93'

2020-3  
 Home  
 15-7536  
 1/15/2019



**Clements, Peggy**

---

**From:** peggi patton <liteweight46098@gmail.com>  
**Sent:** Wednesday, June 24, 2020 10:06 AM  
**To:** Planning Dept,  
**Subject:** Lot 24A, AA Peggi's Addition in Homer

The ownership of Lot 24A, AA Mattox Peggi's Addition in Homer has changed since the initial Utility Drainage Easement Vacation Petition for Lot 24A, AA Peggi's Addition in Homer was filed. I would like to request that the planning commission update the petitioner name listed on the petition be updated to AnnaLisa Cox so it reflects the current owner's name not the previous owner.

Respectfully,  
Peggi & Robert Patton

**MOLLOY SCHMIDT LLC**

ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax

June 12, 2020

Via email to: [skelley@kpb.us](mailto:skelley@kpb.us)

Sean Kelley  
Assistant Borough Attorney  
Kenai Peninsula Borough

**Re: Patton & Cox Petition to Vacate Easement  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA**

Dear Mr. Kelley:

This is to follow up on our initial telephone conversation of 6/11/20 regarding procedures for the Planning Commission after time for appeal has expired (which we calculate as June 20, 2020), following the Assembly's remand of the petition to the Borough Planning and Zoning Commission for a public hearing.

You indicated that the Planning Department intended to notice the hearing for the Planning Commission's 7/13/20 regular meeting, presumably as a regular vacation of easement hearing under KPB 20.70.070. The Neals object to that date, and request that the Borough Planning Department and Planning Commission schedule the hearing(s) for no earlier than the week of 8/10/20, because the Neals will be in Bristol Bay until early August, without access to reliable Internet (unable to use Zoom, WhatsApp, or Skype) or reliable cell phone service (unable to participate in group calls); and both services are affected by weather.

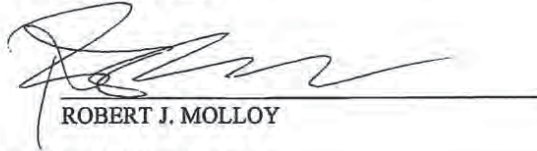
I informed you that Tony and Gwen Neal, owners of Echo Bar Trading LLC, are in Bristol Bay, where they operate their annual commercial salmon fishing business during the season, and that there were connectivity issues out there, so the hearing should not be scheduled for July. You said that the hearing will be via Zoom; once the hearing is scheduled for July, then Echo Trading can ask for a postponement, and that request would be decided first at the hearing.

However, this rush to schedule the hearing is unfair and unduly burdensome and expensive for the Neals, and not necessary in the circumstances. The Assembly did not mandate a date for the hearing on Peggi Patton's vacation petition, so there is no reason to fast track the process. Requiring the Neals to wait until the July 13 meeting to find out if there will be a continuance could cause them to waste time and resources preparing for the hearing, given the possibility that the Commission could deny the continuance.

Instead, the Neals/Echo Trading request that the Commission agenda for the July 13, 2020 include an item to schedule the Patton vacation hearing, instead of actually scheduling the hearing for that date.

A second letter will be sent to you for the Planning Department and the Planning Commission regarding procedures for the hearing.

Sincerely yours,



ROBERT J. MOLLOY

cc: AnnaLisa Cox via email to <a.cox.109@gmail.com>  
Client(s)

- 2 -

**MOLLOY SCHMIDT LLC**  
ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7378 • (907) 283-2835 fax

June 16, 2020

Sean Kelley  
Assistant Borough Attorney  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, Alaska 99669

Via email to: [skelley@kpb.us](mailto:skelley@kpb.us)

Re: Patton & Cox Petition to Vacate Easement  
PC Resolution 2019-19, Approving Easement Vacation  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA

Dear Sean:

This second letter is also to follow up on our telephone conversation of 6/11/20 regarding procedures for Planning Commission after time for appeal has expired, following the Assembly's remand of the petition to the Borough Planning and Zoning Commission for a "full" public hearing. You indicated that there would be one hearing, noticed for a public hearing on a utility easement vacation, with the same procedures used for vacation hearings, which would likely be scheduled for the July 13, 2020 Planning Commission meeting. We addressed the issue of the July date in our earlier letter. This second letter is to object to the process you outlined.

In its Decision, the Assembly ordered that the Planning Commission hold a public hearing, and take such action "as it determines is appropriate;" that the Commission "shall address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Mattox Subdivision." The Assembly's findings state that there should be a "full public hearing," which gave Echo Trading an opportunity to "fully present its position," including such procedures as the opportunity to call witnesses and present witness testimony, in-person.

Echo Trading objects to the process you outlined for two main reasons. First, as we discussed, Echo Trading wants the issue of public utility easement vs. private easement decided first, which would save considerable expense to the parties. I suggested a summary judgment procedure. You agreed that the Planning Commission has authority to decide whether this easement is a private easement and whether the Borough lacks jurisdiction if this easement is not public easement, but said that there is no summary judgment procedure.



The fact that this easement is not a right-of-way was never in dispute. In the process of the appeal to the Assembly, Echo Trading agreed with the Planning Department's positions that this easement is not dedicated to the public and is not a public area.<sup>1</sup> It would be extremely burdensome and unnecessarily expensive, punitive and retaliatory, if the Planning Department requires Echo Trading to fully prepare for and present its entire case to the Commission, when the Commission may decide it has no jurisdiction, after all.

Given the directions from the Assembly in its Decision, the Planning Commission, not the Planning Department or its legal counsel, should determine whether it is appropriate to notice and schedule the public hearing as a bifurcated hearing(s). Compliance with the Assembly's Decision on Appeal requires the Planning Commission to bifurcate the hearing(s), so that the Planning Commission first can decide the issue of whether this drainage easement is a public utility easement or a private easement over which the Borough does not have jurisdiction under KPB Chapter 20.70. Then, if the Commission decides it is a public utility easement, a second hearing on the vacation would take place at a later date. Therefore, Echo Trading requests that the Planning Commission decide in advance to hold a bifurcated hearing, taking up the issue of public versus private easement first.

Second, the current Planning Commission existing "public hearing" process, where public comments are limited to 3 minutes, and there is no orderly process for submission of evidence, does not meet the requirement of AS 29.40.130 for a "hearing;" or the Assembly's directions that the public hearing on remand be a "full" hearing. The Assembly already decided that the existing minimal hearing process was not sufficient on remand, stating that:

Although the Appellant was permitted to submit comments for the Commission's consideration at the June 24, 2020 meeting, the Appellant was not allowed an opportunity to fully present its position at a public hearing.

*and*

The Borough Assembly finds that the failure to conduct a full public hearing in such a way that the Appellant is afforded a full and meaningful opportunity to present its case to the Borough Planning Commission creates a significant risk of erroneous deprivation [of Echo Trading's due process rights].

If the Planning Commission decides that this drainage easement is a public utility easement and the second part of the bifurcated hearing, on vacation, is necessary, then compliance with the Assembly's Decision on Appeal requires that the Planning Commission hold a special meeting where Echo Trading can call and cross-examine witnesses, and submit documentary evidence; with no 3 minute or other arbitrarily short time limit. Echo Trading requests that the Planning Commission decide in advance if the second part of the bifurcated hearing(s) on vacation of this easement will be held in a special meeting, and what the procedures for submission of testimony and documents will be.

---

<sup>1</sup> KPB opening brief, pp. 4-5.

There is ample time for the Planning Commission to take up and decide in advance the remand hearing date, bifurcation of remand hearing, and remand hearing procedures. Please provide notice in writing of the Planning Commission's decisions on these matters; so that, if necessary, Echo Trading can file an appeal of those decisions with the Borough Assembly. Thank you.

Sincerely yours,



ROBERT J. MOLLOY

cc: Annalisa Cox  
Client(s)

**MOLLOY SCHMIDT LLC**  
ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7379 • (907) 283-2835 fax

June 17, 2020

Via email to: [planning@kpb.us](mailto:planning@kpb.us)  
And fax to: 714-2378

Marcus Mueller, Interim Planning Director  
Planning Department  
Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

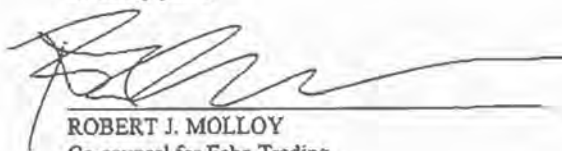
Re: Patton (Cox) Petition to Vacate Easement  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA

Dear Interim Director Mueller:

Per discussions with Sean Kelley, counsel for the Planning Department, Echo Trading requests that the Planning Commission not schedule the remand hearing for July 13, 2020 (on the Patton petition); but instead, put on the agenda for that meeting to consider and act on Echo Trading's requests in the attached letter. Please forward this letter and the attached letter to the Planning Commission

Thank you for your consideration.

Sincerely yours,



ROBERT J. MOLLOY  
Co-counsel for Echo Trading

cc: Annalisa Cox; S. Kelley, KPB Legal Dept.  
Client(s)

**MOLLOY SCHMIDT LLC**  
ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2855 fax

June 17, 2020

Blair Martin, Chair  
Robert Ruffner, Vice-Chair  
Members, Planning Commission  
Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

Via email to: [planning@kpb.us](mailto:planning@kpb.us)  
And fax to: 714-2378

Re: Patton (Cox) Petition to Vacate Easement  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA

Dear Chair/Vice Chair/Planning Commission Members:

In its Decision on Echo Trading Company LLC's appeal, dated May 21, 2020, the Borough Assembly remanded Peggi Patton's petition for vacation of a drainage easement to the Planning Commission for a hearing. This letter is to present several requests to the Commission, on behalf of Echo Trading, regarding the date(s) and procedures for the hearing(s)

1. **Date(s).** It is our understanding that the Planning Department plans to schedule the remand hearing on Peggi Patton's petition for the July 13, 2020 regular Planning Commission meeting. Please schedule the hearing(s) for no earlier than the week of 8/10/20, because Echo Trading's owners are out in the Bristol Bay area until early August 2020, and don't have access to Zoom or telephone conferencing out there.

Echo Trading's owners are Tony and Gwen Neal, who own a separate business harvesting and processing Alaska wild salmon. They live out in remote western Alaska (Bristol Bay area) during the summer, are there at present, and will be there until their return to Homer, which they plan to be on about 8/01/20 or later that week.

The Neals cannot participate in a hearing in July 2020 from their location in western Alaska either via Zoom or by telephone. They do not have access to reliable Internet (unable to use Zoom, WhatsApp, or Skype) or reliable cell phone service (unable to participate in group calls); and both services are affected by weather.

2. **Bifurcate the hearing(s).** Please bifurcate the hearing(s), so that the Planning Commission can first decide the issue of whether this drainage easement is a public utility easement or a private easement over which the Borough does not have jurisdiction under KPB Chapter 20.70. Then, if the Commission decides it is a public utility easement, a second hearing on the vacation of this drainage easement could take place at a later date.

In its Decision, the Assembly ordered that the Planning Commission hold a public hearing, and "specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Martox Subdivision." Decision on Appeal, pp. 14-15.

The fact that this easement is not a right-of-way was never in dispute. Both Echo Trading and the Planning Department agree that this easement is not dedicated to the public and is not a public area. It would be extremely burdensome and expensive for the Planning Commission to require the Petitioner(s), and opponents such as Echo Trading, to present their entire case to the Commission, when the Commission may decide that this drainage easement is a private easement which the Commission has no authority to vacate, in the first place.

3. **Establish agenda(s) with procedures for "full" hearing(s) at special meeting(s).** It is Echo Trading's understanding that planning staff intends the "public hearing" on remand to follow the existing practice: the parties can submit relevant information for the packet, staff will provide a staff report, the Petitioner will have an opportunity to speak to the merits, followed by public testimony, and the Petitioner may have a second opportunity to speak after that. The existing practice is a 3-minute limit on speakers. The commissioners may ask questions of any speaker or of staff.

This existing practice, where public comments are limited to 3 minutes, and there is no orderly process for submission of evidence (testimony and documents), does not meet the requirement of AS 29.40.130 for a "hearing," or the Assembly's directions that the public hearing on remand be a "full" hearing. The Assembly already decided that the Commission's existing practice was not sufficient for this vacation petition on remand, stating that:

Although the Appellant was permitted to submit comments for the Commission's consideration at the June 24, 2020 meeting, the Appellant was not allowed an opportunity to fully present its position at a public hearing. Decision at p. 10.

*and*

The Borough Assembly finds that the failure to conduct a full public hearing in such a way that the Appellant is afforded a full and meaningful opportunity to present its case to the Borough Planning Commission creates a significant risk of erroneous deprivation [of Echo Trading's due process rights]. Decision at p. 13.

If the Planning Commission decides that this drainage easement is a public utility easement, and that a second hearing on the vacation petition is necessary, then the Assembly's Decision on Appeal requires that the Planning Commission hold a hearing where Echo Trading can at least call (and cross-examine) witnesses, and submit documentary evidence, with no 3-minute or other arbitrary limits on its right to fully present its position.

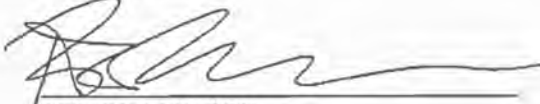
- 7 -

The second hearing could be at a regular meeting, or at a special meeting since the hearing could be lengthy. For example, the appeal hearing before the Assembly was a special meeting, and took approximately three hours.

Echo Trading requests that the Planning Commission decide in advance about the dates, if the hearing(s) will be bifurcated, and what the procedures for submission of testimony and documents will be.

Echo Trading requests that the Commission not schedule the remand hearing for July 13, 2020; but instead, put on its action agenda for that meeting Echo Trading's requests in this letter. Thank you for your consideration.

Sincerely yours,



---

ROBERT J. MOLLOY  
Co-counsel for Echo Trading

cc: Petitioner (and successor owners)  
Client(s)

**Huff, Scott**

---

**From:** AnnaLisa Cox <a.cox.109@gmail.com>  
**Sent:** Monday, June 22, 2020 2:29 PM  
**To:** Planning Dept,  
**Cc:** Huff, Scott  
**Subject:** <EXTERNAL-SENDER>Utility Drainage Easement Vacation Petition Lot 24-A, AA Mattox Pegg's Addition

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Good Afternoon,

The ownership of Lot 24A, AA Mattox Pegg's Addition in Homer has changed since the initial Utility Drainage Easement Vacation Petition for Lot 24A, AA Pegg's Addition in Homer was filed. I would like to request that the planning commission update the petitioner name listed on the petition be updated to AnnaLisa Cox so it reflects the current owner's name on the petition not the previous owner.

Please let me know if there is anything further I need to do to have this change formalized.

Thank you,

AnnaLisa Cox  
(907) 255-2023

**Huff, Scott**

---

**From:** AnnaLisa Cox <a.cox.109@gmail.com>  
**Sent:** Monday, June 22, 2020 11:39 AM  
**To:** Shirnberg, Ann  
**Cc:** Huff, Scott  
**Subject:** <EXTERNAL SENDER> Fwd: Public Hearing for Easement Vacation Petition on Lot 24-A, AA Mattox Peggi's Addition  
**Attachments:** 2020.06.23 Cox Letter to PC RE Hearing Date.pdf; 2020.06.23 Cox Timeline Leading up to Appeal.pdf

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I tried to send this to [planning@kpb.us](mailto:planning@kpb.us) but received a notification that it was rejected because the file size was too large.

Good Afternoon,

I am the owner of Lot 24A AA Mattox Peggi's Addition in Homer. I have attached a letter accompanied by a basic timeline that I would like to submit to the planning commission regarding the Remanded Utility Drainage Easement Vacation Petition that is to be scheduled for a Public Hearing.

Thank you,

AnnaLisa Cox

(907) 255-2023



June 23, 2020

AnnaLisa Cox  
4510 Heidi Ct  
Homer, AK 99603

Attn to KPB Planning Commission

To the Chair, Vice Chair, & Members of the Planning Commission:

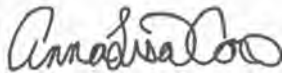
I am requesting that the PC continue with plans to schedule the public hearing for the Remanded Utility Drainage Easement Vacation Petition for Lot 24A, AA Mattox Peggi's Addition on July 13<sup>th</sup> PC Meeting. Echo Trading Company's business manager (Susanna Webber) has spoken on behalf of Echo Trading Company in the past when Tony & Gwen Neal were unable to be in attendance regarding this case in the past, i.e. the Sept 4 2019 Homer City Council Meeting where Susanna Webber presented Echo Trading's case for their appeal to the city council. Additionally, their Legal Council (Robert Molloy) is extremely well versed in this case and has represented Echo Trading at every hearing in the appeal process. To state the public hearing should be delayed because Tony & Gwen Neal will be without internet access is not a valid reason to further delay this hearing.

This Utility Drainage Easement Vacation petition has been remanded back to the Planning Commission to conduct a Public Hearing as one had not been conducted when it was first approved. In the KPB Assembly's final decision on appeal they stated

"For the reasons set forth herein, the Assembly finds that, while the Commission did correctly follow the procedures established by the Borough Code for determining whether to approve the vacation of a utility easement, which provides that such vacations do not require a public hearing, **such a hearing is nonetheless required by Alaska law.** Consequently, the Assembly REVERSES the Commission's action, and REMANDS the matter to the Commission **so that it may conduct a public hearing regarding this matter.**"

The intent of this public hearing is to re-decide a Utility Drainage Easement Vacation petition. It should not be subject to the same hearing requirements as a replat and to have 2 separate public hearings would be unduly burdensome. The Public Hearing should be conducted in the same manner in which all Public Hearings for Easement Vacation Petitions are conducted. To treat it any differently would deprive me of my inherent right to Due Process as provided by Article I, Section 7 of the Alaska Constitution.

Thank you,



June 23, 2020

AnnaLisa Cox  
4510 Heidi Ct  
Homer, AK 99603

Attn to KPB Planning Commission  
Regarding the Utility Drainage Easement Vacation Petition for Lot 24A, AA Mattox Peggi's Addition

Please see the basic timeline of events listed below. I feel that each item listed is relevant to this Utility Drainage Easement Vacation Petition. I have included 5 exhibits that are referenced within the timeline for your review.

In 1998 Peggi Patton filed a Utility Easement Vacation Petition to vacate the 2 original easements on Lots 24 & 25. Their desire was to build an addition to their house but the easements interfered with their ability to use their property. The city of Homer stated non objection so the Patton's could build their addition but as a contingency they wanted a 10ft drainage easement dedicated to the city of Homer in case it was needed for city purposes, "This approval is with the understanding that a 10' drainage easement will be dedicated along the west property line of lot 25".<sup>1</sup>

When the KPB PC denied the easement vacation petition Peggi appealed the decision to the Homer City Council. The city council approved the vacation for the 2 easements with the condition that the drainage easement be granted within the "westerly 10 ft of Lot 25, as requested by the City of Homer Public Works Department"<sup>2</sup>

On 11/27/18 Tony Neal was granted a permit to use the undeveloped Kallman & Nelson Ave Right of Ways to gain access to what is now Lot 8A in the AA Mattox 1958 Addition. This permit clearly states "b. Existing drainage patterns shall not be altered or disturbed."<sup>3</sup> This is followed up with a diagram depicting the drainage should be run along the northern side of the southern Nelson Ave ROW. Peggi Patton filed a Utility Drainage Easement Vacation petition in March 2019 that was then revised and resubmitted with letters from the utility companies. Carey Meyer, the City of Homer director of Public Works sent an email on 5/13/19 stating non-objection to the drainage easement across Lot 24-A being vacated.<sup>4</sup>

In a separate but relevant PC Meeting conducted on 5/28/19 Echo Trading presented their arguments for an exemption to KPB 20.30.100, dedication of a cul-de-sac, for their replat of Lot 8A, Gwens Addition in AA Mattox 1958 Addition. The platting committee had stated a cul-de-sac should be placed at the end of Nelson Ave ROW on their replatted Lot 8A to be in compliance with KPB code. Tony Neal sent an email to the KPB PC on 5/1/19 to explain why an exemption to KPB 20.30.100 should be granted.<sup>5</sup>

**"2. Nothing has been built on the 30' easement because it is impossible access.** It is a side hill bank where the cut on the upper side and the fill on the lower side requires far more than 30' to

<sup>1</sup> Exhibit 1 – Letter from Dan Gardner, acting director of the City of Homer Department of Public Works.

<sup>2</sup> Exhibit 2 – Homer City Council Memorandum 99-52(A)

<sup>3</sup> Exhibit 3 – Agreement for Use of Undeveloped Right-of Way / Nelson Ave & Kallman Rd

<sup>4</sup> Exhibit 4 – Email from Carey Meyer on 5/13/20 stating non objection to the Lot 24A Easement Vacation Petition.

<sup>5</sup> Exhibit 5 – Email from Tony Neal to Scott Huff Dated 5/1/19

accomplish. This is all delineated Wetlands besides. It is just flat impossible to build even a driveway to the most minimum City of Homer requirements on the 30' easement and there can be no fire equipment access either."

"4. For what worth, we are dedicating a 10' trail easement all along our property to connect to the 30' as use for a trail. The 30' easement can be used for a trail, not a vehicular access."

"6. Our true access plan for this replatted lot is a driveway easement from Sanjay Court in Quiet Creek Park Subdivision. A fully accessible driveway and all utilities. So, not that this lot will not have real access."

"7. We will accept a compromise solution that in exchange for dropping the turnaround at the end of Nelson, we will grant useable access to the property through Sanjay. This should solve the problem with no loss in value for us. The property will have full useable access, full utilities, and the 30' easement will never be built and shouldn't even exist."

11 days after the replat for Lot 8A was approved Tony Neal sent an email objecting to the Utility Drainage Easement Vacation petition on Lot 24A. His intention, as stated in his email, is to use Nelson Ave Row to gain access to his property and plans to divert the existing drainage off of the Nelson Ave Right of Way and run it through the middle of Lot 24A.

"5. The Nelson right of way is our only legal access to our property at the end of Nelson, we have been forced to create a new easement for access because Nelson is unbuildable, but Nelson remains a legal public access for several lots."

"6. We did apply for and obtain a driveway construction permit from the City of Homer (something the Pattons did not do). This was to build our legal access to our property on Nelson Avenue."

"7. However, upon our inspection and after hiring a surveyor, we discovered the Pattons had dug the unregulated, non-permitted, drainage diversion right down the middle of the Nelson access, making it impossible to build our driveway. Water flowing was eastward toward Kalman in an unregulated amount, creating a swamp and making the use of Nelson as the intended public access impossible."

"... Again, we are totally and legally opposed to this vacation without an officially approved alternative that does not restrict our legal access."

The referenced Nelson Ave ROW is the same one he had stated "It is just flat impossible to build even a driveway", and it "can be used for a trail, not a vehicular access", and that "the 30' easement will never be built and shouldn't even exist". This emailed objection sent on 6/8/19 directly contradicted what he told the PC in order to avoiding placing a cul-de-sac on Lot 8A. Had this intent been known compliance with KPB 20.30.100 would have been required for his replat.

Tony's follow up email on 6/18/19 stating "We will agree to the vacation of the drainage easement if Nelson Ave is restored to the buildable access that it was intended to be and once was, and the restoration is paid..."

The vacation was approved for the Utility Drainage Easement Vacation Petition for Lot 24A AA Peggi's Addition, Mattox 1958 Addition on 6/24/19 and then on 7/17/19 an appeal from Echo Trading Company was filed. Section E.1-3 alleged the easement was a public area and quoted code as to why a public hearing should have been conducted.



# CITY OF HOMER

## PUBLIC WORKS

3575 HEATH STREET

HOMER, AK 99603

TELEPHONE (907) 235-3170  
TELECOPIER (907) 235-3145

September 16, 1998

Roger Imhoff, RLS  
P.O. Box 2588  
Homer, Alaska 99603



RE: Lots 24 & 25 AA Mattox 1958 Addition Unit 2 Amended  
Drainage/Utility Easement Vacation

Dear Mr. Imhoff:

The City of Homer, Public Works Department has no objection to the proposed easement vacation as outlined in your letter to me of 9/11/98. This approval is with the understanding that a 10' drainage easement will be dedicated along the west property line of lot 25.

Since there is no property line vacation as part of this proposal, the property owners must still abide by the building setback when constructing the proposed garage extension.

Please call or write with any further questions regarding this matter.

Sincerely,

  
Dan Gardner, Inspector

C. Planning Department

*10/30/98  
OK DOES NOT  
NEED PLANNING  
COMMISSION REVIEW.  
GREEN & RECHTER*

166

Exhibit 1

# Office of the City Clerk

Mary L. Calhoun, City Clerk  
Julia J. Martin, Deputy City Clerk



491 E. Pioneer Avenue  
Homer, Alaska 99603-7624  
(907) 235-3130  
(907) 235-8121; ext: 2224 or 2227  
fax: (907) 235-3148  
home # (907) 235-2843  
email: clerk@xyz.net

MEMORANDUM 99-52 (A)

TO: MAYOR AND HOMER CITY COUNCIL

FROM: MARY L. CALHOUN, CMC/AAE, CITY CLERK *mlc*

DATE: MARCH 3, 1999

SUBJ: APPEAL OF THE KENAI PENINSULA BOROUGH PLANNING COMMISSION'S DENIAL OF THE PETITION TO VACATE THE ENTIRE WIDTH OF FIFTEEN FOOT WIDE DRAINAGE AND UNDERGROUND UTILITY EASEMENT WITHIN THE EASTERLY FIFTEEN FEET OF LOT 24, AA MATTOX 1958, ADDITION UNIT 2 AMENDED (PLAT 83-89 & 84-89 HRD); AND VACATE THE TEN FOOT WIDE UTILITY EASEMENT WITHIN THE WESTERLY TEN FEET OF LOT 25 OF SAID AA MATTOX SUBDIVISIONS; BEING WITHIN SECTION 17, T5S, R13W, SEWARD MERIDIAN, ALASKA, WITHIN THE CITY OF HOMER, KPB FILE -98-264 CARRIED FORWARD FROM NOVEMBER 23, 1998 KPBPC MEETING 1/26/99.

Kenai Peninsula Borough Code §§ 20.28.080 and 110 elucidates the action after denial of a vacation petition. The appeal is submitted to the local City Council and conducted as a public hearing. Property owners within a 300 foot radius were duly notified of this hearing. It is the City Council's job to make findings regarding this matter, which are then forwarded to the Kenai Peninsula Borough Planning Commission by the City Clerk so that further action concerning surveying and platting may be initiated.

### RECOMMENDATION:

City Council make findings in favor of the appeal: That there is no objection to the vacation of these utility easements by the City of Homer Planning and Public Works Departments, as noted within the record pertaining to the KPB P/C denial of the petition to vacate the entire width of a fifteen foot wide drainage and underground utility easement within the easterly fifteen feet of lot 24, AA Mattox 1958, addition unit 2 amended (plat 83-89 & 84-89 HRD); and vacate the ten foot wide utility easement within the westerly ten feet of lot 25 of said AA Mattox Subdivisions: being within Section 17, T5S, R13W, SM; and

That the City Council agrees with the KPB P/C conditions of granting a ten foot drainage easement within the westerly ten feet of Lot 25, as requested by the City of Homer Public Works Department and granting easement for the use of GCI's existing facilities.

*fiscal note NA*

APPROVED AS AMENDED: THIS FINDING IS CONDITIONAL ON A SUITABLE 25 FOOT SEWER/WATER EASEMENT ON THE EAST SIDE OF LOT 25 WITH THE CONDITION THAT THE PROPERTY BE RETURNED TO ITS PREVIOUS CONDITION IF THE SEWER LINE IS NOT USED AND THE EASEMENT BE VACATED IF SEWER DOES GO UP KALLMAN ROAD.

*131*

Exhibit 2

**From:** Carey Meyer  
**Sent:** Monday, May 13, 2019 8:47 AM  
**To:** Travis Brown  
**Subject:** RE: Heidi Court drainage easement vacation

Mr. Brown,

The Public Works Department has no objection to vacating the drainage easement across Lot 24-A, AA Mattox – Peggi's Addition.

We prefer to utilize utility and drainage corridors in dedicated street rights-of-way whenever possible. Easements across private are more difficult to access (and more often than not more costly) for maintenance than dedicated right-of-way.

In this case, a drainage corridor exists easterly along Nelson Ave. and then southerly down Kallman Road.

**Carey S. Meyer, P.E., MPA**  
Public Works Director/City Engineer  
City of Homer, Alaska  
3575 Heath Street  
Homer, AK 99603  
[cmeyer@ci.homer.ak.us](mailto:cmeyer@ci.homer.ak.us)  
(p) 907-435-3124  
(f) 907-235-3145  
(c) 907-399-7232

---

**From:** Travis Brown <[tbrown@ci.homer.ak.us](mailto:tbrown@ci.homer.ak.us)>  
**Sent:** Friday, May 10, 2019 12:26 PM  
**To:** Carey Meyer <[CMeyer@ci.homer.ak.us](mailto:CMeyer@ci.homer.ak.us)>  
**Subject:** Heidi Court drainage easement vacation

Carey,

Thanks for providing an email for the commission to see. I attached the rest of the documents associated with this request so the references are at your fingertips.

Travis Brown  
Planning Technician  
City of Homer  
Planning and Zoning Office  
(907)235-3106

**AGREEMENT FOR USE OF UNDEVELOPED RIGHT-OF-WAY  
(FOR PRIVATE DRIVEWAY ACCESS) AND FOR FUTURE ASSESSMENTS**

Fee \$105.00 Date Paid 11/27/18 Code 104

THIS AGREEMENT, made and entered into this 28<sup>th</sup> day of November, 2018, by and between the CITY OF HOMER, a municipal corporation, hereinafter referred to as the "City", and Echo Trading Company, LLC, hereinafter referred to as the "Owner", whose address is P.O. Box 3368, Homer, AK 99603

**WITNESSETH**

WHEREAS, the City owns a public right-of-way(s) known as Nelson Avenue and Kallman Road, some portion of which has not been developed into a street conforming to City standards, and

WHEREAS, the Owner under this Agreement owns certain real property abutting said right-of-way(s), said property being described as: T 6S R 13W SEC 17 Seward Meridian HM 003746, A A Mattox Sub 1958 Addn. Tract A H.R.D. Also identified by Tax Assessor's Parcel No. 177-051-08 and said Owner hereby requests permission to construct a driveway on an undeveloped portion of said right-of-way(s) to provide access to said property;

NOW THEREFORE, in consideration of the covenants hereinafter set forth and the mutual benefits to be derived therefrom, the parties agree as follows:

1. The City does hereby permit and allow the Owner to develop said undeveloped right-of-way(s), for use as an access driveway, at Owner's expense. Area of use of undeveloped right-of-way(s) known as Nelson Avenue and Kallman Road and the work further described as follows:
2. Installation of approximately 900 lineal feet of road, commencing at the intersection of Kramer Lane and Kallman Road, and terminating at the above referenced property. Drainage and culverts are depicted on the Attached Exhibit A.
3. The Owner agrees to construct said driveway, in accordance with the following conditions:
  - a. Access driveway cross-section shall consist of a minimum 12 inch layer atop geotextile fabric;
  - b. Existing drainage patterns shall not be altered or disturbed; minimum 18 inch cmp culverts as required;
  - c. Minimum driveway width shall be 14 feet from shoulder to shoulder;
  - d. Construction shall be in accordance with Homer City Code 11.08 Driveway Construction Permits;

Exhibit 4 pg 1

- d. Construction shall be in accordance with Homer City Code 11.08 Driveway Construction Permits;
- 3. The Owner further covenants and agrees that he will not object to the creation of any improvement district which may in the future be created for the purpose of extending a street, built to City standards, adjacent to any boundary of the above described parcel of land.
- 4. It is specifically understood and agreed between the parties hereto that the covenant set forth in the immediately preceding paragraph shall be held to run with and bind the land previously described hereinabove, and to bind all subsequent owners and occupants of such land.
- 5. Liability and Maintenance:
  - a. The Owner assumes all risk of liability or loss for or resulting from damages of any kind whatsoever caused by or arising out of use of the driveway on said right-of-way. The City shall have no liability for any such loss or damages whether sustained by Owner or any member of the public.
  - b. All improvements made by the Owner within the right-of-way may be destroyed or removed, without compensation to Owner, if and when a public street is constructed in said right of way.
  - c. The Owner shall provide all maintenance, including snow removal, necessary for use of the driveway in the right-of-way. The City shall have no responsibility for maintenance of the right-of-way until the time, if ever, that the City formally accepts the street for maintenance.
  - d. If so directed by the City, the Owner shall erect and maintain at the intersection of the driveway with any public street a sign indicating the driveway is a private road and not maintained by the City.
- 6. This document shall be recorded in the Homer Recording District after execution by the Parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first mentioned above.

CITY OF HOMER  
3575 Heath St  
Homer, Alaska 99603

By: Carey Meyer 11/28/18  
Public Works Director

PROPERTY OWNER(S):

By: Tommy Neal Tomstee  
Echo Trading Company, LLC

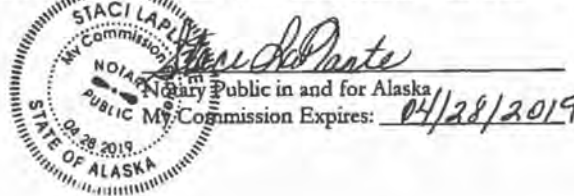
Exhibit 4 pg 2



STATE OF ALASKA )  
 )ss  
THIRD JUDICIAL DISTRICT )

Before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, this day personally appeared Carey Meyer, known to be to be the person(s) described in and who executed the above instrument and they acknowledged to me that they signed the above instrument and they acknowledged to me that they signed the same freely and voluntarily for the means and purposes mentioned.

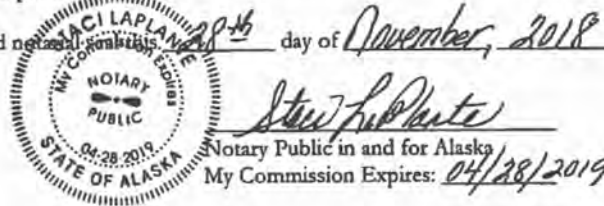
WITNESS my hand and notarial seal this 28<sup>th</sup> day of November, 2018



STATE OF ALASKA )  
 )ss  
THIRD JUDICIAL DISTRICT )

Before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, this day personally appeared Tony Neal known to be to be the person(s) described in and who executed the above instrument and they acknowledged to me that they signed the above instrument and they acknowledged to me that they signed the same freely and voluntarily for the means and purposes mentioned.

WITNESS my hand and notarial seal this 28<sup>th</sup> day of November, 2018



Return Original to:  
City of Homer, City Clerk  
491 East Pioneer Avenue  
Homer, Alaska 99603

c: City of Homer, Department of Public Works  
City of Homer, Planning Department

Exhibit 4 pg 3

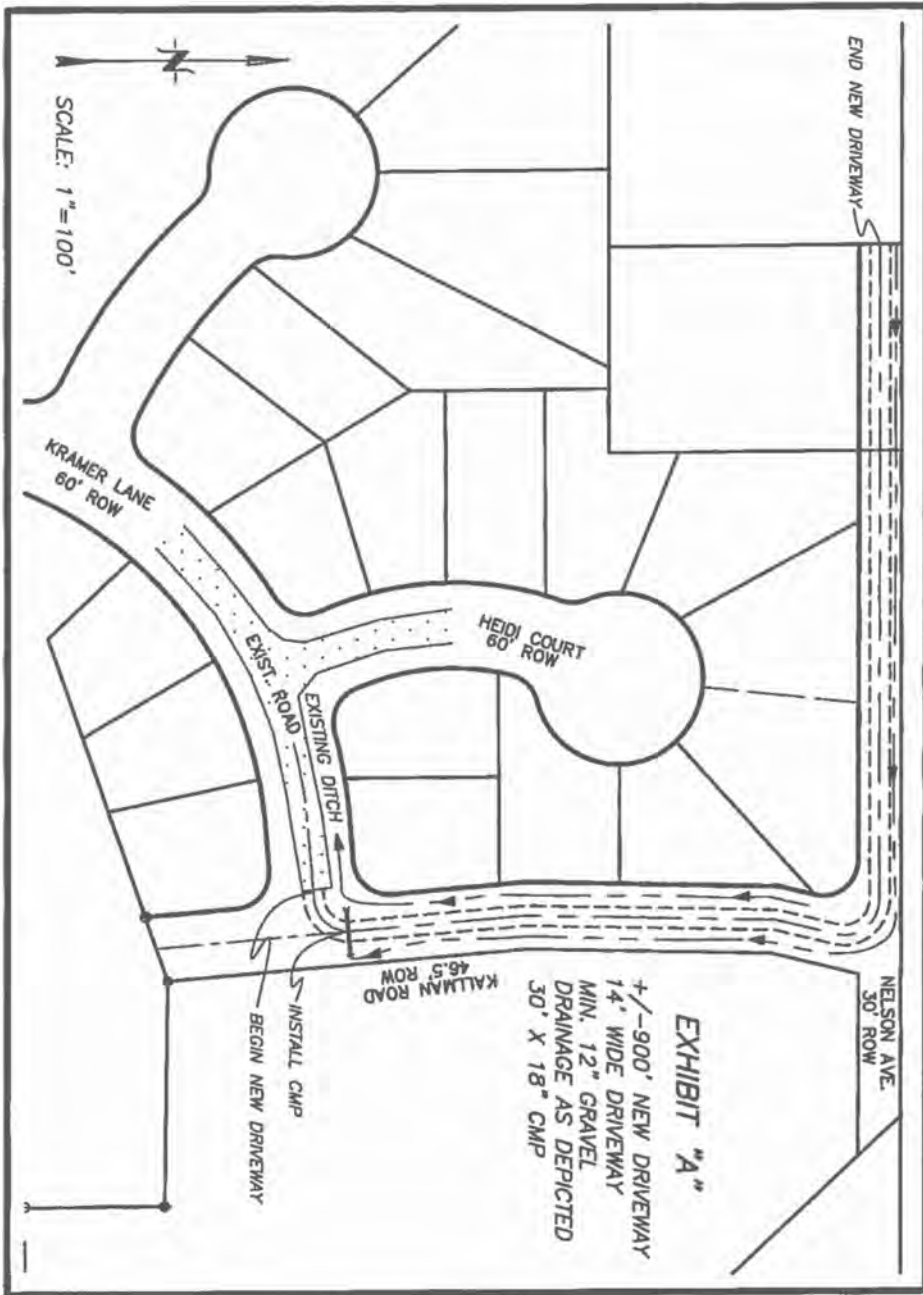


Exhibit 4 pg 5

Huff, Scott

---

From: tonyneal@popsiefishco.com  
Sent: Wednesday, May 01, 2019 12:50 PM  
To: Huff, Scott  
Cc: 'Susannah Webster'  
Subject: turn-around

Follow Up Flag: Follow up  
Flag Status: Flagged

Hello Scott, thanks for the conversation today. The Plat Committee approved our plat for the Gwen's addition contingent on our providing a turn-around at the end of the old Nelson 30' right of way. That turn around is harmful to our property value and we ask the Plat Committee to reconsider. We thought our surveyor would speak to this, apparently he did not. You said that if I wrote you by 06May, you would get this on the agenda for 28May. That is my request. I am working overseas, but will be back in the US and Alaska by then. Please correspond with me directly, and Susannah Webster has authority to speak for Echo Trading Company LLC.

Our request is to remove the requirement for a turn around at the end of the 30' old Nelson ROW so that it reverts to what it was before we made this plat request.

1. That 30' easement has been there since, I think, 1958, providing what looks like legal access to the one lot. It is not build able and nothing has ever been built on the easement. During all that time, there has been no turn around. We ask to revert to what it was.
2. Nothing has been built on the 30' easement because it is impossible access. It is a side-hill bank where the cut on the upper side and the fill on the lower side requires far more than 30' to accomplish. This is all delineated Wetlands besides. It is just flat impossible to build even a driveway to the most minimum City of Homer requirements on the 30' easement and there can be no fire equipment access either.
3. Therefore, you see, a turn around is superfluous, no one can drive there to turn around.
4. For what it's worth, we are dedicating a 10' trail easement all along our property to connect to the 30' easement as use for a trail. The 30' easement can be used for a trail, not a vehicular access.
5. The land where the plat now asks for a turnaround is valuable land. The property is restricted because the south half is 20% slope and the flat buildable area is to the north and where the easement hits the property. A turn around easement that will never be used will also be an expensive loss of our useable private property.
6. Our true access plan for this replatted lot is a driveway easement from Sanjay Court in Quiet Creek Park Subdivision. A fully accessible driveway and all utilities. So, it's not that this lot will not have real access.
7. We will accept a compromise solution that in exchange for dropping the turn around at the end of Nelson, we will grant useable access to the property through Sanjay. This should solve the problem with no loss in value for us. The property will have full useable access, full utilities, and the 30' easement will never be built and shouldn't even exist.

Thank you, Tony Neal for Echo Trading Company, LLC

Tony Neal  
907-299-2351

Session 05-16, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Chesley at 7:02 p.m. on September 7, 2005 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS: CHESLEY, HESS, PFEIL, FOSTER, LEHNER,  
CONNOR, KRANICH

STAFF: CITY PLANNER MCKIBBEN  
DEPUTY CITY CLERK JOHNSON  
PUBLIC WORKS DIRECTOR MEYER

**A. Staff Report PL 05-62S Re:  
Barnett's South Slope Subdivision Quiet Creek Park Preliminary Plat.**

LEHNER/KRANICH – MOVED FOR A CONFLICT OF INTEREST.

Commissioner Lehner stated at the next Planning Commission meeting she will be bringing forth her own subdivision development less than a mile further down East Road. It is 100 acres with 80 residential lots ranging from ¼ to ½ acre in size. It is much like Barnett South Slope, although it differs, as half of the 100 acres will be left as open space with most lots adjoining open space. Ms. Lehner's concern is the perception of a conflict of interest, as she will be competing in the market with Barnett South Slope.

The Commission discussed the potential financial conflict. Commissioner Lehner said although the lot sizes of her subdivision and Mr. Neal's are comparable they will not be competing for quite the same market with her green space development.

Commissioner Kranich said at this moment there is no perception of a conflict of interest. However, if Commissioner Lehner's preliminary plat is addressed at the next meeting a perception of conflict will be in the forefront. It will be after the fact when her plat is presented and someone could ask why she voted the way she did at the last meeting. Commissioners Connor and Foster agreed it could be an appearance of a conflict of interest.

City Planner McKibben said although there does not appear to be a direct financial interest, there is the appearance of a conflict of interest.

Chair Chesley read from the Alaska Planning Commissioner's Handbook that the appearance of an unfairness must be avoided and can require abstention even when there is no financial interest at all.

VOTE: YES. HESS, FOSTER, CHESLEY, CONNOR, KRANICH

VOTE: NO. PFEIL

Motion carried.

Commission Lehner was excused from the proceedings and took a seat as a member of the audience.

City Planner McKibben read a portion of the supplemental staff report, staff recommendations and the options available to the Commission. City Planner McKibben said although the developer has not submitted a revised plat, revisions to the plat have been identified to include:

Access: The extension of Nelson/Ronda to East Hill Road<sup>11</sup> as a primary access to the subdivision.

Lot Size: Increasing the lot size on the north sides of Sabina and East Aurora and north of West Aurora.

**OPTIONS:**

It appears the Planning Commission has several options for action on the preliminary plat.

1. Postpone action on the preliminary plat.
2. Discuss revisions proposed by the applicant, make recommendations to the applicant for revisions to the preliminary plat based information provided by the applicant and other relevant testimony. Request the developer to submit a revised preliminary plat for complete review by Department of Public Works, the Fire Chief, and Planning, an additional public notice and hearing, and action by the Commission.
3. Approve the preliminary plat as presented.
4. Approved the preliminary plat with required revisions.
5. Deny the preliminary plat as presented. Staff recommends findings to support such denial.

public process time in his view. Mr. Neal drew up the plat change and provided the Commission with copies. He stated that he has all the legal access points that are needed. Through the Planning Commission's promotion he met with the neighbors and as a result of their input negotiated new access through the further dedication of Nelson to Ronda Street and out. He can eliminate traffic totally through the Kramer/Kallman neighborhood. The new access goes through undeveloped property and will not cost the developer a lot more money. Mr. Neal does not agree another preliminary plat is needed for the new access point. Public Works and the Fire Chief had an opportunity to say they needed to study it too, although there is no mention of that. It doesn't change the utilities, it merely provides another access. He concluded by asking the Commission to approve the plat tonight.

Commissioner Kranich noted Mr. Neal's letter said lot numbers could be reduced and lot sizes could be increased on the north side of Sabina and East Aurora and north of West Aurora. He questioned if Mr. Neal had considered that. Mr. Neal responded there are lots that could be larger and five lots could be reduced within the subdivision. He said that is his business decision and should not necessarily drive plat approval. He said he could and would reduce the number of lots if required to do so. Mr. Neal said with plat approval he still may reduce the number of lots, but doesn't want to make it as a condition or a promise. Mr. Kranich asked if there was the possibility of a 10 ft. green space easement in a couple areas within the subdivision for singular lots backing into each other. Mr. Neal said at the prior meeting a motion was made to do so and he has complied.

Commissioner Foster said he noticed Mr. Neal's letter stated the Quiet Creek Park would add \$24M to the Homer tax base, or \$375,000 to Homer's budget. He explained the Commission is not able to take the financial consideration into their decision. Commissioner Foster noticed all the letters of support referenced that the taxes would offset costs of public infrastructure and contribute to less tax for all residents of Homer. He asked what the cost of the public infrastructure would be as a result of the subdivision. Mr. Neal answered the developer pays for all costs of infrastructure within the subdivision, so that would be zero cost. The question would be how it would impact the production of the water or sewage treatment plant, or require another policeman. He said it is a debatable question, as it would affect infrastructure costs somewhat. The subdivision will also generate money in excess to pay for the services. Mr. Neal referenced the argument in the annexation issue was that there would be more people in the city to pay taxes to support infrastructure.

Chair Chesley explained to the Commission he had stopped the circulation of Mr. Neal's plat change provided tonight as Mr. Neal had not requested that plat to be approved and it is not part of the public record. It was not part of the packet for review,

the Quiet Creek Park development. Those people too are some of the finest people in the community. In the past Chair Chesley has seen where those opposing are labeled as the vocal minority. Many are leaders and pillars of the community and Mr. Neal should feel fortunate he has these types of people to work with in facing the challenges of developing the subdivision. The Code is not perfect. It has areas that need improvement and areas that are not clear. There is the question of low density, a debate the Commission wants to take on with vigor. Commissioner Hess has been working hard on mechanisms to define low density and how creative planning tools can be used. Mr. Neal suggested RR is not appropriate within city limits. A healthy community has different classifications of property with different lot sizes and forms of density to make a healthy community. Chair Chesley does not agree every lot should be reduced to the smallest possible lot. The community needs debate if we want larger tracts of land available in the city. Chair Chesley does not agree that the subdivision meets all requirements of the City Code. In a meeting with the City Planner and City Manager the City Attorney interpreted a section of RR. You have to look at lot sizes as the stated purpose for the district; it is not a blanket agreement that every lot can be reduced to 10,000 sq. ft. Chair Chesley hears that the public wants the continued opportunity to work with the developer. Chair Chesley supports the amendment to the motions as amended on the floor to continue to allow the developer to work with staff and the community to bring back a revised plat for the Commission's consideration. If the developer is not willing to do that Mr. Chesley is prepared to vote no on the subdivision tonight.

**KRANICH/FOSTER – MOVED TO ADOPT STAFF OPTION #2 AND SUBMIT IT TO THE DEVELOPER WITH THE FOLLOWING PROVISIONS:**

1. Provide access via Nelson/Ronda
2. Eliminate access via Kallman, unless a 60 ft. right-of-way is provided.
3. Increase lot size on the north side of Sabina and East and West Aurora and submit a revised plat including these provisions as well as other provisions.

OPTION #2 states:

Discuss revisions proposed by the applicant, make recommendations to the applicant for revisions to the preliminary plat based (on) information provided by the applicant and other relevant testimony. Request the developer to submit a revised preliminary plat for complete review by Department of Public Works, the Fire Chief, and Planning, an additional public notice and hearing, and action by the Commission.

Commissioner Kranich stated he wants the Commission to continue working with the developer and the items are those he stated he would consider doing. A revised plat will allow the Commission and the public to see the revisions.

Commissioner Connor asked if other creative ideas could be included and it was suggested a motion to include “as a minimum” could be added.

CONNOR/FOSTER - MOVED TO AMEND THE AMENDMENT TO INCLUDE THE WORDS “AS A MINIMUM” PRIOR TO THE LIST OF THE THREE ITEMS.

There was no discussion.

VOTE: YES. FOSTER, CONNOR, PFEIL, CHESLEY, KRANICH, HESS

Motion carried.

FOSTER/KRANICH – MOVED TO ADD PROVISION #4 THAT A CUL DE SAC BE PLACED ON THE WEST END OF WEST AURORA.

Commissioner Foster said this provision may be nixed by the Borough, but to demonstrate Mr. Neal’s statement he has no interest in punching West Aurora through and to take into account the special interest group.

Although Commissioner Kranich understands the intent of Commissioner Foster’s motion it would be eliminating one of the important accesses to the subdivision for emergency vehicles. He is doubtful the Fire Chief or Borough would agree with the cul de sac requirement.

VOTE: YES. CHESLEY, PFEIL, CONNOR, FOSTER

VOTE: NO. KRANICH, HESS

Motion carried.

Commissioner Connor would like to amend Plat Note #7 that reads Portions of this subdivision may contain wetlands. She said it would be prudent to change *may* to do. Chair Chesley said the Commission did not have the authority to make that decision. Staff works with the Corps of Engineers for a wetlands determination and it will be in their venue. Ms. Connor said flood areas and slopes over 20% should be shown on the preliminary plat map.



# **Kenai Peninsula Borough**

## **PLANNING COMMISSION DESK PACKET**

**July 13, 2020  
7:30 p.m.**

AGENDA ITEM E. PUBLIC HEARINGS

2. Vacation request as follows:

- Vacate Sara Jane Street a 100 foot right of way (per Rappe Park Subdivision Amended KN 87-105 and patent deed KN Bk. 31 Pg. 299 and patent deed Bk. 27 Pg. 65).
- Vacate a portion of Park Road a 60 foot right of way (per Rappe Park Subdivision Amended KN 87-105 and ADL 220394 at Serial Number 2018-007092-0)
- Vacate 50 foot right of way easements on the east and west of Gov't. Lot 19 (per patent deed KN Bk. 27 Pg. 65).

Located within the NE1/4 SW1/4 of Section 34, Township 8 North, Range 11 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-059V.

STAFF REPORT ADDENDUM

Plat Committee Meeting: July 13, 2020

After the staff report was prepared, the applicant submitted a comment requesting postponement of the vacation application until such time as the applicant can submit additional information. The applicant stated that additional time was required to perform a field survey and prepare a site drawing.

Notification has been sent and the agenda has been posted for this meeting. The notification states that a public hearing will be held for this item.

If postponed, the vacation petition will be brought back by staff at a later date for review by the Planning Commission. When the application is scheduled, a new notice will be sent per KPB code.

STAFF RECOMMENDATION: The Planning Commission open the item for public comment, then postpone action on the project until brought back by staff.

END OF STAFF REPORT ADDENDUM

Planning Department  
Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

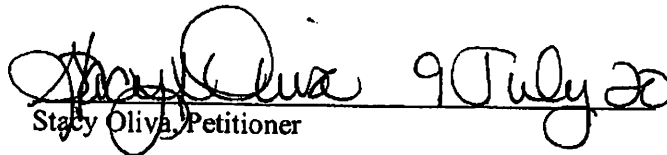
Via fax to: 714-2378

Re: Oliva/Triple Knot Petition to Vacate Rights-of-Way

Dear Planning Department:

On advice of Sam McLane, our surveyor, we recognize that our submittal lacks important information, including an as-built survey, which will take some time to prepare. We plan to submit additional information, including an as-built survey. We request that Planning Department staff pull our petition off of the Planning Commission's agenda for the 7/13/20 meeting and postpone any action until such time as we have submitted the additional information. Thank you for your consideration and reply.

Sincerely yours,

 9 July 20  
Stacy Oliva, Petitioner

**Clements, Peggy**

**From:** Sam McLane <SaMcLane@mclanecg.com>  
**Sent:** Thursday, July 2, 2020 12:00 PM  
**To:** Clements, Peggy  
**Subject:** <EXTERNAL-SENDER> RE: PLAT COMMENTS FOR JULY 13, 2020MEETING: McClane Consulting  
**Attachments:** 192018 ROW VACATION PLAT OFFICIAL SUBMITTAL REV1 07022020.pdf

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Peggy: In reviewing our ROW Vacation plat, I noticed we had the 50 ft. ROW from Patent in DB 31, Page 299 labeled SLE. This is not a Selection Line Easement (SLE). I have attached a revised plat which corrects this label as we didn't want people to be confused and assume the easement in question runs anywhere other than the east boundary of original Government Lot 18.

Please use this revision.

Thanks, Sam



S.A. Sam McLane, PE PLS  
President  
McLane Consulting Inc.  
P.O. Box 468 Soldotna, Alaska 99669  
Direct 907-398-1054

**From:** Clements, Peggy <PClements@kpb.us>  
**Sent:** Tuesday, June 30, 2020 9:14 AM  
**To:** Sam McLane <SaMcLane@mclanecg.com>  
**Subject:** PLAT COMMENTS FOR JULY 13, 2020MEETING: McClane Consulting

<b>SUBDIVISION: Rappe Park Subdivision Amended portion of Sara Jane Street, ADL 2203941 ROW and Patent B27 P65 ROW Vacations</b>	<b>KPB NO:2020-059V</b>
<i>AGENCY</i>	<i>COMMENTS</i>
KPB COMMENTS	SEE ATTACHMENT
DOT	NO COMMENT
HEA/CHUGACH ELECTRIC	SEE ATTACHMENT
ACS/TELALASKA	NO COMMENT
GCI	NO RESPONSE
ENSTAR	SEE ATTACHMENT
COMMENT FROM ADFG	SEE COMMENT ATTACHMENT

**CERTIFICATE OF OWNERSHIP**

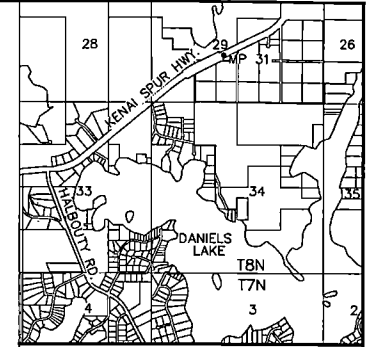
I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AS LOT 1 RAPPE PARK SUBDIVISION (KN87-105) AND GOVERNMENT LOT 19 AND I HEREBY APPROVE OF THE RIGHT-OF-WAY VACATION AS SHOWN HEREON.

LOUIS F. OLIVA  
POB 8567  
NIKISKI, AK 99635

**NOTARY'S ACKNOWLEDGEMENT**

FOR:  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020  
MY COMMISSION EXPIRES : \_\_\_\_\_

NOTARY PUBLIC FOR THE STATE OF ALASKA



**VICINITY MAP** Scale 1" = 1/2 Mile

**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT.

Date \_\_\_\_\_  
Registration Number \_\_\_\_\_

Registered Land Surveyor

**CERTIFICATE OF OWNERSHIP**

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AS LOT 1 RAPPE PARK SUBDIVISION (KN87-105), GOVERNMENT LOT 19 AND GOVERNMENT LOT 17 AND I HEREBY APPROVE OF THE RIGHT-OF-WAY VACATION AS SHOWN HEREON.

STACY ANN OLIVA  
POB 8567  
NIKISKI, AK 99635

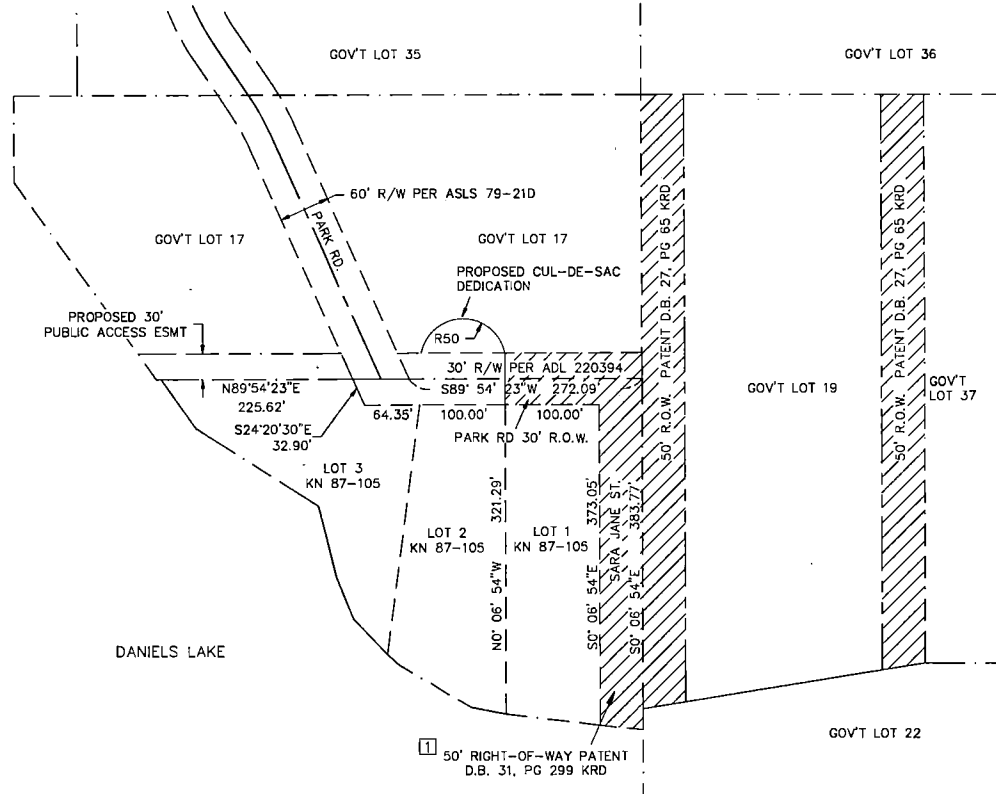
**NOTARY'S ACKNOWLEDGEMENT**

FOR:  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020  
MY COMMISSION EXPIRES : \_\_\_\_\_

NOTARY PUBLIC FOR THE STATE OF ALASKA

**NOTES:**

1. DIAGONALLY HATCHED AREA INDICATES THE RIGHT-OF-WAYS BEING VACATED.
2. NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS RIGHT-OF-WAY VACATION PLAT.
3. ALTERNATE ACCESS IS PROVIDED VIA A 30 PUBLIC ACCESS EASEMENT ALONG THE SOUTH BOUNDARY OF GOV'T LOT 17 SHOWN HEREON.



DANIELS LAKE

**PLAT APPROVAL**

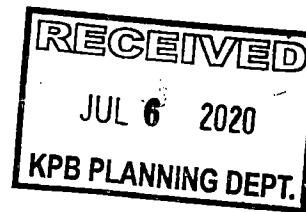
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF XXXXXX.

AUTHORIZED OFFICIAL \_\_\_\_\_

Plat #	
Rec Dist	
Date	20
Time	AM

**LEGEND**

RIGHT-OF-WAY VACATED THIS PLAT



**SCALE**



1 METER = 3.280833 U.S. SURVEY FEET 1 U.S. ACRE = 0.4047 HECTARE

NAME OF SURVEYOR McLANE CONSULTING, INC. P.O. Box 468 Soldotna, AK 99669		
<b>RIGHT OF WAY VACATION PLAT</b>		
ASSOCIATED WITH RAPPE PARK SUBDIVISION (KN87-105), NE 1/4 SW 1/4 SECTION 34 TOWNSHIP 8 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, KENAI RECORDING DISTRICT, ALASKA		
DRAWN BY: EGB	DATE: JULY 2, 2020 REV 1	
SCALE: 1" = 100'	FILE NO. EV-	K.P.B. FILE NO.

July 10, 2020

KPB Planning Commission  
144 North Binkley Street  
Soldotna, AK 99669

Dear Planning Commission:

Thank you for the opportunity to comment again on this matter. These comments should serve to update comments I submitted earlier to this commission on July 2, 2020 based on an event that happened this week.

In my initial comments, I noted that the lake approach is much steeper on the proposed access. In fact, I have measured that slope at the property line to be as steep as 38 to 42 degrees (this equates to a slope of 84%) descending from an elevation of about 30' above lake level. This contrasts a flat approach (topographic information confirms approximately 1% of slope) on the current lake access.

The steepness of the slope was aptly demonstrated this past week when the petitioner brushed the proposed ROW presumably to the 50' mark from the lake (that I measured to be actually 42'). See photos.

In this instance, a tail line assist was connected to the brusher-equipped Bobcat that was in turn connected to a large excavator. Repeatedly, the Bobcat was driven down the steep slope to consume the brush; then the "sky-line / tail-hook" was used to retrieve the brushing equipment back up the slope. This construction technique is normally employed **only as an absolute last resort** when no other technique is possible. And then, it is only used with multiple safety steps that I did not see employed here (no secondary / safety line employed).

This event occurred adjacent to our property line; at 9 PM with no notification; adjacent to anadromous waters (and within the 50' protected zone); and directly above (within 17' of) our guest cabin that our grandchildren sleep in every summer.

As far as the proposed access being "easily traversable"; this event appears to refute that claim.

Thank you for your consideration of these comments.

Jeff West









569

149.4

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2020-16  
HOMER RECORDING DISTRICT**

Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V

WHEREAS, AnnaLisa Cox of Homer, AK requested the vacation of the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); and

WHEREAS, affected utility companies provided written non-objection to the proposed vacation; and

WHEREAS, The City of Homer Advisory Planning Commission recommended approval of the drainage easement vacation on May 15, 2019; and

WHEREAS, per the petition, the easement is not in use by any utility companies; and

WHEREAS, the proposed vacation will not deny drainage or utility easement(s) to surrounding properties; and

WHEREAS, on July 13, 2020, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed vacation; and

WHEREAS, right of way dedications of Nelson Avenue and Kallman Road exist and can provide drainage corridors and public access; and

WHEREAS, the Planning Commission has found that vacating the drainage easement will not be detrimental to the public interest; and

WHEREAS, the Planning Commission conducted a public hearing for the vacation of the 10 foot wide drainage easement; and

WHEREAS, the Planning Commission decided that the 10 foot wide drainage easement is a public easement based on the staff report and findings 1-18; and

WHEREAS, 20.70.140 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64), is hereby vacated.

Section 2. That a sketch showing the location of the drainage easement being vacated be attached to, and made a part of this resolution, becoming Page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 North Binkley Street  
Soldotna, Alaska 99669

## Clements, Peggy

---

**From:** Planning Dept,  
**Sent:** Friday, July 10, 2020 1:01 PM  
**To:** 'Robert J Molloy'; Planning Dept,  
**Subject:** RE: Patton (Cox) Petition to Vacate 10 Foot Wide Drainage Easement

Hello,

I will be sure to add your attachment to; AA Mattox Peggi's Addition Lot 24-A Drainage Easement Vacation KPB 2019-048V.

Kind regards,

*Peggy Clements*

Platting Technician  
Planning Department  
907-714-2207

**KENAI PENINSULA BOROUGH**  
144 North Binkley Street  
Soldotna, Alaska 99669



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to the public upon request.

---

**From:** Robert J Molloy [mailto:[bob@molloysschmidt.com](mailto:bob@molloysschmidt.com)]  
**Sent:** Friday, July 10, 2020 12:30 PM  
**To:** Planning Dept, <[planning@kpb.us](mailto:planning@kpb.us)>  
**Subject:** Fwd: Patton (Cox) Petition to Vacate 10 Foot Wide Drainage Easement

Please ensure this item is included in supplemental packet for Planning Commission. Thank you -

Bob

Robert J. Molloy  
Molloy Schmidt LLC, Attorneys At Law  
110 S. Willow Street Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax  
[bob@molloysschmidt.com](mailto:bob@molloysschmidt.com)

\*\*\* CONFIDENTIALITY NOTICE \*\*\*

The contents of this e-mail message and any attachments are confidential and are

intended solely for addressee. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient; the message and attachments are not for dissemination to others without the written permission of the sender. If you have received this transmission in error, any use, reproduction or dissemination of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail or phone and delete this message and its attachments, if any.

Begin forwarded message:

**From:** Robert J Molloy <[bob@molloyschmidt.com](mailto:bob@molloyschmidt.com)>  
**Date:** July 10, 2020 11:59:20 AM AKDT  
**To:** Johni Blankenship <[JBlankenship@kpb.us](mailto:JBlankenship@kpb.us)>  
**Subject:** Patton (Cox) Petition to Vacate 10 Foot Wide Drainage Easement

Dear Borough Clerk's Office:

The attached pdf file is a letter with attachments for the Planning Commission on Item G(1) on the Planning Commission's 7/13/20 meeting agenda, "Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition." To ensure timely receipt, I am also faxing this letter and attachments to you. If you receive both, please use the email version since it will be clearer text for the Commission.

Please let me know by reply email that you have received this item for the Commission. thank you.

Bob Molloy  
Co-counsel for Echo Trading./Neal

Robert J. Molloy  
Molloy Schmidt LLC, Attorneys At Law  
110 S. Willow Street Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax  
[bob@molloyschmidt.com](mailto:bob@molloyschmidt.com)

\*\*\* CONFIDENTIALITY NOTICE \*\*\*

The contents of this e-mail message and any attachments are confidential and are intended solely for addressee. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient; the message and attachments are not for dissemination to others without the written permission of the sender. If you have received this transmission in error, any use, reproduction or dissemination of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail or phone and delete this message and its attachments, if any.

# MOLLOY SCHMIDT LLC

ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax

July 10, 2020

Blair Martin, Chair  
Robert Ruffner, Vice-Chair  
Members, Planning Commission, Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

Via email to: [planning@kpb.us](mailto:planning@kpb.us)  
And fax to: 714-2378

**Re: OBJECTION TO AGENDA ITEM G(1)  
REQUEST FOR MOTIONS/ACTIONS  
RESPONSE TO PLANNING STAFF ATTORNEY MEMO**  
Patton (Cox) Petition to Vacate 10 Foot Wide Drainage Easement  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA

Dear Chair/Vice Chair/Planning Commission Members:

**Objection.** Echo Trading Company LLC objects to Item G(1) on the Planning Commission's 7/13/20 meeting agenda, "Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition." The Borough Assembly, in the Decision on Appeal, packet pp. 233-234, directed the Planning Commission to conduct a full public hearing on this drainage easement vacation petition:

The resolution to vacate the drainage easement is REVERSED, and the matter is REMANDED back to the Commission with the instruction that it conduct a public hearing regarding Resolution 2019-19, consider the arguments raised by the Parties in this matter,<sup>1</sup> and take such subsequent action upon the Resolution as it determines is appropriate. In taking such action, the Commission shall specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Mattox Subdivision.

The drainage easement vacation petition is not on the Commission's 7/13/20 agenda for a public hearing; but instead, was put under utility easement vacations; which don't have a public hearing. Compare, agenda items E(1) and E(2) with item G(1). The drainage easement vacation petition was also not noticed for a public hearing, as the other vacations were noticed and placed on the Commission's agenda. Compare, attached notices. This failure to provide notice of a public hearing on the vacation petition, and put a public hearing on the Commission's agenda as directed by the Borough Assembly, violates the Assembly's directions.

<sup>1</sup> The parties include Echo Trading Company LLC

**Request.** Echo Trading and the Neals request that Planning Commissioners put motions on the floor and take actions on requests made by letter dated 6/17/20 on behalf of Appellant, Echo Trading Company LLC and its owners, Tony and Gwen Neal, at pages 298-300 of your packet (copy attached for convenience). The motions would be: (1) to continue the public hearing to a date no earlier than the week of 8/10/20, for cause; and then (2) to bifurcate the hearing into two parts, for cause; as requested in the letter dated 6/17/20.

**Responses to Planning Staff Attorney's memo**

The Planning staff attorney's memo in the packet, pp. 234-237, contains numerous incorrect statements. The legal advice in this memo is not binding on the Commission, and it should not be followed because it contradicts what the Assembly directed the Commission to do.

Planning staff's attorney, at pages 234 and 236, recommends that the Planning Commission follow its standard public hearing procedure. However, the Assembly already decided, at page 231, para. 16, that the Planning Commission's usual procedure was a "failure to conduct a full public hearing" that Echo Trading was entitled to. The Planning Commission's standard public hearing procedure doesn't provide "procedures consistent with the essentials of a fair trial," per the *Nash* case and the Assembly's instructions that Appellant is to be afforded a full and meaningful opportunity to present its case.

In addition, despite the staff attorney's claims in his memo, Agenda item G(1) is *not* for a public hearing, and *was not noticed for a public hearing*.

The Planning staff's attorney, at page 237, mischaracterizes Echo Trading and its owners as "commenting neighbors," when they are *parties* in this case (Case No. 2019-02-PCA), which the Borough Assembly remanded to the Planning Commission for a full public hearing. The Assembly found that Echo Trading has a *private property interest* in ensuring that its property is protected from the adverse effects of the elimination of the drainage easement, and that this interest is important and at risk of erroneous deprivation without a full public hearing per AS 29.40.120-.160 and the *Nash* case. See, Decision on Appeal at pages 231-232, paras. 16-18. As shown in the letter dated 6/17/20 on behalf of Appellant, the Neals cannot participate in a hearing in July 2020 from their location in western Alaska either via Zoom or by telephone; refusal to allow them an opportunity to participate in a hearing will harm and prejudice them.<sup>2</sup>

Contrary to Planning staff attorney's mischaracterization at pp. 236-237, Echo Trading did not request "a full administrative trial" with pre-trial procedures, motion practice, discovery, rulings on evidentiary issues at the hearing etc. Echo Trading *does request* the hearing procedures the Assembly listed on page 229 as required by Alaska law, including –

The rights to call witnesses and present witness testimony; object to administrative procedures; receive notice of all legal and administrative factors, and any evidence, that the government intends to rely on in making its decision; and, when the action involves issues of credibility, an in-person hearing.

---

<sup>2</sup> The Neals requested that the Planning Department consider their circumstances and schedule the hearing in August 2020, but their request was refused.

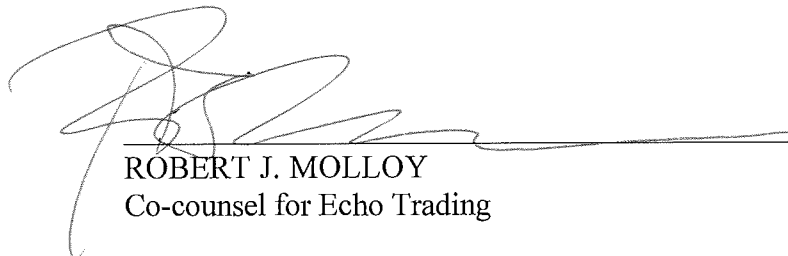
In its 6/17/20 letter, pp. 298-300, Echo Trading requested bifurcated hearing(s) held in two meetings, and that the Planning Commission establish an orderly process for submission of evidence (testimony and documents), which may require special meeting(s) due to potential length. Appellant requested that if a second hearing is necessary because the Commission decides that the easement is a public utility easement, then the orderly submission of testimony at the second hearing should include the parties' ability to call and cross-examine witnesses, with no 3-minute limit on their right to fully present testimony and documents. Credibility of witnesses is critical in this case, where the petitioner falsely states that the drainage easement has not been used since it was granted in 1984 – these are literally the first words in the Staff Report, at page 214.

The appeal hearing in this case before the Assembly was a special meeting, and took approximately three hours. The Echo Trading's requests for hearing procedures are consistent with the Assembly's Decision on Appeal, page 231, para. 17, where the Assembly found that the failure to conduct a full public hearing "in such a way that the Appellant is afforded a full and meaningful opportunity to present its case" to the Planning Commission creates a significant risk of erroneous deprivation of Appellant's private property rights.

Planning Department's staff attorney, at pages 235-36, argues the legal issue of jurisdiction and argues for limiting the question to "whether or not Plat HM-99-64 granted the subject easement to the public." However, limiting the question disregards the Assembly's specific directions to the Planning Commission in the Decision on Appeal, pp. 232-233, that the Commission "shall specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's developers, including Mattox Subdivision." See, Decision on Appeal, VII. CONCLUSION, at pages 232-33. The Appellant's requests are consistent with the Assembly's directions.

Thank you for your consideration.

Sincerely yours,



ROBERT J. MOLLOY  
Co-counsel for Echo Trading

cc: Client(s)

**MOLLOY SCHMIDT LLC**  
ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2895 fax

June 17, 2020

Blair Martin, Chair  
Robert Ruffner, Vice-Chair  
Members, Planning Commission  
Kenai Peninsula Borough  
144 N. Binkley St.  
Soldotna, AK 99669

Via email to: [planning@kpb.us](mailto:planning@kpb.us)  
And fax to: 714-2378

Re: Patton (Cox) Petition to Vacate Easement  
Kenai Peninsula Borough Planning Commission File No. 2019-048V  
Kenai Peninsula Borough Assembly Case No. 2019-02-PCA

Dear Chair/Vice Chair/Planning Commission Members:

In its Decision on Echo Trading Company LLC's appeal, dated May 21, 2020, the Borough Assembly remanded Peggi Patton's petition for vacation of a drainage easement to the Planning Commission for a hearing. This letter is to present several requests to the Commission, on behalf of Echo Trading, regarding the date(s) and procedures for the hearing(s)

**1. Date(s).** It is our understanding that the Planning Department plans to schedule the remand hearing on Peggi Patton's petition for the July 13, 2020 regular Planning Commission meeting. Please schedule the hearing(s) for no earlier than the week of 8/10/20, because Echo Trading's owners are out in the Bristol Bay area until early August 2020, and don't have access to Zoom or telephone conferencing out there.

Echo Trading's owners are Tony and Gwen Neal, who own a separate business harvesting and processing Alaska wild salmon. They live out in remote western Alaska (Bristol Bay area) during the summer, are there at present, and will be there until their return to Homer, which they plan to be on about 8/01/20 or later that week.

The Neals cannot participate in a hearing in July 2020 from their location in western Alaska either via Zoom or by telephone. They do not have access to reliable Internet (unable to use Zoom, WhatsApp, or Skype) or reliable cell phone service (unable to participate in group calls); and both services are affected by weather.



2. **Bifurcate the hearing(s).** Please bifurcate the hearing(s), so that the Planning Commission can first decide the issue of whether this drainage easement is a public utility easement or a private easement over which the Borough does not have jurisdiction under KPB Chapter 20.70. Then, if the Commission decides it is a public utility easement, a second hearing on the vacation of this drainage easement could take place at a later date.

In its Decision, the Assembly ordered that the Planning Commission hold a public hearing, and "specifically address whether the drainage easement is a private easement or a public utility easement, taking into account the history of the subdivision's easement developers, including Mattox Subdivision." Decision on Appeal, pp. 14-15.

The fact that this easement is not a right-of-way was never in dispute. Both Echo Trading and the Planning Department agree that this easement is not dedicated to the public and is not a public area. It would be extremely burdensome and expensive for the Planning Commission to require the Petitioner(s), and opponents such as Echo Trading, to present their entire case to the Commission, when the Commission may decide that this drainage easement is a private easement which the Commission has no authority to vacate, in the first place.

3. **Establish agenda(s) with procedures for "full" hearing(s) at special meeting(s).** It is Echo Trading's understanding that planning staff intends the "public hearing" on remand to follow the existing practice: the parties can submit relevant information for the packet, staff will provide a staff report, the Petitioner will have an opportunity to speak to the merits, followed by public testimony, and the Petitioner may have a second opportunity to speak after that. The existing practice is a 3-minute limit on speakers. The commissioners may ask questions of any speaker or of staff.

This existing practice, where public comments are limited to 3 minutes, and there is no orderly process for submission of evidence (testimony and documents), does not meet the requirement of AS 29.40.130 for a "hearing;" or the Assembly's directions that the public hearing on remand be a "full" hearing. The Assembly already decided that the Commission's existing practice was not sufficient for this vacation petition on remand, stating that:

Although the Appellant was permitted to submit comments for the Commission's consideration at the June 24, 2020 meeting, the Appellant was not allowed an opportunity to fully present its position at a public hearing. Decision at p. 10.

*and*

The Borough Assembly finds that the failure to conduct a full public hearing in such a way that the Appellant is afforded a full and meaningful opportunity to present its case to the Borough Planning Commission creates a significant risk of erroneous deprivation [of Echo Trading's due process rights]. Decision at p. 13.

If the Planning Commission decides that this drainage easement is a public utility easement, and that a second hearing on the vacation petition is necessary, then the Assembly's Decision on Appeal requires that the Planning Commission hold a hearing where Echo Trading can at least call (and cross-examine) witnesses, and submit documentary evidence; with no 3-minute or other arbitrary limits on its right to fully present its position.

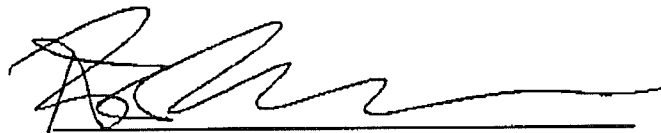
. . .

The second hearing could be at a regular meeting, or at a special meeting since the hearing could be lengthy. For example, the appeal hearing before the Assembly was a special meeting, and took approximately three hours.

Echo Trading requests that the Planning Commission decide in advance about the dates, if the hearing(s) will be bifurcated, and what the procedures for submission of testimony and documents will be.

Echo Trading requests that the Commission not schedule the remand hearing for July 13, 2020; but instead, put on its action agenda for that meeting Echo Trading's requests in this letter. Thank you for your consideration.

Sincerely yours,



---

ROBERT J. MOLLOY  
Co-counsel for Echo Trading

cc: Petitioner (and successor owners)  
Client(s)



# Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

RECEIVED  
MULLOY SCHMIDT LLC  
Charlie Pierce K. SCHMIDT

Borough Mayor

## NOTICE OF PROPOSED UTILITY EASEMENT VACATION

Public notice is hereby given that an application to vacate a drainage easement in the City of Homer will be heard by the Planning Commission. The original petition to vacate a utility easement was received on 5/29/2019 by the Planning Department of the Kenai Peninsula Borough. This item was previously heard by the Planning Commission on June 24, 2019. The application has been remanded on appeal back to the Planning Commission and a new hearing will be held.

In accordance with Chapter 20 of the Borough Code of Ordinances, all owners of properties within a 300-foot radius must be notified of the proposed vacation. According to Borough records, you are an owner of property within that radius or you are an affected party.

- A. Location: Vacate the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition, granted by AA Mattox Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V
- B. Purpose as stated in petition: The 10' drainage easement has not been used since it was granted in 1984. There is an alternative corridor in place on the Nelson Avenue ROW above the north lot line of the subject property. A long driveway permit on the Nelson Avenue ROW has been issued by the City of Homer to the Quiet Creek Park LLC Project. The long driveway permit requires that the existing drainage corridor remain in place on the North side of the long driveway. The current corridor on the Nelson Avenue ROW handles any storm or seasonal water runoff from the Quiet Creek Park LLC Project and above, as well as, the drainage plan in place in the Quiet Creek Park LLC Project. The owner understands that the City of Homer prefers not to cross personal property when other more adequate options or corridors are available to the City of Homer for drainage and seasonal runoff. The subject property is currently for sale and buyers are concerned about the future use of the subject property 10' drainage easement, therefore preventing them from making an offer on the subject property. This is creating an adverse effect to the subject property. Vacating this easement would not create any adverse effects to the surrounding properties.
- C. Petitioner(s)/Owner(s): Annalisa Cox of Homer, AK - current land owner and applicant (original applicant and former land owner was Peggi L. Patton of Homer, AK.)

The proposed utility easement vacation petition will be scheduled for the Planning Commission's meeting scheduled for **Monday, July 13, 2020 at 7:30 p.m.**

Mailed 6/23/20

579

237.9

TS# 2539293

Calendar  
Hvg  
7/13/20

Anyone wishing to testify may give testimony or may submit a written statement to the attention of Peggy Clements, Kenai Peninsula Borough Planning Department - 144 N. Binkley Street - Soldotna, Alaska 99669. The Planning Department recommends that written comments be received by **1:00 P.M., Friday, July 10, 2020**. [Written comments may also be sent by Fax to 907-714-2378 or by email to [planning@kpb.us](mailto:planning@kpb.us)].

For additional information, contact Peggy Clements ([PClements@kpb.us](mailto:PClements@kpb.us)), Julie Hindman ([jhindman@kpb.us](mailto:jhindman@kpb.us)) or Planning Department ([planning@kpb.us](mailto:planning@kpb.us)), 907-714-2200 (1-800-478-4441 Toll Free within the Kenai Peninsula Borough). Fax number is 907-714-2378.

**Please be aware that due to the recent COVID-19 pandemic and based on CDC guidelines, the meeting will not be physically open to the public. Instructions are as follows:**

The meeting will remain open to the public and are invited to participate. The Planning Commissioners, along with staff members, will be attending via zoom teleconferencing. The public will be able to listen or participate with the same methods. The meeting will be held through Zoom. To join the meeting from a computer visit <https://zoom.us/j/2084259541>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099 or 1-877-853-5247**. When calling in you will need the Meeting ID of **208 425 9541**. If you connect by computer and do not have speakers or a microphone, if wishing to comment, connect online and then select phone for audio. A box will come up with toll free numbers, the Meeting ID, and your participant number. Detailed instructions will be posted on the Planning Commission's webpage prior to the meeting. <https://www.kpb.us/planning-dept/planning-commission>.

If you have questions or experience technical difficulties, please contact the Planning Department at (907) 714-2200.

Meeting materials may be found at <https://www.kpb.us/planning-dept/planning-commission> as well as any updates to meeting procedures.



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

### PENINSULA CLARION

## KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

RECEIVED  
JUN 24 2020

Public notice is hereby given that a petition was received on 6/16/2020 to vacate several public rights of way in the Nikiski area. Area under consideration is described as follows:

A. Location and request:

- Vacate Sara Jane Street a 100 foot right of way (per Rappe Park Subdivision Amended KN 87-105 and patent deed KN Bk. 31 Pg. 299 and patent deed Bk. 27 Pg. 65).

- Vacate a portion of Park Road a 60 foot right of way (per Rappe Park Subdivision Amended KN 87-105 and ADL 220394 at Serial Number 2018-007092-0)

- Vacate 50 foot right of way easements on the east and west of Gov't. Lot 19 (per patent deed KN Bk. 27 Pg. 65).

Located within the NE 1/4 SW 1/4 of Section 34, Township 8 North, Range 11 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-059V.

B. Purpose as stated in petition SUMMARIZED: Petitioner owns the property on both sides of Sara Jane Street (Government Lot 17 and Lot 1 per Rappe Park Subdivision Amended Plat KN 87-105) as well as Government Lot 19. The rights of way have not been constructed and there are ponded wetlands on Sara Jane Street preventing lake access. Petitioner is providing a proposed 30' public access easement as an alternate access to Daniels Lake that is easily traversable and does not have wetlands.

C. Petitioner(s): Louis F. Oliva Jr. and Stacy Ann Oliva of Nikiski, AK and Triple Knot Land & Livestock LLC of Kenai, AK.

Public hearing will be held by the Kenai Peninsula Borough Planning Commission on **Monday, July 13, 2020**, commencing at **7:30 p.m.**, or as soon thereafter as business permits.

Anyone wishing to testify may call in to the above meeting to give testimony or may submit a written statement to the attention of Peggy Clements, Kenai Peninsula Borough Planning Department, 144 N. Binkley Street, Soldotna, Alaska 99669. The Planning Department recommends that written comments be received by **1:00 P.M., Friday, July 10, 2020**. [Written comments may also be sent by email to the addresses below or by Fax to 907-714-2378].

If the Planning Commission approves the vacation, the Borough Assembly has thirty days from that decision in which they may veto the Planning Commission approval. Denial of a vacation petition is a final



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce  
Borough Mayor

act for which no further consideration shall be given by the Kenai Peninsula Borough.

For additional information contact Peggy Clements (PClements@kpb.us) or Julie Hindman (jhindman@kpb.us), Planning Department, 714-2200 (1-800-478-4441 toll free within Kenai Peninsula Borough) or email [planning@kpb.us](mailto:planning@kpb.us).

**Please be aware that due to the recent COVID-19 pandemic and based on CDC guidelines, the meeting will not be physically open to the public. Instructions are as follows:**

The meeting will remain open to the public. The Planning Commissioners, along with staff members, will be attending via teleconferencing. The public will be able to listen or participate with the same methods. The meeting will be held through Zoom. To join the meeting from a computer visit <https://zoom.us/j/2084259541>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099** or **1-877-853-5247**. When calling in you will need the Meeting ID of **208 425 9541**. If you connect by computer and do not have speakers or a microphone, and wishing to comment, connect online and then select phone for audio. A box will come up with toll free numbers, requesting the Meeting ID, and your participant number. Detailed instructions will be posted on the Planning Commission's webpage prior to the meeting. <https://www.kpb.us/planning-dept/planning-commission>.

If you have questions or experience technical difficulties, please contact the Planning Department at (907) 714-2200.

Meeting materials may be found at <https://www.kpb.us/planning-dept/planning-commission> as well as any updates to meeting procedures.

## Huff, Scott

---

**From:** AnnaLisa Cox <a.cox.109@gmail.com>  
**Sent:** Sunday, July 12, 2020 7:59 PM  
**To:** Planning Dept,  
**Cc:** Huff, Scott  
**Subject:** <EXTERNAL-SENDER>Cox Supplemental Packet for Lot 24A  
**Attachments:** 20200712 Cox Supplemental Packet.pdf

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I would like to request that this document be provided to the Planning Commission for the 7/13/20 PC meeting.

The attached pdf contains

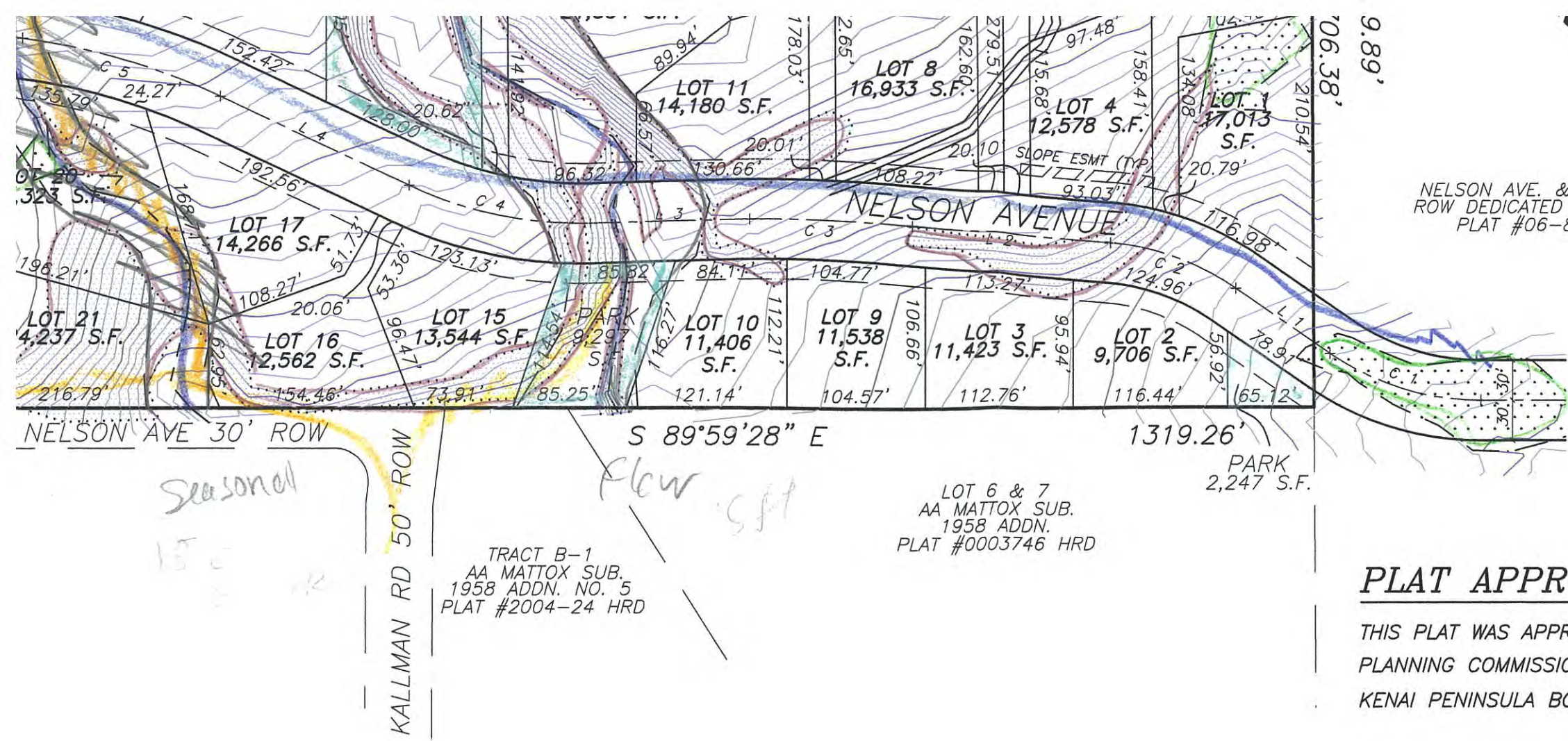
1. a 2013 copy of a Quiet Creek Park Subdivision preliminary plat map obtained upon request from the Homer Platting Department. Please note the colors seen on the map were added by the Homer Platting department in 2013 as the plat map was being reviewed for approval. You can see they had marked the direction the drainage ran on the plat map.
2. 2003 aerial imagery of Lot 24A & neighboring properties.
3. A copy of the aerial imagery that includes arrows showing the drainage path down Nelson Ave & Kallman Rd.
4. Page 3 of the Opening Statement filed by Echo Trading Company. The highlighted section clearly shows that Echo Trading claims that in 2017 drainage was diverted from Lot 24A to flow down Nelson/Kallman.
5. 3 Pictures of the current Nelson Ave ROW.

The drainage easement that resides on Lot 24A was intended to handle groundwater drainage between 2 lots, also known as a Swale. In 2017 the groundwater drainage issues were addressed by the Patton's when they installed a Water Kitchen, Culvert, & French drains around the perimeter of the property to remove the need for the swale/drainage area that was on Lot 25.

The last time I sent a file of this size to the planning dept email it was returned as undeliverable. Can you please confirm that the planning department has received the attached pdf and that it will be included for the PC meeting?

Thank you,

AnnaLisa



**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF \_\_\_\_\_ KENAI PENINSULA BOROUGH

BY: \_\_\_\_\_ AUTHORIZED OFFICIAL

**GE EASEMENTS**

AND BANK MAINTENANCE EASEMENTS OF CITY OF HOMER THIS PLAT ARE HEREBY BY THE CITY OF HOMER.

DATE: \_\_\_\_\_

**WATER DISPOSAL**

FOR THE WASTEWATER DISPOSAL, THAT MEET CITY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

DATE: \_\_\_\_\_ WIESOW, P.E.

**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N 55°27'20" W	85.96'
L2	N 84°33'51" W	151.48'
L3	S 88°23'01" W	119.66'
L4	N 64°41'19" W	156.56'
L5	N 82°31'23" W	217.04'
L6	N 49°01'34" W	25.16'
L7	N 67°29'41" W	29.05'
L8	N 89°45'00" W	182.55'
L9	N 32°15'00" W	11.09'
L10	S 89°45'00" W	391.13'
L11	N 07°28'37" E	35.26'
L12	N 58°55'24" E	50.18'
L13	S 75°44'04" E	103.22'
L14	N 79°50'53" E	159.19'
L15	S 82°40'59" E	89.30'
L16	N 36°53'33" E	150.88'
L17	N 19°59'41" E	42.71'
L18	S 38°29'08" W	56.08'

HOMER RECORDING DISTRICT KPB FILE No. 2013-

**BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK**

BEING A SUBDIVISION OF THE UNSUBDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION AS PER PLAT #2001-44 LOCATED WITHIN THE SE 1/4, SEC 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA CONTAINING 38.05 ACRES

**SEABRIGHT SURVEY + DESIGN**  
 1044 EAST ROAD, SUITE A  
 HOMER ALASKA 99603  
 (907) 235-4247 (and fax)  
 seabrightz@yahoo.com

DRAWN BY: K.K.	DATE: AUGUST 2013	SCALE: 1" = 100'
CHK BY: K.B.	JOB #13-06	SHEET 1 OF 2

JE working copy fall 2013



NELSON AVE

NELSON AVE

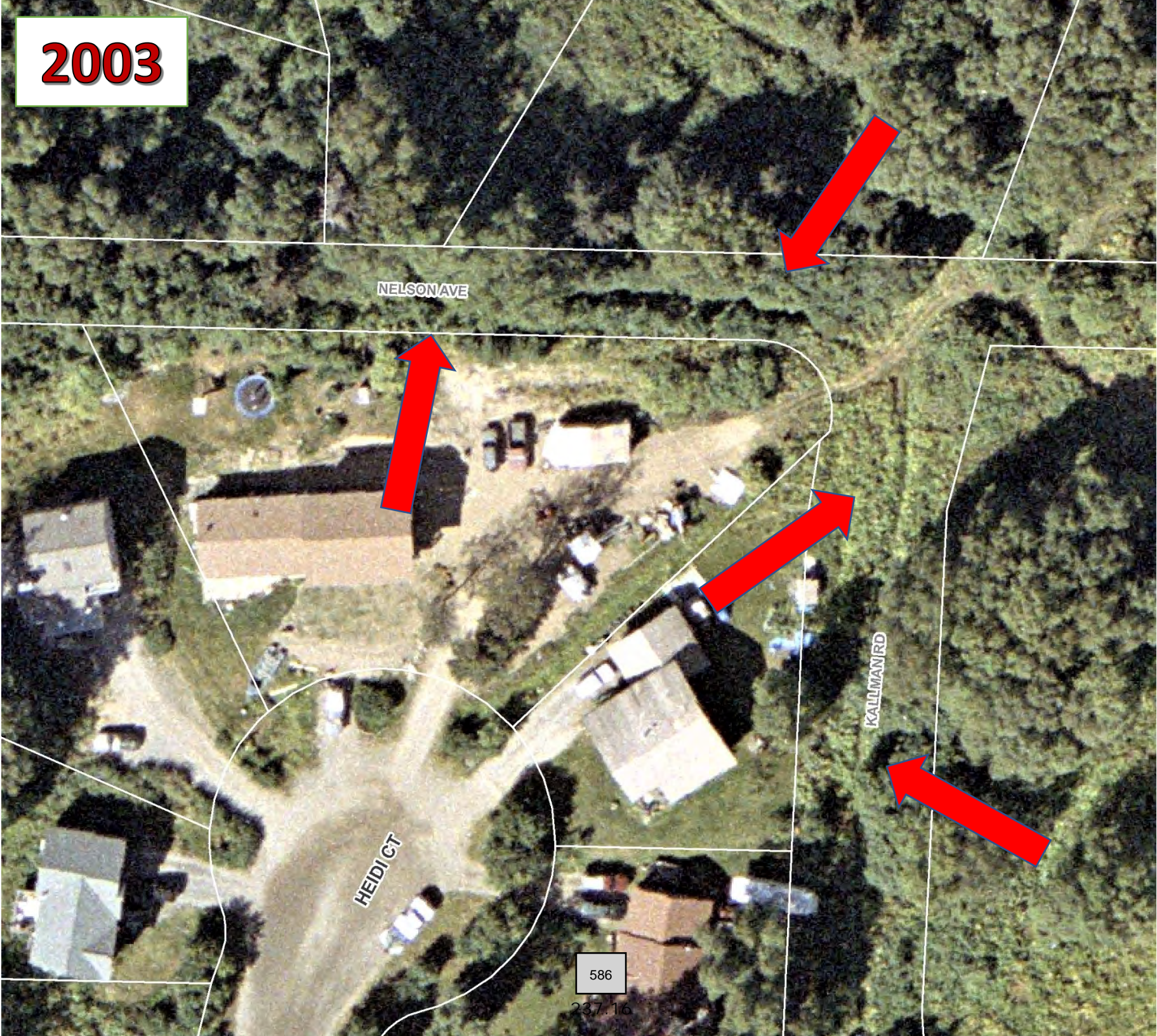
KALLMAN RD

HEIDI CT

585

237.15

**2003**



NELSON AVE

HEIDI CT

KALLMAN RD

586

237.16

**B. Patton’s Lot 24-A, Nelson Avenue Right of Way and Adjacent Parcels.**

Lot 24-A is south of and adjacent to platted Nelson Avenue. [R. 59] In 1999, the platted Nelson Avenue was a dry public easement and buildable; there was a former logging road with a culvert serving the 2-foot stream of water that flowed down through Lot 24-A. [R. 50] **But then in 2017, the Pattons hired Homer Winter Services, Inc. to remove the culvert, and complete new drainage behind their garage and a drainage ditch within the platted Nelson Avenue in AA Mattox Subdivision.**<sup>4</sup> [R. 40, 50] **The new ditch diverts water flowing downhill from the property north of Lot 24A, causing the water to flow down this ditch near the middle of the platted Nelson Avenue toward Kallman Road.**<sup>5</sup> [R. 22, 40] There is no record that the Pattons obtained a permit from City of Homer for this construction work, which violated HMC 11.06.050.<sup>6</sup> [R. 40] The ditch has made development of the Nelson Avenue right of way impossible. [R. 40]

Echo Trading is the owner/developer of the property north of Lot 24A, a 37-acre subdivision named Barnett’s South Slope Subdivision Quiet Creek Park Unit 2 (“Quiet Creek Park”), Plat 2018-40.<sup>7</sup> [R. 89, Tr. 4] Lots 34, 35, and 36 in that subdivision front on Nelson Avenue, and are north of Lot 24A, now owned by Annalisa and Justin Cox. Echo Trading is also the owner of Lot 8-A, AA Mattox Subdivision Gwen’s 2019 Addition, Plat 2019-23. This parcel is located at the west end of Nelson Avenue and is adjacent to Unit 2.<sup>8</sup> [R. 8, Tr. 4]

Before Patton’s petition was filed in 1999, Echo Trading had to construct access to its Quiet Creek Park lots in a different location, north of Nelson Avenue shown in the Unit 2 plat, because the water flowing down Pattons’ ditch created a swampy area and made building road access in Nelson Avenue impossible. [R. 8-9, 40; Tr. 4] An as-built drawing, as well as Patton’s own drawing, shows that Patton’s unauthorized ditch in the Nelson Avenue right of way takes up half or more of the right of way.<sup>9</sup> [R. 34]

<sup>4</sup> See, **Exhibit 5**, letter dated 6/14/2018 by Peggi & Robert Patton to the Borough Planning Department re: KPB File 2014-06, with invoices.

<sup>5</sup> See, **Exhibit 12**, Nelson Avenue As-Built drawings, prepared 10/10/2019.

<sup>6</sup> HMC 11.08.050 requires any owner or agent of the owner of proerty abutting City roads, streets, or alleys to make application for a permit from the City for construction within any dedicated right-of-way before beginning construction.

<sup>7</sup> See, **Exhibit 6**, Plat 2018-40. Echo Trading is an Alaska limited liability company located in Homer, Alaska. Tony Neal is the LLC’s manager. See, attachment to Notice of Appeal, para. A. Echo Trading is also the successor in interest to Bob Barnett, the developer who protested the vacation of Patton’s drainage/utility easements in 1999, discussed above.

<sup>8</sup> See, **Exhibit 11**, Plat 2019-23.

<sup>9</sup> See, **Exhibit 12**, Nelson Avenue As-Built drawing.

1) Looking North West standing near corner of Kallman & Nelson



588

237.18

2) Facing West on Nelson Ave



3) Facing West on Nelson Ave



590

237.20

## **P. Pending Items for Future Action**

- 1. Ordinance 2020-XX: An ordinance amending KPB Code of Ordinances including Chapter 2.40-Planning Commission, Title 20-Subdivisions, Chapter 21.20-Hearing & Appeals, to correct grammatical errors, clarify & improve certain administrative procedures.**

Introduced by: Mayor  
Date:  
Hearing:  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-**

**AN ORDINANCE AMENDING KENAI PENINSULA BOROUGH CODE OF  
ORDINANCES INCLUDING CHAPTER 2.40 – PLANNING COMMISSION, TITLE 20  
SUBDIVISIONS, CHAPTER 21.20 – HEARING AND APPEALS TO CORRECT  
GRAMMATICAL ERRORS, CLARIFY AND IMPROVE CERTAIN  
ADMINISTRATIVE PROCEDURES**

**WHEREAS,** the borough’s subdivision code experienced a significant rewrite in 2014; and

**WHEREAS,** since that time platting staff have found a number of provisions that would benefit from clarifying language; and

**WHEREAS,** amendments will make Title 20 consistent with current law and statutes; and

**WHEREAS,** edits will clarify portions of Title 20; and

**WHEREAS,** beginning in 2018 the planning and legal department staff held numerous meetings to review the existing code for recommended changes; and

**WHEREAS,** invitations were extended to review the amendments to Title 20 with KPB staff to the communities of Anchor Point, Cooper Landing, Hope, Nikiski, Moose Pass, and City of Homer, Kachemak City, City of Kenai, City of Seldovia, City of Seward, and City of Soldotna; and

**WHEREAS,** work sessions were held regarding amendments to Title 20 with the surveying community and public on \_\_\_\_\_ and \_\_\_\_\_; and

**WHEREAS,** city meetings regarding amendments to Title 20 were conducted in the cities of \_\_\_\_\_; and

**WHEREAS,** the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.

**WHEREAS,** the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.



WHEREAS, the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.

WHEREAS, the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.

WHEREAS, the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.

WHEREAS, the \_\_\_\_\_ advisory planning commission held a meeting on \_\_\_\_\_ and recommended \_\_\_\_\_.

WHEREAS, the planning commission held a work session on \_\_\_\_\_; and

WHEREAS, the planning commission held a public hearing on the amended Title 20 on \_\_\_\_\_.

WHEREAS, at its meeting of \_\_\_\_\_, the Planning Commission reviewed this ordinance and recommended approval by unanimous consent;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1. That CHAPTER 2.40 PLANNING COMMISSION is hereby amended as follows:**

**2.40.080. – Plat committee – Powers and duties – Hearing and review procedures**

...

- B. Review of a decision of the plat committee may be heard by the planning commission acting as platting board by filing written notice thereof with the borough planning director on a form provided by the borough planning department. The request for review shall be filed within ten days after notification of the decision of the plat committee by personal service or service by mail. A request for review may be filed by any person or agency receiving a notice of decision. [PARTICIPATED AT THE PLAT COMMITTEE HEARING EITHER BY WRITTEN OR ORAL PRESENTATION.] The request must have an original signature; filing electronically or by facsimile is prohibited. The request for review must briefly state the reason for the review request and applicable provisions of borough code or other law upon which the request for review is based. Notice of the review hearing will be issued by staff to the original recipients of the plat committee public hearing notice.

...

**SECTION 2. That TITLE 20 – SUBDIVISIONS is hereby amended as follows:**

**CHAPTER 20.10 – GENERAL PROVISIONS**

**20.10.040. - Abbreviated plat procedure.**

- A. The abbreviated plat procedure may be used where the subdivision or replat[SUBDIVISION] is of a simple nature and meets all of the requirements of this section as follows:
  - 1. The subdivision divides a single lot into not more than four lots or the subdivision moves, or eliminates, lot lines to create not more than four lots or tracts.
  - 2. The subdivision provides legal and physical access to a public highway or street for each lot created by the subdivision;
  - 3. The subdivision does not contain or require a dedication of a street, right-of-way or other area; and
  - 4. The subdivision does not require a vacation of a public dedication of land or a variance from a subdivision regulation.
- B. Submission Requirements. All of the submission requirements of KPB Chapters 20.25, 20.30 and 20.40 shall be met.

...

**20.10.080. – Right-of-Way Vacation Plat and Section Line Easement Vacation Plat**

- A. When the sole purpose of a plat is to depict right-of-way, or a section line easement vacation, approved for vacation under KPB Chapter 20.70 as attaching to adjoining parcels in compliance with KPB 20.70.150 and AS 29.40.150, the following procedure shall apply:

...

**20.10.100. – Building setback encroachment permits.**

- A. Any person desiring to construct, or cause, an encroachment within a building setback shall apply for a building setback encroachment permit to the planning department. Failure to obtain an encroachment permit is subject to remedies set forth in KPB 20.10.030.
- B. A permit fee shall be charged for building setback encroachment permit as provided in the current approved Kenai Peninsula Borough Schedule of Rates, Charges and Fees. A person who fails to apply for, and obtain, a building setback encroachment permit prior to an enforcement notice being issued pursuant to KPB 21.50.100 is subject to enforcement.
- C. All building setback encroachments, including those that pre-date the effective date of this ordinance, must apply for a building setback encroachment permit. Permits for building setback encroachments that existed prior to the effective date of this ordinance shall pay the same permit fee as applies to permits received prior to placement or construction of the encroachment.

- D. When the building setback encroachment permit application is complete, it will be scheduled for the next available planning commission meeting.
- E. The following standards shall be considered for all building setback encroachment permit applications:
1. The building setback encroachment may not interfere with road maintenance.
  2. The building setback encroachment may not interfere with sight lines or distances.
  3. The building setback encroachment may not create a safety hazard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement, or building, that is located within the building setback and the permit will be valid for the life of the structure. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. Upon approval of a building setback encroachment permit, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.
- H. A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

## **CHAPTER 20.25 – PRELIMINARY PLATS**

### **20.25.020. - Compliance with certain provisions required.**

A [SUBDIVIDER] licensed surveyor shall prepare a preliminary plat of the proposed subdivision which shall comply with the requirements of KPB 20.25.070 and 20.25.080, and other applicable provisions of this chapter except as provided in KPB 20.10.050.

### **20.25.030. - Prints—Type and number to be submitted.**

The format and number of [PRINTS] copies of the preliminary plat to be submitted shall be as determined by the planning director and noted on the Borough Plat Submittal form. Preliminary plat prints shall be folded to 8½ × 13 inches or smaller in a manner such that the subdivision name and legal description show.

### **20.25.050. - Subdivision or replat in a first class or home rule city submittal procedure.**

A. Pursuant to AS 29.40.010, first class and home rule cities within the borough [ARE] may be delegated [LIMITED AUTHORITY] platting powers to adopt by ordinance subdivision standards different from those set forth in this chapter.

...

F. [TO THE EXTENT A CITY HAS BEEN DELEGATED LIMITED PLATTING AUTHORITY, A] A final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

#### 20.25.060

...

B. [TO THE EXTENT LIMITED PLATTING AUTHORITY HAS BEEN DELEGATED TO A SECOND CLASS CITY, A] A preliminary plat shall not be submitted to the borough planning department for review unless the aspects of the subdivision subject to the city authority have been first approved by the city.

...

F. [TO THE EXTENT A CITY HAS BEEN DELEGATED LIMITED PLATTING AUTHORITY, A] A final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

#### 20.25.070. - Form and contents required.

The preliminary plat shall be drawn to scale of sufficient size to be clearly legible and shall clearly show the following:

A. Within the Title Block.

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat;
2. Legal description, location, date, and total area in acres of the proposed subdivision; [AND]
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor. [;]

...

F. The [NAMES AND WIDTHS OF PUBLIC STREETS AND ALLEYS AND] location, width and name of existing or platted streets and public ways, railroad rights-of-way, easements, and travelways existing and proposed, within the subdivision;

G. Show the [S]status of adjacent lands within 100 feet of the proposed subdivision boundary or show the land status across from any dedicated right of ways that adjoin the proposed

subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

- H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding[,] or storm water overflow, and the line of ordinary high water[, WETLANDS WHEN ADJACENT TO LAKES OR NON-TIDAL STREAMS, AND THE APPROPRIATE STUDY WHICH IDENTIFIES A FLOODPLAIN, IF APPLICABLE;]. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;

...

**20.25.090. – Notice.**

- B. Notice of public hearing shall appear at least once in a newspaper of general circulation stating:
- a. name of subdivision[A GENERAL DESCRIPTION OF THE SUBDIVISION OR REPLAT];
  - b. KPB File no.[WHO FILED THE SUBDIVISION PETITION];
  - c. general location[WHEN THE SUBDIVISION PETITION WAS FILED];
  - d. general description of the subdivision[THE TIME AND PLACE OF THE HEARING ON THE SUBDIVISION]; and
  - e. the time and place of the hearing; and[THE PROCESS AND DEADLINE FOR SUBMITTAL OF COMMENTS.]
  - f. process and deadline for submitted comments.
- C. The notice in subsection B, including the name of the surveyor and applicant, shall be sent by regular mail to the affected property owners at least 14 days prior to the public hearing. A certificate of mailing listing the names, addresses and parcel information for each notified owner shall be maintained in the subdivision file.

...

**20.25.110. - Approval—Scope—Expiration restriction.**

- A. Approval of the preliminary plat shall not constitute approval of the final plat, but means only that the basic lot and street design is acceptable. The subdivider is on notice that it is the subdivider's responsibility to provide all the information required in this ordinance and to submit a correct final plat within two years of the date of the planning commission's conditional approval of the preliminary plat. Upon application by the subdivider prior to the two-year deadline for final plat submittal, a time extension for two years beyond the initial two-year period for submittal of the final plat may be granted by the planning director. A second [THIRD] and final two-year extension may be granted by the planning director when requested by the subdivider prior to expiration of the previous approval[, ALLOWING FOR A TOTAL APPROVAL TIME OF SIX YEARS]. When the

preliminary plat is located within city limits, submittal of documentation from the city advisory planning commission indicating concurrence with the time extension request must accompany a time extension request. When a preliminary plat that has been granted a time extension is finalized, the final plat must comply with the current code. Expiration of the original plat approval or time extensions will require the submission of, and action on, a new preliminary plat.

- B. Preliminary plats that will be finalized in phases must comply with current code at the time each phase is finalized. All dedications for streets that are required pursuant to KPB 20.30.030 must be provided in the first phase. The approval of a final plat for a portion of the phased preliminary shall [EXTEND] reset the [PRELIMINARY] approval date for two years from the date the subdivision phase final plat is recorded. [FOR T]The remaining land within the phased subdivision[, except that the commission] may require a new preliminary plat approval if the abutting road system changes. Phases must be filed in sequential order.

...

- E. Subdivision plats approved prior to February 14, 2014 under former KPB 20.12, 20.14, 20.16, and 20.20 with approvals that are greater than 10 years in length, and with approvals that will expire, will be considered expired on the expiration date. Continuation of an expired subdivision will require the submission of, and action on, a new preliminary plat complies with subdivision requirements.

### **20.25.120. - Review and appeal.**

[A PARTY OF RECORD] In accordance with KPB 2.40.080, any person or agency that participated at the plat committee hearing, either by written or oral presentation, may request that a decision of the plat committee be reviewed by the planning commission by filing a written request within 10 days of date of distribution [NOTIFICATION] of the decision. [IN ACCORDANCE WITH KPB 2.40.080.] A decision of the planning commission may be appealed to the hearing officer by a party of record within 15 days of the date of distribution[NOTICE] of decision in accordance with KPB 21.20.250.

## **CHAPTER 20.30. - SUBDIVISION DESIGN REQUIREMENTS**

### **20.30.060. - Easements—Requirements.**

- D. Unless a utility company requests additional easements, the front ten feet [OF THE BUILDING SETBACK]adjoining rights-of-way shall be designated as a utility easement, graphically or by note. Within the boundaries of an incorporated city, the width and location of utility easements will be determined by the city and affected utility providers.

...

**[20.30.110. - HALF STREETS.]**

- [A. HALF STREETS SHALL GENERALLY NOT BE ALLOWED EXCEPT WHERE ONE OF THE FOLLOWING CIRCUMSTANCES APPLIES:]
  - [1. THE STREET IS IDENTIFIED ON THE BOROUGH ROAD PLAN AS AN ARTERIAL;]
  - [2. THE STREET IS A LOGICAL EXTENSION OF AN EXISTING STREET; OR]
  - [3. THE REMAINING HALF STREET CAN REASONABLY BE EXPECTED TO BE DEDICATED.]
- [B. WHEN A DESIGN CHANGE REQUIRED AS A CONDITION OF PRELIMINARY APPROVAL RESULTS IN A HALF RIGHT-OF-WAY THAT WAS NOT SHOWN ON THE ORIGINAL PRELIMINARY PLAT, ADJOINERS TO THE NEW HALF RIGHT-OF-WAY ARE PARTIES OF RECORD AND WILL BE SENT A COPY OF THE PLAT COMMITTEE MINUTES AND A SKETCH SHOWING THE NEW HALF RIGHT-OF-WAY. PURSUANT TO KPB 2.40.080 REVIEW OF THE PLAT COMMITTEE DECISION BY THE PLANNING COMMISSION MAY BE REQUESTED BY PARTIES OF RECORD.]

**20.30.120. Streets – Width requirements.**

- A. The minimum right-of-way width of streets shall be 60 feet.
  - 1. Half streets shall generally not be allowed except to provide the logical extension of a right of way where the remaining half street can reasonably be expected to be dedicated in the future.
  - 2. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoining to the new half right-of-way will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the plat committee decision by the full Planning Commission.

...

**20.30.150. – Streets – Intersection requirements.**

- B. Offset intersections are not allowed. The distance between intersection centerlines shall be no less than 150 feet.

...

**20.30.240. - Building setbacks.**

- A. The commission shall require a building setback of at least 70 feet from the centerline of all dedicated [fee simple] arterial rights-of-way in a subdivision. A minimum 20-foot building setback shall be required for dedicated [fee simple] non-arterial rights-of-way in subdivisions located outside incorporated cities.

...

C. The setback shall be noted on the plat in the following format:

Building setback - A setback of \_\_\_\_\_ feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

**20.30.250. - Building setbacks—Within cities.**

The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts. Building setbacks as depicted, or noted, on record plats shall not be carried forward on a new subdivision plat located within a municipal zoning district. Provide a plat note stating, “Per KPB 20.30.250 the building setback of record has been removed. All development must comply with the municipal zoning requirements.”

**20.30.270. – Different standards in cities.**

Where cities have [been delegated partial platting powers by the borough and have] enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission [SHALL] may apply the city standards in lieu of those set forth in this chapter. [THE APPLICATION OF THE CITY DESIGN STANDARD IS SUBJECT TO THE CITY HAVING AN ORDINANCE IN PLACE THAT SATISFIES THE NOTICE REQUIREMENTS OF KPB 20.25.090(A) THROUGH (D) AND A PROCESS TO APPEAL DECISIONS MADE BY THE CITY REGARDING APPLICATION OF ITS SUBDIVISION DESIGN STANDARDS.] Any appeal of a city design standard is subject to KPB 21.01.020.

**20.30.280. - Floodplain requirements.**

...

C. All subdivisions which are wholly or partially located within flood hazard areas as defined by KPB 21.06.030 must comply [AREAS WHERE THE FLOODPLAIN HAS NOT BEEN MAPPED AND BASE FLOOD ELEVATION DATA IS NOT AVAILABLE SHALL PROVIDE THE INFORMATION IN COMPLIANCE] with KPB 21.06.050.

...

**20.30.290. – Anadromous waters habitat protection district.**

If any portion of a subdivision or replat is located within an anadromous habitat waters protection district, the plat shall contain the following note:

ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Habitat Waters Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.



**CHAPTER 20.40. – WASTEWATER DISPOSAL**

**20.40.030. - Abbreviated submittal.**

Lots within the proposed subdivision that will be at least 200,000 square feet [OR NOMINAL FIVE ACRES] in size [DO NOT REQUIRE A SOILS ANALYSIS AND REPORT PREPARED BY A QUALIFIED ENGINEER] must comply with KPB 20.40.100(F). Before a final plat is recorded or filed for subdivision, the following note must be placed on the plat:

WASTEWATER DISPOSAL: Lots which are at least 200,000 square feet [OR NOMINAL FIVE ACRES] in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

**20.40.040. - Conventional onsite soil absorption systems.**

A. If any lots within a subdivision will utilize conventional onsite soil absorption systems and are less than 200,000 square feet, the following requirements must be met and submitted to the planning director:

...

- 3. A working map depicting:
  - a. Ground slopes greater than [20] 25 percent, or 5 percent where a bed system is proposed, and other topographic features as needed by a qualified engineer to meet the design requirements for wastewater disposal as defined in this chapter;

...

B. Before a final plat is recorded or filed for subdivision under this section, the borough will require the engineer to sign the following note on the final plat:

WASTEWATER DISPOSAL: Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences. [AND MEETING THE REGULATORY REQUIREMENTS OF THE KENAI PENINSULA BOROUGH.] An Engineer’s Subdivision and Soils Report is available from the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a qualified engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

(Signature of) Engineer	License #	Date
-------------------------	-----------	------

**20.40.070. - Connection to an existing system.**

...

C. If the subdivision is served by a wastewater treatment and disposal system within a home rule or general law city, then signature by a licensed engineer or surveyor is not required.

**20.40.100. - Soils analysis and report.**

...

F. Soil testing requirements for subdivision lots equal or greater than 200,000 square feet [NOMINAL FIVE ACRES] consist of general soils and water table description with sufficient detail to support the applicability of the proposed means of wastewater disposal; the description must be based on:

1. Existing information; or
2. Visual analysis by, or local knowledge of, a qualified engineer.

...

**CHAPTER 20.60. – FINAL PLAT**

**20.60.025 – Fee required**

The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the submission of the final plat.

**20.60.070. - Plat specifications.**

The final subdivision plat shall be clearly and legibly drawn to a scale of 1 inch equal to 10, 20, 30, 40, 50, 60, 150 feet of a multiple of 100 feet. The drawing shall be plotted on good quality polyester film at least 3 mil in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear, [AND] legible and in black ink. The minimum text size should be 10 point (0.1”) font or the equivalent. Where necessary, 8 point (0.08”) capitalized font or the equivalent can be used to label features. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Colors, grayscale or shading is not acceptable as it does not show when the drawing is reproduced. Sheets shall be one of these sizes: [8½" × 14"]; 11" × 17"; 18" × 24"; and 24" or 30" × 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

**20.60.110. - Dimensional data required.**

A. The bearing and length of every lot line, block line, and boundary line shall be shown. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled. All non-radial lines shall be labeled. If

monumented lines were not surveyed during this platting action, show the computed data per the record plat information.

- B. The natural meanders of ordinary high water (or mean high water line as applicable) is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.
- C. Any discrepancy between the survey and the record description, and the source of all information used in making the survey shall be indicated. When an inconsistency is found including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, or when any doubt as to the location on the ground of the true boundary or property rights exists, the nature of the inconsistency shall be clearly shown on the drawing.

**20.60.130. - Boundary of subdivision.**

The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

**20.60.170. - Other data required by law.**

- A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.
- B. Private covenants and restrictions of record in effect at the time the final plat is approved SHALL] will be referenced on the plat. The borough will not enforce private covenants, easements, or deed restrictions.
- C. The plat must adhere to the requirements of the local option zone, where applicable.

**20.60.180. - Plat notes.**

- A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.
- B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to 20.50.010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

**20.60.210. - Approval—Authority—Certificate issued when.**

...

- E. When an application to amend a recorded plat, as defined by 11 AAC 53.900, is received, notice by regular mail of the requested amendment to the plat shall be sent to owner(s) of the affected lot or tract and/or the owners in the subdivision per borough tax rolls. Separate advertising of the proposed plat amendment is not required.
1. The surveyor shall submit a copy of the plat showing the proposed new wording and/or a sketch of the proposed amendment with the application.
  2. The plat amendment may be scheduled as a consent agenda item unless otherwise requested by the owner(s), planning director or planning commission.

## CHAPTER 20.70. – VACATION REQUIREMENTS

...

### 20.70.035. – Approval of Vacations.

The planning commission shall consider the merits of each request to vacate a street, public right-of-way, public area, or public easement and in all cases the planning commission will deem the area being vacated to be of value to the borough unless proven otherwise. The burden of proof shall lie entirely with the petitioner. In considering any vacation of a street, public right-of-way, public area, or public easement the borough shall consider the following:

1. The current and future needs of the right-of-way, public access easement, or public areas.
2. The vacation of the right-of-way, public access easement, or public areas will not limit access to surrounding property.
3. The vacation of the right-of-way or public access easement will not be detrimental to the public welfare.
4. The borough will consider realignment of right of way by vacation and rededication where it can clearly be shown the right of way realignment will enhance access and the realigned right-of-way is located to provide reasonable means of ingress and egress.

### 20.70.040. - Application—Petition required.

- A. A platted right-of-way or platted public area may not be vacated, except upon petition by resolution of the governing body from a municipality in which the property is located or by the owners of the majority of land fronting or abutting the right-of-way or public area to be vacated. The petition shall be filed with the planning commission.
- B. A petition to vacate a utility easement [ONLY MUST]may be submitted by the state, the borough, a public utility, or the owners of the land subject to the easement.

### 20.70.050. - Petition—Information required.

...

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. The petition shall include a statement containing the reasons in support of the vacation and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered.

[ADDITIONAL COPIES MAY BE REQUIRED AS NEEDED.] The format and number of copies shall be determined by the planning director. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. The burden of proof shall lie with the petitioner to support the vacation.

...

**20.70.080. - Utility easement vacations.**

- A. Where a vacation petition is for a utility easement only, the petitioner has the responsibility to obtain comments from the KPB Road Service Area and all appropriate utility providers and the jurisdictional authority of the adjoining right-of-way, if applicable, and submit those comments with the petition. The petition must be signed by the owners of the land subject to the easement as shown on the Kenai Peninsula Borough tax rolls. A sketch showing the location of the requested vacation must accompany the petition. A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right-of-way.
- B. Publication of a notice in the newspaper is not required for utility easement vacations.
- C. A notice shall be sent by regular mail to each property owner as shown on the Kenai Peninsula Borough tax rolls within a 300-foot radius from the utility easement proposed for vacation at least 14 days prior to the scheduled public hearing.
- D. When the application is complete, the planning director will schedule the petition to be heard by the Planning Commission [TAKE ACTION ON THE REQUESTED VACATION]within ten working days.[, EITHER APPROVING OR DENYING THE REQUESTED VACATION. IF THE DIRECTOR APPROVES THE VACATION,] The vacation may be finalized by a vacation resolution that will be prepared and taken to the planning commission for adoption, in accordance with KPB 20.70.140, or[.]the owner may finalize the vacation in conjunction with a preliminary plat depicting the requested vacation, that shall be submitted in accordance with KPB Title 20. [IF DIRECTOR DENIES THE VACATION, A LETTER CONTAINING THE REASONS SUPPORTING THE DENIAL WILL BE SENT TO THE PETITIONER. THE DIRECTOR MAY CHOOSE TO FORWARD ANY UTILITY EASEMENT VACATION REQUEST TO THE PLANNING COMMISSION FOR ACTION. IF THE REASONS FOR DENIAL ARE RESOLVED, THE PETITIONER MAY SUBMIT A NEW PETITION FOR VACATION WITH DOCUMENTATION THAT THE ISSUES HAVE BEEN RESOLVED, ACCOMPANIED BY A NEW FEE.]
- E. If the utility easement vacation will be finalized in conjunction with the recording of a subdivision plat in accordance with KPB Title 20, the final plat must be recorded within one year of the planning commission’s approval or the municipal vacation consent in KPB 20.70.050(F).

- F. When a utility easement vacation is located within an incorporated city, the city may veto the approval within 30 calendar days in accordance with KPB 20.70.110.
- G. A party of record can appeal the planning commission decision of a petition to vacate a utility easement, in accordance with KPB 21.20.
- H. For the purposes of vacations, a utility easement is defined to include the easements listed in the definition of Utility Easement under KPB 20.90.010.

**20.70.090. - Notice required.**

Notice of public hearing shall be posted in a public area such as a post office, community center, or library. Public hearings will be advertised twice, once on the agenda in a local newspaper and either on the KPB website or social media.

The notice shall include:

- a. name of applicant and/or surveyor
- b. general location
- c. legal description
- d. summarized purpose
- e. time and location of public hearing
- f. KPB File number.

[THE PLANNING DIRECTOR SHALL PUBLISH A NOTICE STATING WHEN AND BY WHOM THE PETITION WAS FILED, ITS PURPOSE, AND THE TIME AND PLACE OF THE PUBLIC HEARING. THE NOTICE SHALL DESCRIBE, THROUGH BOTH LEGAL AND GENERAL DESCRIPTION, THE LOCATION, NATURE, AND EXTENT OF THE VACATION. THE NOTICE SHALL BE PUBLISHED ONCE A WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA OF THE VACATION.] Certified mail notice shall [ALSO] be mailed to each property owner as shown on borough tax rolls within a 300-foot radius and regular mail notice sent to owners within the next 300-foot radius to equal a 600-foot total notice radius from the boundaries of the area proposed to be vacated. If the 600-foot radius does not include owners other than the petitioner(s), notice must be sent to owners of parcels adjoining the boundaries of the parcel(s) that contain the area of the proposed vacation. Notice [BY REGULAR MAIL] shall be sent to all public utilities operating within the general area of the vacation and to the municipality in which the property is located.

**20.70.110. - Vacation [CONSENT] decision - City council or assembly.**

A vacation approval, or denial, by the Planning Commission, of a [CITY] street, public right-of-way, public area, utility easement, or public easement located within an incorporated city [may not be approved without the consent of the city council] must be sent to the city for consent, or veto, of the vacation decision. A vacation of a street, right-of-way, public area, utility easement, or public easement within the borough outside of the boundaries [LIMITS]of a city[IES MAY NOT BE MADE WITHOUT THE CONSENT OF THE BOROUGH ASSEMBLY] must be sent to the assembly for consent or veto of the vacation decision. The assembly or council shall have 30 days from the date of [APPROVAL]the planning commission decision in which to consent or veto the planning commission decision. If no consent or veto decision is made [IS RECEIVED BY THE PLANNING DIRECTOR] within [THE SPECIFIED PERIOD] 30 days of the date of the planning commission decision, the city or borough shall be considered to have given consent to the vacation. An appeal of a city council or borough assembly action under this provision must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

**20.70.130. - Vacation plat—Preparation, approval and recording.**

Upon approval of the vacation request by the planning commission and consent [NO VETO] by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080, or KPB 20.25. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110. No extensions of time may be granted for the right of way vacation. To allow time for State of Alaska DNR review and approval, section line easement vacation plats must be recorded within four years of the vacation consent in KPB 20.70.110.

**20.70.140. - Vacation resolution—Easement.**

Upon approval of an easement vacation not associated with the vacation of a right-of-way or not requiring transfer of title or platting action, a vacation resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the vacation. The petitioner is responsible for the recording fees as well as a legal description of the area to be vacated. The legal description shall be a written description and/or a drawing prepared, stamped, and signed by a land surveyor.

**20.70.220. – Section line easement vacations.**

Section line easement vacation petitions must comply with the requirement of KPB 20.70.040, 20.70.050 and 20.70.060 [A FEE IS REQUIRED IN COMPLIANCE WITH KPB 20.70.060]. Public hearing and notice must comply with the requirements or KPB 20.70.070, [20.70.080]20.70.090, 20.70.100, 20.70.110, [AND] 20.70.120, and 20.70.130. [THE MAIL NOTICE REQUIRED IN KPB 20.70.090 MAY BE BY REGULAR MAIL. PUBLICATION ON THE PLANNING COMMISSION AGENDA, ADVERTISED ONCE IN LOCAL PAPERS, POSTED IN PUBLIC AREAS, AND ON THE BOROUGH WEBSITE PRIOR TO THE MEETING WILL SATISFY THE PUBLISHING REQUIREMENT.] The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in

compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

## **CHAPTER 20.90. – DEFINITIONS**

### **20.90.010. - Definitions generally.**

...

"Architect" or "qualified architect" means a licensed architect registered to practice in Alaska under AS 08.48 and 12 AAC 36 in the branch of architecture defined by 12 AAC 36.068 applicable to the project.

...

"Date of distribution" or "distribution" means the date a notice, decision or other document is provided, manually or electronically, or is postmarked. [, TO A PARTY OF RECORD.]

...

"Monument" means a point marked on the surface of the earth for commencing or controlling a survey.

...

["NOMINAL FIVE ACRES" MEANS OF, LIKE, OR RELATING TO AN ALIQUOT FIVE-ACRE PART.]

...

["PARTIES OF RECORD" UNLESS SPECIFIED OTHERWISE MEANS THOSE PERSONS WHO HAVE COMMENTED IN A WRITTEN AND SIGNED DOCUMENT OR IN PERSON ON AN AGENDA ITEM BEFORE THE PLANNING COMMISSION OR PLAT COMMITTEE WHO OWN PROPERTY WITHIN THE NOTIFICATION RADII ESTABLISHED IN THIS CHAPTER.]

...

"Right-of-way dedication" or "right-of-way" means a right-of-way dedicated on a plat for road, street, or utility purposes in accordance with the platting requirements of the Kenai Peninsula Borough, or such rights-of-way as have been specifically granted by easement or dedicated by statute [MEANS TRANSFER OF FEE SIMPLE UNDERLYING OWNERSHIP OF A RIGHT-OF-WAY TO THE STATE, BOROUGH, OR A MUNICIPALITY].

"Subdivision" means the division of a tract or parcel of land into two or more lots, or other divisions for the purpose of sale or building development, and includes resubdivision and relates to the process of subdividing or to the land or areas subdivided. As used in this Chapter, it also includes the elimination of lot lines and/or any change to an existing property line.

...



## CHAPTER 21.20. – HEARING AND APPEALS

### 21.20.210 – Definitions

A. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

...

5. “Party of record” means:

a. The applicant before the planning commission,

b. Any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use or enjoyment of real property owned by them who appeared before the planning commission with either an oral or written presentation, and who owns lands within the notification radii. A signature on a petition does not qualify the signatory as a party of record.

(1) a signature on a petition does not qualify the signatory as a party of record [WITHOUT A SEPARATE ORAL OR WRITTEN PRESENTATION TO THE PLANNING COMMISSION].

...

### 21.20.230. - Jurisdiction.

...

[B. THE ASSEMBLY SHALL CONSIDER VACATION PETITIONS APPROVED BY THE PLANNING COMMISSION IN ACCORDANCE WITH THE PROCEDURES IN KPB CHAPTER 20.70.]

### 21.20.250

...

E. *Entry of appearance.* The borough clerk shall mail or otherwise deliver copies of the notice of appeal to all parties of record in the proceeding appealed within 15 days of the date of filing the notice of appeal. Proof of service upon each party shall accompany the notice of appeal. Any party desiring to participate in the appeal process must file an entry of appearance containing that party's name and address and signature, or the name and address of the party and the name and address and signature of the party's representative, within 15 days of the date of mailing of the notice of appeal by the borough clerk. If borough staff is not participating in the appeal beyond providing the required staff overview, a notice of non-participation should be filed with the borough clerk. Proof of service of the entry of appearance upon each party shall be made in the manner prescribed in KPB 21.20.280(D). Any party filing an entry of appearance may file additional designations of error or other alternative requests for modification or reversal of the decision.

**21.20.270. - Record on appeal.**

...

C. Appeal on the record; new evidence. Appeals to the hearing officer shall be on the record. No new evidence, or illustrative documents or attachments to written statements, may be filed without prior approval of the hearing officer after a showing by the moving party that there exists cause for supplementing the record and that even with due diligence the new evidence could not have been provided at the hearing before the planning commission.

**21.20.280. - Written statements.**

A. Opening statement. A party of record who entered an appearance in the appeal[APPELLANT, STAFF AND THE APPLICANT IF THE APPLICANT IS NOT THE APPELLANT] shall submit a written statement which shall be filed with the borough clerk within 20 days of the clerk issuing notice that a completed record and transcript have been filed. The written statement may include a statement of facts as derived from the record on appeal, a statement of the party's perception of the correctness of the planning commission decision, a list of asserted errors, and any citations to applicable statutes, ordinances, regulations or other legal authority for the position taken by the party to the appeal. Failure to timely submit the opening written statement will result in dismissal of that party from the appeal. Multiple parties may preserve their party status by filing a single written statement; however, the written statement must clearly identify all parties filing the single statement. The hearing officer may waive irregularities in the content of the notice of appeal or written statements. In appeals where staff does not enter an appearance, the staff overview may be provided in writing when opening statements are due.

...

E. Additional written statements. Unless the hearing officer requests supplemental written statements from the parties of record or staff, no additional written statements shall be accepted.

**21.20.300. - Motions.**

A. Parties. Motions for continuances, shortened time, or other matters may be filed by the following parties and served in the manner prescribed by KPB 21.20.280(D):

1. The appellant;
2. The applicant if that party is not the appellant;
3. A borough official if borough staff enters an appearance in the matter.

...

**SECTION 3.** That this ordinance is effective January 1, 2021.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY OF \* 2020.**

---

Kelly Cooper, Assembly President

ATTEST:

---

Johni Blankenship, MMA, Borough Clerk

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

**2.40.080. – Plat committee – Powers and duties – Hearing and review procedures**

SUGGESTED CHANGE: Clarify who is allowed to request a review of a plat committee decision by the full Planning Commission.

SUGGESTED LANGUAGE:

B. Review of a decision of the plat committee may be heard by the planning commission acting as platting board by filing written notice thereof with the borough planning director on a form provided by the borough planning department. The request for review shall be filed within ten days after notification of the decision of the plat committee by personal service or service by mail. A request for review may be filed by any person or agency receiving a notice of decision. [participated at the plat committee hearing either by written or oral presentation.] The request must have an original signature; filing electronically or by facsimile is prohibited. The request for review must briefly state the reason for the review request and applicable provisions of borough code or other law upon which the request for review is based. Notice of the review hearing will be issued by staff to the original recipients of the plat committee public hearing notice.

*JUSTIFICATION: The change will clarify who is allowed to submit a request for review by specifying that any person or agency that receives a notice of decision is able to request a review by the full planning commission.*

---

**20.10.040. – Abbreviated plat procedure.**

SUGGESTED CHANGE: Clarify this section such that abbreviated plats are platting actions that eliminate lot lines or create new parcels as long as no more than four lots or tracts are created and the proposed plat complies with the remainder of 20.10.040. If the proposed subdivision is within a local option zone, Number 5 ensures continued compliance with KPB Code.

SUGGESTED LANGUAGE:

A. The abbreviated plat procedure may be used where the subdivision or replat [resubdivision] is of a simple nature and meets all of the requirements of this section as follows:

1. The subdivision divides a single lot into not more than four lots or the subdivision moves, or eliminates, lot lines to create not more than four lots or tracts.

*JUSTIFICATION: As it reads now, a replat of four lots into one lot would not qualify as an abbreviated plat. The new proposed language clarifies that vacating interior lot lines as long as no more than four lots are being created is acceptable under 20.10.040.*

---

**20.10.040. – Abbreviated plat procedure.**

SUGGESTED CHANGE: Include compliance with 20.40.

SUGGESTED LANGUAGE:

B. Submission Requirements. All of the submission requirements of KPB Chapters 20.25, 20.30, 20.40 shall be met.

PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20

June 29, 2020

*JUSTIFICATION: All lots being created must comply with wastewater review per 20.40 to ensure public safety and adherence to State Statutes.*

---

**20.10.080. – Right-of-Way Vacation Plat and Section Line Easement Vacation Plat.**

SUGGESTED CHANGE: Include Section Line Easement Vacation Plats under the Right of Way vacation plat section of code.

SUGGESTED LANGUAGE:

- A. When the sole purpose of a plat is to depict right-of-way, or a section line easement vacation, approved for vacation under KPB Chapter 20.70 as attaching to adjoining parcels in compliance with KPB 20.70.150 and AS 29.40.150, the following procedure shall apply:

*JUSTIFICATION: Often a plat is required to vacate a section line easement. When only the section line easement is being vacated, and the boundary is not changing, the plat does not need to be reviewed by the Planning Commission. The Planning Commission has already reviewed, and approved, the vacation application. It is unnecessary for the Planning Commission to also review the plat. The State of Alaska DNR has a review process for section line easement vacation plats and is the final authority on approval of the section line easement vacation including the final plat.*

---

**20.10.100. – Building Setback Encroachment Permit.**

SUGGESTED CHANGE: By providing an encroachment permit it allows the land owner to have relief from a structure that is located within a building setback. The issuing of the permit would be granted by the Planning Director and would have to meet specific standards.

SUGGESTED LANGUAGE:

**20.10.100. – Building Setback Encroachment Permit.**

- A. Any person desiring to construct, or cause, an encroachment within a building setback shall apply for a building setback encroachment permit to the Planning Department. Failure to obtain an encroachment permit is subject to remedies set forth in KPB 20.10.030.
- B. A permit fee shall be charged for Building Setback Encroachment Permits as provided in the current approved Kenai Peninsula Borough Schedule of Rates, Charges and Fees. A person who fails to apply for, and obtain, a building setback encroachment permit prior to an enforcement notice being issued pursuant to KPB 21.50.100 is subject to enforcement.
- C. All building setback encroachments, including those that pre-date the effective date of this ordinance, must apply for a building setback encroachment permit. Permits for building setback encroachments that existed prior to the effective date of this ordinance

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

- shall pay the same permit fee as applies to permits received prior to placement or construction of the encroachment.
- D. When the building setback encroachment permit application is complete, it will be scheduled for the next available planning commission meeting.
- E. The following standards shall be considered for all building setback encroachment permit applications.
- a. The building setback encroachment may not interfere with road maintenance.
  - b. The building setback encroachment may not interfere with sight lines or distances.
  - c. The building setback encroachment may not create a safety hazard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement, or building, that is located within the building setback and the permit will be valid for the life of the structure. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. Upon approval of a building setback encroachment permit, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.
- H. A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

*JUSTIFICATION: Building setback requirements are within Chapter 20.30 Subdivision Design Requirements. Exceptions to Design Requirements can only be requested at time of preliminary plat approval. If building setbacks were a function of zoning (Chapter 21.04) than a variance would be required.*

*By allowing a building setback encroachment permit to be obtained, it allows the land owner relief when a structure or improvement is located within the building setback, while also giving the borough an opportunity to review the encroachment. If the encroachment does not meet the standards then the encroachment permit will be denied and if applicable, the structure may be required to be removed from the setback.*

---

**20.25.020. – Compliance with certain provisions required.**

SUGGESTED CHANGE: Add language to clarify that submission of a preliminary plat is the responsibility of a licensed land surveyor.

SUGGESTED LANGUAGE:

A [subdivider] licensed surveyor shall prepare a preliminary plat of the proposed subdivision which shall comply with the requirements of KPB 20.25.070 and 20.25.080, and other applicable provisions of this chapter except as provided in KPB 20.10.050.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*JUSTIFICATION: As written, 20.25.020 allows a member of the public to prepare and submit a subdivision plat. Per KPB 20.25.010 the general public is provided an opportunity to meet with the Platting Manager/Planning Director for a preliminary application conference. During the preliminary application conference, the plan of subdivision and subdivision requirements will be discussed with the land owner. The land owner will then have a licensed surveyor prepare and submit the preliminary plat submittal package. Land surveyors are more familiar with the KPB subdivision requirements and will be able to submit a preliminary plat that complies with KPB 20.25. This will allow the preliminary plat review be completed more efficiently for all involved.*

---

**20.25.030. – Prints – Types and number to be submitted.**

SUGGESTED CHANGE: Clarify that the number of copies and format of submissions is determined by the Planning Director.

SUGGESTED LANGUAGE:

The format and number of [prints] copies of the preliminary plat to be submitted shall be as determined by the planning director and noted on the Borough Plat Submittal Form. Preliminary plat prints shall be folded to 8½ × 13 inches or smaller in a manner such that the subdivision name and legal description show.

*JUSTIFICATION: Surveyors still try to submit plats in pdf form by email in a last minute effort to meet the cut-off deadline for preliminary plats or to hasten the submission of final plats. The Planning Department's existing equipment may not allow staff to print plats to scale from pdf documents. If Planning accepts electronic submissions from one surveyor, electronic submissions from all surveyors need to be accepted. And, if Planning accepts electronic submissions of preliminary plats, electronic submissions of final plats also need to be accepted. The cumulative costs of printing preliminary (9 copies each) and final plats (1 each) will create a continual, ever-increasing negative impact on the Planning Department's budget.*

*At some point in the future, technology and equipment may evolve such that electronic submissions are practical and would not negatively impact the budget. Allowing the Planning Director to determine the format of the submission and number of copies to submit creates flexibility that accommodates ever-changing technology. By noting the number of prints on the Plat Submittal Form, the surveyor will know how many copies are required to be submitted.*

---

**20.25.050. – Subdivision or replat in first class or home rule city submittal procedure.**

SUGGESTED CHANGE: Revise so that the cities may be delegated total platting powers as opposed to partial powers.

SUGGESTED LANGUAGE:

A. Pursuant to AS 29.40.010, first class and home rule cities within the borough [are] may be delegated [limited authority] platting powers to adopt by ordinance subdivision standards different from those set forth in this chapter.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

F. [To the extent a city has been delegated limited platting authority, a] A final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

*JUSTIFICATION: The borough does not enforce city standards or regulations that are different than borough requirements. The recommendations of the City are passed on to the Planning Commission for review. It is up to the owner to work out any platting issues with the City. Any appeal of a city required subdivision standard will be heard by the City, not the borough. Per KPB 21.01, Cities can be delegated full platting authority as long as they request the authority and comply by having proper notice and an appeal process.*

---

**20.25.060. – Subdivision or replat in second class city submittal procedure.**

SUGGESTED CHANGE: Revise so that the cities may be delegated total platting powers as opposed to partial powers.

SUGGESTED LANGUAGE:

B. [To the extent limited platting authority has been delegated to a second class city, a] A preliminary plat shall not be submitted to the borough planning department for review unless the aspects of the subdivision subject to the city authority have been first approved by the city.

F. [To the extent a city has been delegated limited platting authority, a] A final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

*JUSTIFICATION: The borough does not enforce city standards or regulations that are different than borough requirements. The recommendations of the City are passed on to the Planning Commission for review. It is up to the owner to work out any platting issues with the City. Any appeal of a city required subdivision standard will be heard by the City, not the borough. Per KPB 21.01, Cities can be delegated full platting authority as long as they request the authority and comply by having proper notice and an appeal process.*

---

**20.25.070. – Form and contents required.**

SUGGESTED CHANGE: Carry the parent plat name forward on the preliminary replat.

SUGGESTED LANGUAGE:

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.



**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*JUSTIFICATION: Carrying the parent plat name forward facilitates future land title searches and allows the plat to be sequentially listed, or at least grouped with, the parent plats in the State Recorder's database. If the owner wants a brand new name for the proposed plat, an exception can be requested.*

---

**20.25.070. – Form and contents required.**

SUGGESTED CHANGE: Include travel ways on preliminary plat submittal

SUGGESTED LANGUAGE:

- F. The [names and widths of public streets, and alleys, and] location, width and name of existing or platted streets and public ways, railroad rights-of-way, easements, and travel ways existing and proposed, within the subdivision;

*JUSTIFICATION: The existing travel ways often provides the most practical, physical access within, and to, the property. The existing travel way may be the best location for a fee right-of-way. If right-of-way is not dedicated over the travel way by the plat, staff may request or recommend an easement be placed atop the existing travel way in order to try to prevent problems with road blockage, trespass, and/or conflicts about usage rights when new owners acquire the property. It may also be pertinent to obtain dedications or easement within the adjacent lands to provide legal access on the traveled way to the boundary of the subdivision. If the owner(s) disagree, an exception can be requested and justified.*

---

**20.25.070. – Form and contents required.**

SUGGESTED CHANGE: Add a dimension requirement for showing the adjacent parcel information in relation to the proposed subdivision.

SUGGESTED LANGUAGE:

- G. Show the status of adjacent lands within 100 feet of the proposed subdivision boundary or show the land status across from any dedicated right of ways that adjoin the proposed subdivision boundary, including names of subdivisions, lot lines, block number, lot numbers, rights-of-way; or in indication that the adjacent land is not subdivided.

*JUSTIFICATION: By providing the adjoining information within at least 100 feet of the subdivision it will provide the information for the neighboring parcels and right of ways. A distance of 100 feet will encompass nearly all right-of-way widths that may adjoin the subdivision. It is important to show neighboring status information to plan for street intersections and lot layout configuration. The adjoining information is valuable for land owners and subsequent surveyors to use when gathering information on neighboring parcels.*

---

**20.25.070. – Form and contents required.**

SUGGESTED CHANGE: Clarification for showing non-tidal water features on the preliminary plat

SUGGESTED LANGUAGE:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

- H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding [,] or storm water overflow, and the line of ordinary high water [wetlands when adjacent to lakes or non-tidal streams and the appropriate study which identifies a floodplain, if applicable]. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;

*JUSTIFICATION: The intent is to show the approximate location(s) low wet or marshy/swampy areas on the plat. Knowledge of the locations of low wet areas helps the owners plan for prudent placement of structures, wells, septic systems, and rights-of-way. A wetland is a designation based on specific testing by qualified personnel. Remove mention of floodplains because 20.30.280 addresses these areas. Depiction of the low wet areas can easily clutter a plat such that other information, like basis of bearings and dimensions, can be difficult to discern.*

---

**20.25.090. – Notice.**

SUGGESTED CHANGE: Clarify and update the required items to be included in the notice published in the newspaper and the notice sent to affected property owners.

SUGGESTED LANGUAGE:

- B. Notice of public hearing shall appear at least once in a newspaper of general circulation stating:
- a. name of subdivision[a general description of the subdivision or replat];
  - b. KPB File no.[who filed the subdivision petition];
  - c. general location[when the subdivision petition was filed];
  - d. general description of the subdivision[the time and place of the hearing on the subdivision; and
  - e. the time and place of the hearing; and[the process and deadline for submittal of comments.]
  - f. process and deadline for submitted comments.
- C. The notice in subsection B, including the name of the surveyor and applicant, shall be sent by regular mail to the affected property owners at least 14 days prior to the public hearing. A certificate of mailing listing the names, addresses and parcel information for each notified owner shall be maintained in the subdivision file.

*JUSTIFICATION: The edits to this section will reduce the size of the newspaper ad and clarify what items are included with the notice. The reduction in the newspaper ad will be a cost savings measure for the Planning Department.*

PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20

June 29, 2020

---

**20.25.110. – Approval – Commission Authority – Notification required.**

SUGGESTED CHANGE: Clarify the approval time frame of preliminary plats and the expiration of approved plats.

SUGGESTED LANGUAGE:

- A. Approval of the preliminary plat shall not constitute approval of the final plat, but means only that the basic lot and street design is acceptable. The subdivider is on notice that it is the subdivider's responsibility to provide all the information required in this ordinance and to submit a correct final plat within two years of the date of the planning commission's conditional approval of the preliminary plat. Upon application by the subdivider prior to the two-year deadline for final plat submittal, a time extension for two years beyond the initial two-year period for submittal of the final plat may be granted by the planning director. A second [third] and final two-year extension may be granted by the planning director when requested by the subdivider prior to expiration of the previous approval. [, allowing for a total approval time of six years]. When the preliminary plat is located within city limits, submittal of documentation from the city advisory planning commission indicating concurrence with the time extension request must accompany a time extension request. When a preliminary plat that has been granted a time extension is finalized, the final plat must comply with the current code. Expiration of the original plat approval or time extensions will require the submission of, and action on, a new preliminary plat.

*JUSTIFICATION: The edits made to this section will clarify when an approved plat expires and clarify how many time extensions can be granted. The removal of the six-year limit is removed so that a combination of phase extensions and time extension requests can be used in combination for a development.*

---

**20.25.110. – Approval – Commission Authority – Notification required.**

SUGGESTED CHANGE: revise the language in 20.25.110.B so that the time extensions for phased subdivisions is clear.

SUGGESTED LANGUAGE:

- B. Preliminary plats that will be finalized in phases must comply with current code at the time each phase is finalized. All dedications for streets that are required pursuant to KPB 20.30.030 must be provided in the first phase. The approval of a final plat for a portion of the phased preliminary shall [extend] reset the [preliminary] approval date for two years from the date the subdivision phase final plat is recorded. [for t] The remaining land within the phased subdivision [, except that the commission] may require a new preliminary plat approval if the abutting road system changes. Phases must be filed in sequential order.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*JUSTIFICATION: By rewording this section it is clear that the approval date is reset to allow two years to complete the next phase from the date that the final plat for a phase is recorded. This will allow the subdivider the most time to complete their project.*

---

**20.25.110. – Approval – Commission Authority – Notification required.**

SUGGESTED CHANGE: Include a requirement that subdivision plats approved under 20.12, 20.14, 20.16, and 20.20 with approvals 10 years or more convert to the requirements of 20.25, 20.30, 20.40, and 20.60.

SUGGESTED LANGUAGE:

E. Subdivision plats approved under KPB 20.12, 20.14, 20.16, and 20.20 with approvals that are greater than 10 years in length, and with approvals that will expire, will be considered expired on the expiration date. Continuation of an expired subdivision will require the submission of, and action on, a new preliminary plat that complies with current subdivision requirements.

*JUSTIFICATION: To maintain consistency, plats approved per KPB 20.12, 20.14, 20.16, and 20.20 have been allowed to continue review under these codes as long as it was evident the project would be concluded within a reasonable amount of time. Allowing plats to continue review under 20.12, 20.14, 20.16, and 20.20 indefinitely is inconsistent with the intent and application of the current Title 20.*

---

**20.25.120. Review and appeal.**

SUGGESTED CHANGE: Revise the review and appeal statement to remove 'parties of record' so that chapter 20 is consistent with KPB 2.40.080.

SUGGESTED LANGUAGE:

[A party of record] In accord with KPB 2.40.080, any person or agency that participated at the plat committee hearing, either by written or oral presentation, may request that a decision of the plat committee can be reviewed by the planning commission by filing a written request within 10 days of date of distribution [notification] of the decision [in accordance with KPB 2.40.080]. A decision of the planning commission may be appealed to the board of adjustment by a party of record within 15 days of the date of distribution[notice] of decision in accordance with KPB 21.20.250.

*JUSTIFICATION: This change will keep the code consistent between chapter 2 and chapter 20. It will allow any person or agency who participated at the plat committee hearing, either by written or oral testimony, to request a review by the full Planning Commission. An appeal to the hearing officer will require a party of record to meet the Party of record requirements per KPB 20.20.210.*

---

**20.30.060. – Easements – Requirements.**

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

SUGGESTED CHANGE: Remove the default 10-foot utility easement if the plat is within a city, and the city planning commission and affected utilities do not request new utility easements.

SUGGESTED LANGUAGE:

- D. Unless a utility company requests additional easements, the front ten feet [of the building setback] adjoining rights-of-way shall be designated as a utility easement, graphically or by note. Within boundaries of a city, the width and location of utility easements will be determined by the City and affected utility providers.

*JUSTIFICATION: If the affected utility companies and the city, which is a utility provider, do not request easements, adding new easements is an unnecessary burden on the property within city limits. Some zoning districts do not have building setbacks so in order to consistently grant utility easements along rights-of-way, the language should clarify the front footage adjoining rights-of-way is subject to a utility easement unless otherwise requested by the city and utility providers.*

---

**20.30.110 – Half Streets**

**20.30.120. – Streets – Width requirements.**

SUGGESTED CHANGE: Move the requirements of 20.30.110 – Half Streets to be incorporated within 20.30.120 Streets – Width requirements. Also, revise the half street notification statement to remove 'parties of record' so that chapter 20 is consistent with KPB 2.40.080.

SUGGESTED LANGUAGE:

[20.30.110 – Half Streets.]

- [A.] [Half streets shall generally not be allowed except where one of the following circumstances applies:]
- [1. The street is identified on the borough road plan as an arterial;]
  - [2. The street is a logical extension of an existing street; or]
  - [3. The remaining half street can reasonably be expected to be dedicated.]
- [B.] [When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoiners to the new half right-of-way are parties of record and will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way. Pursuant to KPB 2.40.080 review of the plat committee decision by the planning commission may be requested by parties of record.]

**20.30.120. Streets—Width requirements.**

- A. The minimum right-of-way width of streets shall be 60 feet.
1. Half streets shall generally not be allowed except to provide the logical extension of a right of way where the remaining half street can reasonably be expected to be dedicated in the future.
  2. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoiners to the new half right-of-way will be sent a copy of the plat committee minutes

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the preliminary plat by the full Planning Commission.

- B. Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.

*JUSTIFICATION: It will simplify the code to move the half street width requirements to fall with the street width requirements section of the code, instead of having the half width be a separate section.*

*The change to the notice of adjoiningers will keep the code consistent between chapter 2 and chapter 20. It will allow any person or agency who participated at the plat committee hearing, either by written or oral testimony, to request a review by the full Planning Commission. An appeal to the hearing officer will require a party of record to meet the Party of record requirements per KPB 20.20.210.*

---

**20.30.150. – Streets – Intersection requirements.**

SUGGESTED CHANGE: Provide a distance requirement for offset intersections.

SUGGESTED LANGUAGE:

- B. Offset intersections are not allowed. The distance between intersection centerlines shall be no less than 150 feet.

*JUSTIFICATION: By adding a specific distance it clarifies the distance required between offset intersections. This distance complies with 20.30.090 Streets – Maximum grade allowed, where the grade at an intersection shall not exceed 4 percent within 130 feet of any centerline intersections.*

Muni of Anchorage requires 150 feet. Matsu Borough requires 150 feet centerline to centerline for residential sub-collectors or below or 330 feet on residential collector or higher class of road.

---

**20.30.240. – Building Setbacks.**

SUGGESTED CHANGE: Revise the wording of this section of code to reference 'dedicated' right of way instead of 'fee simple'.

SUGGESTED LANGUAGE:

- A. The commission shall require a building setback of at least 70 feet from the centerline of all dedicated [fee simple] arterial rights-of-way in a subdivision. A minimum 20-foot building setback shall be required for dedicated [fee simple] non-arterial rights-of-way in subdivisions located outside incorporated cities.
- C. The setback shall be noted on the plat in the following format:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

Building setback – A setback of \_\_\_\_\_ feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

*JUSTIFICATION:* By changing the required plat note to add 'dedicated' it will match the building setback requirement of 20.30.240.A. This will be beneficial to avoid confusion when public access easements, temporary turnaround easements, and section line easement affect a subdivision plat. Changing the plat note would clarify that only fee simple right of way dedications will require a 20 foot building setback.

---

**20.30.250. – Building setbacks – Within cities.**

SUGGESTED CHANGE: clarify that a building setback of record does not need to be carried forward on a new subdivision plat when located within the subdivision is affected by City zoning.

SUGGESTED LANGUAGE:

The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts. Building setbacks as depicted, or noted, on record plats shall not be carried forward on a new subdivision plat located within a municipal zoning district. Provide a plat note stating, "Per KPB 20.30.250 the building setback of record has been removed. All development must comply with the municipal zoning requirements."

*JUSTIFICATION:* This will allow new plats to be complete without requiring an exception to 20.30.240 when the record plat shows a building setback.

---

**20.30.270. - Different standards in cities.**

SUGGESTED CHANGE: Clarify that the planning commission may follow different standards when requested by the cities. The borough is not required to follow the different standards within a city. Any appeal of a city design standard shall be conducted by the city.

SUGGESTED LANGUAGE:

Where cities have [been delegated partial platting powers by the borough and have] enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission [shall] may apply the city standards in lieu of those set forth in this chapter. [The application of the city design standard is subject to the city having an ordinance in place that satisfies the notice requirements of KPB 20.25.090(A) through (D) and a process to appeal decisions made by the city regarding application of its subdivision design standards.] Any appeal of a city design standard is subject to KPB 21.01.020.

*JUSTIFICATION:*

Some cities have enacted different subdivision standards than KPB standards. The KPB Planning Commission can agree to follow those different standards, but any appeal of those standards

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

will be at the city level. Any appeal of a planning commission decision, that is based on KPB code will be handled by the borough.

---

**20.30.280. – Floodplain requirements.**

SUGGESTED CHANGE: clarify which portion of floodplain management code is required to be followed for subdivision plats.

SUGGESTED LANGUAGE:

- C. All subdivisions which are wholly or partially located within flood hazard areas as defined by KPB 21.06.030 must comply [areas where the floodplain has not been mapped and base flood elevation data is not available shall provide the information in compliance] with KPB 21.06.050.A.4.

*JUSTIFICATION: Adding the specific code clarifies what floodplain requirements affect proposed subdivision plats.*

---

**20.30.290. – Anadromous habitat protection district.**

SUGGESTED CHANGE: Revise anadromous habitat protection district to anadromous waters habitat protection and clarify the width of the Anadromous habitat protection district.

SUGGESTED LANGUAGE:

20.30.290 – Anadromous waters habitat protection district

If any portion of a subdivision or replat is located within an anadromous waters habitat protection district, the plat shall contain the following note:

ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040 or as amended.

*JUSTIFICATION: Revise the language to be consistent with Chapter 21.18. Cite 21.18.040 instead of a specific with, such as 50 feet, to allow flexibility for future changes.*

---

**20.40.030. – Abbreviated submittal.**

SUGGESTED CHANGE: Define the wastewater review submittal requirements for parcels that are 200,000 sq. ft. or larger.

SUGGESTED LANGUAGE:

Lots within the proposed subdivision that will be at least 200,000 square feet [or nominal five acres] in size [do not require a soils analysis and report prepared by a qualified engineer] must



**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

comply with 20.40.100.F. Before a final plat is recorded or filed for subdivision, the following note must be placed on the plat:

WASTEWATER DISPOSAL: Lots which are at least 200,000 square feet [or nominal five acres] in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

*JUSTIFICATION: Currently a wastewater soils analysis report is not being submitted for lots that are larger than 200,000 square feet. This change will require the subdivision plat to comply with KPB 20.40.100.F. The options to comply would be a report from a licensed engineer based on,*

- 1. Existing information, such as an approved DEC septic system currently on the parcel.*
- 2. Visual analysis, or local knowledge.*

*Test pits will not be required for an abbreviated wastewater analysis report.*

*20.40.100.F is in the code but because of the wording of 20.40.030 it is not being followed. The change within 20.40.030 will require large parcels to comply with 20.40.100.F.*

---

**20.40.030. – Abbreviated submittal.**

SUGGESTED CHANGE: Remove the nominal five acres description from the abbreviated submittal for the wastewater review.

SUGGESTED LANGUAGE:

Lots within the proposed subdivision that will be at least 200,000 square feet [or nominal five acres] in size do not require a soils analysis and report prepared by a qualified engineer. Before a final plat is recorded or filed for subdivision, the following note must be placed on the plat:

WASTEWATER DISPOSAL: Lots which are at least 200,000 square feet [or nominal five acres] in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

*JUSTIFICATION: Although 'nominal' and 'aliquot' are defined in KPB code, there has been some confusion in regards to nominal five acres and how it can be determined by aliquot subdivision. Some thoughts are that nominal means you can include the adjoining right of way when determining parcel size. By removing the nominal five acres, and sticking with a set square footage, there will be less confusion. This will also allow for subdivision designs that better fit the site instead of a strict midpoint method of subdividing the property. 200,000 square feet will still allow for an aliquot 20 acre parcel, that may be as small as 18.365 feet, to be split into four aliquot parcels.*

---

**20.40.040. – Conventional onsite soil absorption systems.**

SUGGESTED CHANGE: Edit the slope requirement to match State of Alaska DEC regulations.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

SUGGESTED LANGUAGE:

A.3.a Ground slopes greater than 25[20] percent, or 5 percent where a bed system is proposed, and other topographic features as needed by a qualified engineer to meet the design requirements for wastewater disposal as defined in this chapter;

*JUSTIFICATION: Alaska Department of Environmental Conservation regulates wastewater disposal via State Statutes, and required a setback from slopes greater than 25 percent. This item was noted in the last code re-write to be changed to 25 percent but was missed.*

---

**20.40.040. – Conventional onsite soil absorption systems.**

SUGGESTED CHANGE: Remove regulatory requirements of the Kenai Peninsula Borough from the wastewater disposal note.

SUGGESTED LANGUAGE:

B. Before a final plat is recorded or filed for subdivision under this section, the borough will require the engineer to sign the following note on the final plat:

WASTEWATER DISPOSAL: Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences, [and meeting the regulatory requirements of the Kenai Peninsula Borough.] An Engineer's Subdivision and Soils Report is available from the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a qualified engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

*JUSTIFICATION: KPB does not regulate wastewater disposal. Alaska Department of Environmental Conservation regulates wastewater disposal via State Statutes. By noting the soils analysis and report it gives notification to the land owners that there is a report on file with the borough.*

---

**20.40.070. – Connection to an existing system.**

SUGGESTED CHANGE: Add a new section to clarify that a licensed engineer or surveyor does not have to sign a wastewater disposal note for subdivisions served by city septic systems.

SUGGESTED LANGUAGE:

C. If the subdivision is served by a home rule, or general law city, wastewater treatment and disposal system, then signature by an engineer or surveyor is not required.

*Justification: Oversight and authority for septic systems within a city are within the purview of the city and/or the Alaska Department of Environmental Conservation. An engineer or surveyor in private practice should not be required to sign a statement that the city's septic system complies with the requirements of the Alaska Department of Environmental Conservation.*

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

**20.40.100. – Soils analysis and report.**

SUGGESTED CHANGE: Remove the nominal five acres description from the abbreviated submittal for the wastewater review.

SUGGESTED LANGUAGE:

F. Soil testing requirements for subdivision lots equal or greater than 200,000 square feet [nominal five acres] consist of general soils and water table description with sufficient detail to support the applicability of the proposed means of wastewater disposal; the description must be based on:

1. Existing information; or
2. Visual analysis by, or local knowledge of, a qualified engineer.

*Justification: This will keep the code consistent by removing the references to nominal five acres and replacing with 200,000 square feet.*

---

**20.60.025. – Fee required.**

SUGGESTED CHANGE: Add a new section to the final plat code to cover the fee for final plat submittals.

SUGGESTED LANGUAGE:

**20.60.025. – Fee required.**

The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the submission of the final plat.

*Justification: Fees for final plat submittal were established in August of 2019. Before this date there was no fee for the final plat submittal. By adding this section of code it will notify all subdividers that there is a fee for the final plat submittal.*

---

**20.60.070. – Plat specifications.**

SUGGESTED CHANGE: Specify minimum font size, define acceptable drawing scales, and remove the legal size for a final plat.

SUGGESTED LANGUAGE:

The final subdivision plat shall be clearly and legibly drawn to a scale of 1 inch equal to 10, 20, 30, 40, 50, 60, 150 feet or a multiple of 100. The drawing shall be plotted on good quality polyester film at least 3 mm in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear, legible and in black ink. The minimum text size should be 10-point font, (0.1") or the equivalent. Where necessary, 8-point (0.08") capitalized font or the equivalent can be used to label features. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Colors, grayscale or shading is not acceptable as it does not show when the drawing is reproduced. Sheets shall be one of these sizes: [8½" × 14"]; 11" × 17"; 18" × 24"; and 24" or 30" × 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

*JUSTIFICATION: These guidelines follow with DNR Platting recommendations. Drawings should be plotted at a standard scale (1" = multiples of 10 feet or of 100') to allow a user to make measurements with a standard engineer's scale. 10-point font size is acceptable for labels, plat notes, certificates and information within the title block. An 8 point, capitalized font, will be legible when the full size drawing is reduced to an 11 x 17 drawing. An 8 point will allow the surveyor to have discretion on the size of the fonts used to label features where space is limited. A font smaller than 8 point is very difficult to read when printed on a reduced size piece of paper (11 x 17). No plats have been submitted on legal size. It would be difficult to prepare a subdivision plat with all the required information, on a legal size paper and keep the information clear and legible.*

---

**20.60.110. – Dimensional Data required.**

SUGGESTED CHANGE: Add clarification for dimensioning the subdivision boundary. Remove the last sentence in Section A. Label non-radial lot lines and/or include in the legend. Note computed distances. Label computed data and source if applicable.

SUGGESTED LANGUAGE:

- A. The bearing and length of every lot line, block line, and boundary line shall be shown. The bearing and length of the subdivision boundary are to be generally shown on the outside of the subdivision boundary. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled. Label all non-radial lines. If monumented lines were not surveyed during this platting action, show the computed data per the record plat information.

*JUSTIFICATION: The labeling of the subdivision boundary on the outside of the boundary clarifies the parent parcel and identifies the parent parcel boundary dimensions. 20.30.220 recommends radial/right angle lines. By labeling the non-radial lines it will provide useful information to the land owner and especially the subsequent surveyors. By labeling the computed data it will alert subsequent surveyors and owners that the surveyed line(s) were not measured during this platting action.*

---

**20.60.110. Dimensional Data Required**

SUGGESTED CHANGE: Add a requirement for clarification when a discrepancy is found between survey markers and/or clarify how new survey marker locations were established.

SUGGESTED LANGUAGE:

- C. Any discrepancy between the survey and the record description, and the source of all information used in making the survey shall be indicated. When an inconsistency is

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

found including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, or when any doubt as to the location on the ground of the true boundary or property rights exists, the nature of the inconsistency shall be clearly shown on the drawing.

*JUSTIFICATION: This language is consistent with item F of the ASPLS Minimum Standards for the Practice of Land Surveying Manual. This requirement will provide useful information by showing how property boundaries were established and why certain survey markers were used, or not used, to establish boundaries. Any following surveyor will find this information useful as they perform a survey to re-establish a boundary or subdivide property.*

---

**20.60.130. – Boundary of Subdivision**

SUGGESTED CHANGE: Define how the boundary of the subdivision shall be established and shown on the drawing.

SUGGESTED LANGUAGE:

The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

*JUSTIFICATION: This requirement will provide that the boundary of the subdivision, and the method used to determine the boundary, will be shown on all subdivision plats.*

---

**20.60.170. – Other data required by law.**

SUGGESTED CHANGE: Include a statement clarifying that KPB does not enforce private restrictive covenants.

SUGGESTED LANGUAGE:

- B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat. The borough will not enforce private covenants, easements, or deed restrictions.

*JUSTIFICATION: Since 20.60.170 requires private covenants to be noted on plats, it could be interpreted that KPB has control or oversight over private covenants. The suggested language is consistent with KPB 21.44.080, which prohibits KPB from enforcing private covenants.*

---

**20.60.170. – Other data required by law.**

SUGGESTED CHANGE: Add a requirement that subdivision plats shall conform to applicable Local Option Zoning.

SUGGESTED LANGUAGE:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

- C. The plat shall adhere to the requirements of the local option zone, where applicable.

*JUSTIFICATION: This item will require a subdivision plat to comply with local option zoning, if the subdivision is located within an existing local option zone. Currently there is no mention of subdivision plats needing to comply with Local Option Zoning. This requirement will help to keep a local option zone intact, which is one of the reasons, and benefits, to applying a local option zone.*

---

**20.60.180. Plat notes.**

SUGGESTED CHANGE: Add new section for plat note revision or removal.

SUGGESTED LANGUAGE:

- A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.
- B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to 20.50.010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the Borough tax rolls. Upon approval by the Planning Commission, the revision or removal of the record plat note shall be finalized by recording a Planning Commission resolution or subdivision plat.

*JUSTIFICATION: Title 20 is silent on procedures to modify or remove a plat note on a recorded plat. Occasionally, owners wish to change or remove notes from a recorded plat due to changes in development, alternative solutions to requirements per plat note, new technology, removal of existing overhead electric power lines, and/or new regulations. All owners within the subdivision are also subject to the plat note and should be notified of proposed changes. Following the exception process allows for orderly presentation and support for the requested action.*

---

**20.60.210. – Approval – Authority – Certificate issued when.**

SUGGESTED CHANGE: Add new section to require notification to the owner(s) of the affected lot and/or owners in the subdivision when a request to amend a recorded plat is received.

SUGGESTED LANGUAGE:

- E. When an application to amend a recorded plat, as defined by 11 AAC 53.900, is received, notice by regular mail of the requested amendment to the plat shall be sent to owner(s) of the affected lot or tract and/or the owners in the subdivision per Borough tax rolls. Separate advertising of the proposed plat amendment is not required.
1. The surveyor shall submit a copy of the plat showing the proposed new wording and/or a sketch of the proposed amendment with the application.
  2. The plat amendment may be scheduled as a consent agenda item unless otherwise requested by the owner(s), Planning Director or Planning Commission.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*JUSTIFICATION: Title 20 is silent on procedures to amend recorded plats. Per 11 AAC 53.260 amending a plat consists of correcting a technical error that will not adversely affect any valid existing right. The owner(s) accepted the information on the recorded plat when the Certificate of Ownership and Dedication was acknowledged. Owner(s) should be notified of any changes to the recorded plat. If the proposed change affects other lots/tracts, all owners in the subdivision should be notified. Notice can be sent by regular mail to owners of record per Borough tax rolls allowing a reasonable amount of time to respond. Separate advertising is not necessary.*

---

**20.70.035. – Approval of Vacations.**

SUGGESTED CHANGE: Add standards that must be met for approval of right of way vacations.

SUGGESTED LANGUAGE:

The platting authority shall consider the merits of each request to vacate a city street, public right-of-way, public area, or public easement and in all cases the platting authority shall deem the area being vacated to be of value to the Borough unless proven otherwise. The burden of proof shall lie entirely with the petitioner. In considering any vacation of city street, public right-of-way, public area, or public easement the Borough shall consider the following:

1. The current and future needs of the right of way, public access easement, or public areas.
2. The vacation of the right of way, public access easement, or public areas will not limit access to surrounding property.
3. The vacation of the right of way or public access easement will not be detrimental to the public welfare.
4. The borough will consider realignment of right of way by vacation and rededication where it can clearly be shown the right of way realignment will enhance access and the realigned right of way is located to provide reasonable means of ingress and egress.

*JUSTIFICATION: By specifying standards of approval of right of way vacations, it allows both the applicant and Borough to review the petition for completeness and verify that all standards are met.*

---

**20.70.040. Application—Petition required.**

SUGGESTED CHANGE: Revise who is allowed to submit a petition to vacate a utility easement.

SUGGESTED LANGUAGE:

- A. A platted right-of-way or platted public area may not be vacated, except upon petition by resolution of the governing body from a municipality in which the property is located or by the owners of the majority of land fronting or abutting the right-of-way or public area to be vacated. The petition shall be filed with the planning commission.
- B. A petition to vacate a utility easement [only must] may be submitted by the state, the borough, a public utility, or the owners of the land subject to the easement.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*JUSTIFICATION: By incorporating these changes, the State, Borough, or utility company, can petition to vacate a utility easement.*

---

**20.70.050 – Petition – Information required.**

SUGGESTED CHANGE: Allow the number of copies required to be determined by staff.

SUGGESTED LANGUAGE:

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. The petition shall include a statement containing the reasons in support of the vacation and be accompanied by [a minimum of three copies of] a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. [Additional copies may be required as needed.] The format and number of copies shall be determined by the planning director. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travel ways, amount of encroachment, and any other submittal as requested by the planning commission. The burden of proof shall lie with the petitioner to support the vacation.

*JUSTIFICATION: The number of copies required for petitions has changed over the years primarily based on evolving technology and wide use of electronic media. To the extent possible, staff distributes public hearing notices electronically, which saves time, money, and paperwork. Allowing the number of copies required to be determined by staff creates flexibility of the submittal requirements, reduces paperwork, and saves money.*

---

**20.70.080. – Utility easement vacations.**

SUGGESTED CHANGE: Include language to address situations in which the utility easement is in a city or adjoining a State Department of Transportation or KPB right-of-way.

SUGGESTED LANGUAGE:

- A. Where a vacation petition is for a utility easement only, the petitioner has the responsibility to obtain comments from [the KPB Road Service Area and] all appropriate utility providers and the jurisdictional authority of the adjoining right-of-way, if applicable, and submit those comments with the petition. The petition must be signed by the owners of the land subject to the easement as shown on the Kenai Peninsula Borough tax rolls. A sketch showing the location of the requested vacation must accompany the petition. A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right-of-way.

*JUSTIFICATION: Unless a KPB right-of-way adjoins or could be impacted by a proposed utility easement vacation, review and comments by the KPB Roads Department are unnecessary. DOT should be notified and offered the opportunity to comment when the proposed utility easement*



**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

*vacation adjoins their right-of-way. If jurisdictional authority is uncertain, comments from all possible jurisdictional authorities can be obtained.*

---

**20.70.080. – Utility easement vacations.**

SUGGESTED CHANGE: Revise language within A to reflect how the utility easement vacation petition is currently handled, which is for the petition to go to the planning commission.

Revise language in C to clarify the amount of time allowed for those within the 300-foot notification buffer to respond to the notice of the proposed vacation. Include the option to finalize the vacation by a plat.

Approximately half of the utility easement vacations are finalized by recording a subdivision plat. Add to D and create E to clarify the procedures for finalizing a utility easement by plat.

Add item F to provide clarification for how an appeal of a Planning Commission decision of a utility easement is handled.

SUGGESTED LANGUAGE:

- A. Where a vacation petition is for a utility easement only, the petitioner has the responsibility to obtain comments from the KPB Road Service Area and all appropriate utility providers and submit those comments with the petition. The petition must be signed by the owners of the land subject to the easement. A sketch showing the location of the requested vacation must accompany the petition. A public hearing is [not] required [in the case of vacation of a utility easement that is not associated with the vacation of a right-of-way].
- B. Publication of a notice in the newspaper is not required for utility easement vacations.
- C. A notice shall be sent by regular mail to each property owner as shown on the Kenai Peninsula Borough tax rolls within a 300-foot radius from the utility easement proposed for vacation at least 14 days prior to the scheduled public hearing.
- D. When the application is complete, the planning director will schedule the petition to be head by the Planning Commission[take action on the requested vacation] within ten working days, [, either approving or denying the requested vacation. If the director approves the vacation, t] The vacation may be finalized by a vacation resolution that will be prepared and taken to the planning commission for adoption, in accordance with KPB 20.70.140, or the owner may finalize the vacation in conjunction with a preliminary plat depicting the requested vacation, that shall be submitted in accordance KPB Title 20. [If the director denies the vacation, a letter containing the reasons supporting the denial will be sent to the petitioner. The director may choose to forward any utility easement vacation request to the planning commission for action. If the reasons for denial are

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

resolved, the petitioner may submit a new petition for vacation with documentation that the issues have been resolved, accompanied by a new fee.]

- E. If the utility easement vacation will be finalized in conjunction with the recording of a subdivision plat in accordance with KPB Title 20, the final plat must be recorded within one year of the planning commission's approval or the municipal vacation consent in KPB 20.70.050(F).
- F. When a utility easement vacation is located within a municipality, a Notice of Decision will be sent to the municipality in which the easement vacation is located.
- F. A party of record can appeal the planning commission decision of a petition to vacate a utility easement, in accordance with KPB 21.20.

*JUSTIFICATION: The changes will require the planning commission to review and approve all utility easement vacations. If the utility easement vacation request is simple in nature, non-controversial and no comments were received, then the utility easement vacations may be placed on the Planning Commission's consent agenda.*

*Adequate time needs to be provided to allow for those within the 300-foot notification buffer to respond to the notice of vacation. Fourteen days is consistent with KPB 20.25.090.*

*If the owner wants to vacate the utility easement by plat, a Planning Commission resolution is not required. Length of vacation approval is consistent with 20.70.130.*

*Clarification is needed for how a party of record can appeal a decision to vacate a utility easement. By referencing Chapter 21.20 it provides a clear process to appeal the planning commission decision. The hearing officer will hear and decide all appeals of a planning commission decision when related to the vacation of utility easements.*

---

**20.70.090. – Notice required.**

SUGGESTED CHANGE: Remove 'by regular mail' from the method required to notice utility providers and municipalities. Remove the sentence that requires KPB to publish the notice in a newspaper.

SUGGESTED LANGUAGE:

Notice of public hearings shall be posted in a public area such as a post office, community center, or library. Public hearings will be advertised twice, once on the agenda in a local newspaper and either on the KPB website or social media.

The notice shall include:

- a. name of applicant and surveyor
- b. general location

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

- c. legal description
- d. summarized purpose
- e. time and location of public hearing
- f. KPB File number.

[The planning director shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the public hearing. The notice shall describe, through both legal and general description, the location, nature, and extent of the vacation. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area of the vacation.]\_Certified mail notice shall [also] be mailed to each property owner as shown on borough tax rolls within a 300-foot radius and regular mail notice sent to owners within the next 300-foot radius to equal a 600-foot total notice radius from the boundaries of the area proposed to be vacated. If the 600-foot radius does not include owners other than the petitioner(s), notice must be sent to owners of parcels adjoining the boundaries of the parcel(s) that contain the area of the proposed vacation. Notice [by regular mail] shall be sent to all public utilities operating within the general area of the vacation and to the municipality in which the property is located.

**JUSTIFICATION:**

*Outlining the specific items required in the notice will make it clear as to which items must be included. Currently the notice is e-mailed to all utility providers as well as municipalities. This method has been acceptable to the reviewers and provided for a quick and uniform method of notice. AS 29.40.130 requires the platting authority to publish a notice of the public hearing. KPB sends out notice to all property within the specified radius, publishes the agenda in the newspaper, posts a notice on the KPB website, and posts a notice on the KPB face book page. By removing the sentence that states newspaper it will save the borough \$100 - \$200 per right of way vacation add. KPB notice will comply with AS 29.40.130.*

---

**20.70.110 – Vacation [consent] decision – City council or assembly.**

SUGGESTED CHANGE: clarify section 20.70.110 to specify approval or denial and also to include utility easements.

**SUGGESTED LANGUAGE:**

A vacation approval, or denial, by the Planning Commission, of a [city] street, public right-of-way, public area, utility easement, or public easement located within an incorporated city [may not be approved without the consent of the city council] must be sent to the city for consent or veto of the vacation decision. A vacation of a street, right-of-way, public area, utility easement, or public easement within the borough outside of the boundaries [limits]of a city[ies may not be made without the consent of the borough assembly] must be sent to the assembly for consent or veto of the vacation decision. The assembly or council shall have 30 days from the date of [approval]the planning commission decision in which to consent or veto the planning commission decision. If no consent or veto decision is made [is received by the planning director] within [the specified period]30 days of the date of the planning commission decision,

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

the city or borough shall be considered to have given consent to the vacation. An appeal of a city council or borough assembly action under this provision must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

**JUSTIFICATION:**

*The clarification in this section will make it clear how the vacation process works and that utility easements are included in the vacations that are reviewed by the planning commission. If the vacation is located within the city, then the city will be given a 30 day window in which it can be vetoed by city council. The KPB assembly will have the opportunity to veto the planning commission decision if it is within 30 days.*

---

**20.70.130. – Vacation plat – Preparation, approval and recording.**

SUGGESTED CHANGE: Revise this section of the code so that a right of way vacation can be completed by a Right of Way Vacation Plat as well as the typical subdivision plat. Revise the language so that the time frame is consistent with either method of platting.

SUGGESTED LANGUAGE:

Upon approval of the vacation request by the planning commission and consent [no veto] by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080, or KPB 20.25. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110. No extensions of time may be granted for the right of way vacation. To allow time for State of Alaska DNR review and approval, section line easement vacation plats must be recorded within four years of the vacation consent in KPB 20.70.110.

**JUSTIFICATION:**

*Many right of way vacations are completed on plats that do not fall under KPB 20.10.080, but instead the vacations are included on a typical subdivision plat. By identifying KPB 20.25 as a way to complete the vacation it gives the applicant the ability to vacate at the same time as subdividing or changing property boundaries. Adding the language of 'no time extensions' keeps the code consistent between 20.10.080 and 20.70.130. Right of way vacations should be completed in a timely manner so as not to interfere with legal access to surrounding properties. Section line easement vacations require State DNR review and approval. This process can be lengthy. By allowing four years for section line easement vacation plats it allows the applicant time to complete the process without the vacation becoming void.*

---

**20.70.140. – Vacation resolution – Easement.**

SUGGESTED CHANGE: Add a requirement for the petitioner to provide a legal description, a written description and/or drawing, prepared by a land surveyor.

SUGGESTED LANGUAGE:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

Upon approval of an easement vacation not associated with the vacation of a right-of-way or not requiring transfer of title or platting action, a vacation resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the vacation. The petitioner is responsible for the recording fee as well as a legal description of the area to be vacated. The legal description shall be a written description and/or a drawing prepared, stamped, and signed by a land surveyor.

**JUSTIFICATION:**

*By requiring a legal description of the area to be vacated it will be clear to the exact area that is being vacated. It is the responsibility of the applicant to provide this information to the Planning Commission. Per AS 08.48.221 Seals – all final drawings, specifications, surveys, plats, plates, reports, or similar documents includes, but is not limited to, parcel exhibits, parcel plats, legal descriptions, and similar professional works that may or may not be part of other documents are required to be sealed and signed.*

---

**20.70.220. – Section line easement vacations.**

SUGGESTED CHANGE: Update and correct the section for section line easement vacations.

SUGGESTED LANGUAGE:

Section line easement vacation petitions must comply with the requirement of KPB 20.70.040, 20.70.050 and 20.70.060. [a fee is required in compliance with KPB 20.70.060.] Public hearing and notice must comply with the requirements or KPB 20.70.070, [20.70.080]20.70.090, 20.70.100, 20.70.110, [and] 20.70.120, and 20.70.130. [The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas, and on the borough website prior to the meeting will satisfy the publishing requirement.] The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources, (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

*JUSTIFICATION: A section line easement is statutorily the same as a dedicated right of way and must follow the same review and approval process. The only difference is that a section line easement vacation must also obtain State of Alaska DNR review and approval. This additional review can lengthen the process. A redundant reference to KPB 20.70.060 is being removed. The notice requirements are being removed from this section as it specifies in section 20.70.090 what requirements are required.*

---

**20.90.010. – Definitions generally.**

SUGGESTED CHANGE: Add definition for architect.

SUGGESTED LANGUAGE:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

"Architect" or "qualified architect" means a licensed architect registered to practice in Alaska under AS 08.48 and 12 AAC 36 in the branch of architecture defined by 12 AAC 36.068 applicable to the project.

*JUSTIFICATION:*

*KPB 20.30.280.E. requires a certification by an engineer or architect; however, architect is not included in the definitions.*

---

**20.90.010. – Definitions generally.**

SUGGESTED CHANGE: Remove 'parties of record' from the definition for 'Date of distribution' or 'distribution' so that Chapter 20 is consistent with KPB 2.40.080.B.

SUGGESTED LANGUAGE:

"Date of distribution" or "distribution" means the date a notice, decision or other document is provided, manually or electronically, or is postmarked [, to a party of record].

*JUSTIFICATION:* This change will keep the code consistent between chapter 2 and chapter 20.

---

**20.90.010. – Definitions generally.**

SUGGESTED CHANGE: Remove Nominal five acres.

SUGGESTED LANGUAGE:

[Nominal five acres" means of, like, or relating to an aliquot five-acre part.]

*JUSTIFICATION:*

*Nominal five acres is being removed from the KPB due to confusion on how to apply the use with septic system reviews. Issues came up with adjoining right of way acreage and the method to subdivide an aliquot parcel. The defined area will be replaced with 200,000 square feet throughout the KPB code.*

---

**20.90.010. – Definitions generally.**

SUGGESTED CHANGE: Remove 'Parties of Record'

SUGGESTED LANGUAGE:

["Parties of record" unless specified otherwise means those persons who have commented in a written and signed document or in person on an agenda item before the planning commission or plat committee who own property within the notification radii established in this chapter.]

*JUSTIFICATION:* Remove 'parties of record' from chapter 20, but leave it defined within chapter 21. All references in chapter 20 will be to KPB 2.40.080.B. This will allow a broader group to request a review to the Planning Commission. If an application is appealed to the Hearing Officer, then the stricter definition of 'parties of record', as defined in Chapter 21, will be used to determine standing.

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

June 29, 2020

---

**20.90.010. – Definitions generally**

SUGGESTED CHANGE: Change the definition of right of way to be consistent with Title 14 – Roads.

SUGGESTED LANGUAGE: “Right-of-way dedication” or “right-of-way” means a right-of-way dedicated on a plat for road, street, or utility purposes in accordance with the platting requirements of the Kenai Peninsula Borough, or such rights-of-way as have been specifically granted by easement or dedicated by statute [means transfer of fee simple underlying ownership of a right-of-way to the state, borough, or a municipality].

*JUSTIFICATION: To be consistent with Chapter 14 – Roads*

---

**20.90.010. – Definitions generally**

SUGGESTED CHANGE: Include additional wording in the definition of subdivision

SUGGESTED LANGUAGE: "Subdivision" means the division of a tract or parcel of land into two or more lots, or other divisions for the purpose of sale or building development, and includes resubdivision and relates to the process of subdividing or to the land or areas subdivided. As used in this Chapter, it also includes the elimination of lot lines and/or any change to an existing property line.

*JUSTIFICATION: To be consistent with AS 29.40.120.*

---

**21.20.210 - Definitions**

SUGGESTED CHANGE: Update the definition of ‘Party of record’ to specify property owners within the notification radii.

SUGGESTED LANGUAGE:

21.20.210.A.5.b Any party or person aggrieved by the decision where the decision has or could have an adverse effect on the value, use or enjoyment of real property owned by them who appeared before the planning commission with either an oral or written presentation, and who owns lands within the notification radii;

- (1) A signature on a petition does not qualify the signatory as a party of record. [without a separate oral or written presentation to the planning commission]

*JUSTIFICATION: This will define that only individuals who own land within the notification radii and who submitted testimony at the Planning Commission hearing have standing to appeal the Planning Commission decision to a Hearing Officer.*

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

**21.20.230 - Jurisdiction**

SUGGESTED CHANGE: Update the jurisdiction so that it complies with 20.70 requirements.

SUGGESTED LANGUAGE:

21.20.230 – Jurisdiction

- B. [The assembly shall consider vacation petitions approved by the planning commission in accordance with the procedures in KPB Chapter 20.70.]

*JUSTIFICATION: All vacation decisions now fall under 20.70.110 so this section is no longer needed.*

---

**21.20.250 -**

SUGGESTED CHANGE:

SUGGESTED LANGUAGE:

- E. *Entry of appearance.* The borough clerk shall mail or otherwise deliver copies of the notice of appeal to all parties of record in the proceeding appealed within 15 days of the date of filing the notice of appeal. Proof of service upon each party shall accompany the notice of appeal. Any party desiring to participate in the appeal process must file an entry of appearance containing that party's name and address and signature, or the name and address of the party and the name and address and signature of the party's representative, within 15 days of the date of mailing of the notice of appeal by the borough clerk. If borough staff is not participating in the appeal beyond providing the required staff overview, a notice of non-participation should be filed with the borough clerk. Proof of service of the entry of appearance upon each party shall be made in the manner prescribed in KPB 21.20.280(D). Any party filing an entry of appearance may file additional designations of error or other alternative requests for modification or reversal of the decision.

*JUSTIFICATION:*

---

**21.20.270 – Record on appeal**

SUGGESTED CHANGE:

SUGGESTED LANGUAGE:

- C. *Appeal on the record; new evidence.* Appeals to the hearing officer shall be on the record. No new evidence, or illustrative documents or attachments to written statements, may be filed without prior approval of the hearing officer after a showing by the moving party that there exists cause for supplementing the record and that even with due diligence



**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

the new evidence could not have been provided at the hearing before the planning commission.

JUSTIFICATION: This will help to clarify that appeals to the hearing officer are on the record.

---

**21.20.280 – Written Statements.**

SUGGESTED CHANGE:

SUGGESTED LANGUAGE:

A. *Opening statement.* A party of record who entered an appearance in the appeal[appellant, staff and the applicant if the applicant is not the appellant] shall submit a written statement which shall be filed with the borough clerk within 20 days of the clerk issuing notice that a completed record and transcript have been filed. The written statement may include a statement of facts as derived from the record on appeal, a statement of the party's perception of the correctness of the planning commission decision, a list of asserted errors, and any citations to applicable statutes, ordinances, regulations or other legal authority for the position taken by the party to the appeal. Failure to timely submit the opening written statement will result in dismissal of that party from the appeal. Multiple parties may preserve their party status by filing a single written statement; however, the written statement must clearly identify all parties filing the single statement. The hearing officer may waive irregularities in the content of the notice of appeal or written statements. In appeals where staff does not enter an appearance, the staff overview may be provided in writing when opening statements are due.

JUSTIFICATION: Clarify that staff is not necessarily a participant.

---

**21.20.280 – Written Statements**

SUGGESTED CHANGE:

SUGGESTED LANGUAGE:

E. Additional written statements. Unless the hearing officer requests supplemental written statements from the parties of record or staff, no additional written statements shall be accepted.

JUSTIFICATION: Clarify that only the opening and reply statements should be provided unless otherwise requested by hearing officer.

---

**21.20.300 – Motions**

SUGGESTED CHANGE:

SUGGESTED LANGUAGE:

**PROPOSED CLARIFICATIONS/CHANGES TO TITLE 20**

**June 29, 2020**

A. Parties. Motions for continuances, shortened time, or other matters may be filed by the following parties and served in the manner prescribed by KPB 21.20.280(D):

1. The appellant;
2. The applicant if that party is not the appellant;
3. A borough official if borough staff enters an appearance in the matter.

JUSTIFICATION:

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

Lord/Aderhold

3  
4 **RESOLUTION 20-070**

5  
6 A RESOLUTION OF THE HOMER CITY COUNCIL AMENDING THE  
7 SMALL BUSINESS ECONOMIC RECOVERY GRANT (SBERG)  
8 PROGRAM TO CLARIFY ELIGIBILITY REQUIREMENTS RELATED TO  
9 BUSINESS OPERATION WITHIN THE CITY OF HOMER AS IT  
10 RELATES TO SALES TAX COLLECTION WITH THE KENAI  
11 PENINSULA BOROUGH AND ESTABLISHING AN APPEALS  
12 PROCESS.

13  
14 WHEREAS, The City Council passed Resolution 20-057 on June 8, 2020 establishing the  
15 City's Small Business Economic Recovery Grant (SBERG) Program to assist small businesses  
16 within the City of Homer with economic recovery as a result of the Covid-19 pandemic; and

17  
18 WHEREAS, The City Council passed Resolution 20-061 on July 1, 2020 amending the  
19 SBERG Program to clarify eligibility requirements related to delinquent status with the Kenai  
20 Peninsula Borough Tax Department and requesting a review of audit requirements and city  
21 process from staff; and

22  
23 WHEREAS, The intention of the SBERG program is to create a straightforward  
24 mechanism to provide these grants to eligible small business owners within the City of Homer  
25 with as much administrative efficiency as possible so that impacted businesses may use the  
26 funds to address and respond to the Covid-19 pandemic ; and

27  
28 WHEREAS, In Resolution 20-057, adopting the SBERG policy, Council asserts that small  
29 businesses are the backbone of the City's economy and provide employment opportunities  
30 and essential services to the community; and

31  
32 WHEREAS, One of the SBERG eligibility requirements set through Resolution 20-057 is  
33 that a business has "a recent history of City of Homer sales tax collection," with a stipulation  
34 that an eligible applicant "Must have filed a sales tax report with the Kenai Peninsula Borough  
35 within the third quarter of 2019, the fourth quarter of 2019, or the first quarter of 2020, that  
36 indicates City of Homer taxable sales;" and

37  
38 WHEREAS, It has been brought to Council's attention that the requirement to have filed  
39 City of Homer taxable sales in the previous three quarters is unintentionally excluding sectors  
40 of our local small business economy that may not have sales tax returns on file but who would  
41 otherwise fit the intention and eligibility requirements for this grant program, such as small  
42 businesses that are exempt from sales tax collection; and

43  
44 WHEREAS, The intention of Council is to limit SBERG eligibility to small (under 50  
45 employees), for-profit businesses operating within the City limits with an established history  
46 of contributing to our local economy, that were in business prior to the beginning of the Covid-  
47 19 pandemic, and that can demonstrate economic harm as a result of the pandemic; and

48  
49 WHEREAS, The City Council realizes that while many of our small businesses will  
50 provide an application that clearly demonstrates eligibility or ineligibility, others will require  
51 more investigation by Administration to identify whether they meet the eligibility  
52 requirements set forth by Council through the SBERG policy and its subsequent amendments;  
53 and

54  
55 WHEREAS, The deadline for applying to the SBERG program is September 25, 2020 or  
56 when appropriated funds are spent, thus allowing sufficient time for City Administration to  
57 thoughtfully work with businesses to clarify eligibility.

58  
59 NOW THEREFORE BE IT RESOLVED that the City Council of Homer, Alaska adds the  
60 following language to the end of SBERG Policy Eligibility Requirement #3: "If this requirement  
61 cannot be met, the reasons must be thoroughly explained and program eligibility under the  
62 intent of Council will be assessed and determined by the City Manager."

63  
64 BE IT FURTHER RESOLVED the following section is to be added to the SBERG Policy as  
65 #11 under Process: "An applicant who is denied may appeal (in writing) to the City Manager no  
66 later than 5PM the 10th calendar day after the applicant receives notice from the City.  
67 Applicants denied before July 27, 2020 have until 5PM on August 6, 2020 to file an appeal in  
68 writing to the City Manager."

69  
70 PASSED AND ADOPTED by the Homer City Council this 27<sup>th</sup> day of July, 2020.

71  
72 CITY OF HOMER  
73  
74 \_\_\_\_\_  
75 KEN CASTNER, MAYOR

76 ATTEST:  
77  
78 \_\_\_\_\_  
79 MELISSA JACOBSEN, MMC, CITY CLERK

80  
81 Fiscal note: N/A

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Lord/Aderhold/Venuti

4 **RESOLUTION 20-071**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER ESTABLISHING  
7 THE NONPROFIT ECONOMIC RELIEF GRANT PROGRAM (NERG),  
8 HOUSEHOLD ECONOMIC RELIEF GRANT PROGRAM (HERG),  
9 SOCIAL SERVICES ECONOMIC RELIEF GRANT PROGRAM (SoSERG),  
10 AND CHILDCARE BUSINESS ECONOMIC RELIEF GRANT PROGRAM  
11 (CBERG) IN RESPONSE TO THE ECONOMIC DOWNFALL CAUSED BY  
12 MEASURES TAKEN TO ASSURE PUBLIC SAFETY IN THE FACE OF  
13 THE COVID-19 PANDEMIC.  
14

15 WHEREAS, On January 31, 2020, the United States Department of Public Health and  
16 Human Services Secretary, Alex Azar, declared a public emergency for the novel coronavirus  
17 (COVID-19) beginning on January 27, 2020; and  
18

19 WHEREAS, On March 11, 2020, Governor Mike Dunleavy signed a Public Health Disaster  
20 Emergency Declaration that provided for health mandates to be issued when deemed  
21 necessary by the Alaska Department of Health and Social Services, the Alaska Chief Medical  
22 Officer, the Alaska Division of Public Health, and the Office of the Governor; and  
23

24 WHEREAS, On March 17, 2020, Governor Dunleavy, in recognition of the tremendous  
25 negative economic consequences of imposing social and business restrictions to avoid a rapid  
26 spread of the virus effects, created the Alaska Economic Stabilization Team, a bipartisan group  
27 of leaders working with the Dunleavy administration on a plan to protect the state's economy  
28 from the impacts of COVID-19 in Alaska; and  
29

30 WHEREAS, On March 18, 2020, Ken Castner, Mayor of the City of Homer, issued a  
31 Declaration of a Local Emergency, later ratified and extended by the Homer City Council  
32 through Resolution 20-029, that found there to be "a wide-spread financial and public health  
33 emergency that will require unexpected expenditures of public funds that should be separately  
34 accounted, to perhaps be eligible for Emergency Disaster Relief"; and  
35

36 WHEREAS, The Dunleavy administration issued a series of compulsory, and later  
37 suggestive, directives and mandates that closed many businesses, placed restrictions on those  
38 businesses that might remain open, ceased most interstate and intrastate travel, and generally  
39 kept most citizenry isolated at home; and  
40

41 WHEREAS, The Dunleavy administration issued a series of compulsory, and later  
42 suggestive directives and mandates including "stay at home" orders, the banning of gatherings

43 of more than 10 people for social, spiritual, and recreational purposes, and further imposed  
44 that any activities outside the home meet social distancing and personal safety requirements;  
45 and

46  
47 WHEREAS, The cumulative effects of the State mandates and restrictions have caused  
48 significant negative economic impacts to individuals and households such as lost employment  
49 and reduced work hours; have impacted the ability of nonprofit organizations to raise funds  
50 needed to operate and provide services; have resulted in a greater local need for and to  
51 support social services; and have compromised the ability of childcare service providers to  
52 operate safely; and

53  
54 WHEREAS, Supporting individuals and households during this period of economic  
55 hardship is in the best interest of the City; and

56  
57 WHEREAS, Nonprofits provide regular, ongoing essential services to City of Homer  
58 residents and contribute to the fabric and culture of our thriving community while also  
59 providing substantial positive economic impact and employment opportunities; and

60  
61 WHEREAS, Nonprofits and businesses that provide social services to individuals and  
62 households in the City of Homer are critical to support during a time of pandemic and  
63 economic downturn; and

64  
65 WHEREAS, Continued functioning of childcare services is critical for individuals and  
66 households to return to work and childcare service providers struggle to remain viable while  
67 following Centers for Disease Control (CDC) health guidelines in the face of COVID-19; and

68  
69 WHEREAS, The State of Alaska received \$562.5 million in federal funding under the  
70 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that is directed to Alaska's  
71 municipalities for direct relief designed to help meet each community's unique needs and  
72 costs associated with coping with COVID-19; and

73  
74 WHEREAS, The City of Homer's total allocation is \$7,899,085.29: and

75  
76 WHEREAS, On May 26, 2020, the Homer City Council passed Resolution 20-051  
77 accepting the CARES Act grant and authorizing the City Manager to sign the grant agreement;  
78 and

79  
80 WHEREAS, The first distribution to the City, \$3,867,758.79, was appropriated via  
81 Ordinance 20-25(S) on June 8, 2020; and

82

83 WHEREAS, Two subsequent distributions of \$2,015,663.25 will be available to the city  
84 on or about July 1, 2020 and October 1, 2020 once the City has expended 80% of previous  
85 distributions; and

86  
87 WHEREAS, The City Council established the Small Business Economic Relief Grant  
88 (SBERG) Program through Resolution 20-057 on June 8, 2020; and

89  
90 WHEREAS, The COVID-19 pandemic and City actions taken as a result to protect public  
91 health as described above have created immediate necessity for further economic relief  
92 programs to the community in the form of grants to individuals and households residing in the  
93 City of Homer and nonprofit organizations, social service nonprofits and businesses, and  
94 childcare service providers providing services to City of Homer residents; and

95  
96 WHEREAS, The expenses associated with these additional COVID-19 economic relief  
97 programs were incurred during the period that begins on March 1, 2020 and ends on December  
98 31, 2020 and are not accounted for in the FY20-21 budget.

99  
100 NOW THEREFORE BE IT RESOLVED that the City of Homer establishes the following  
101 programs to respond to the economic hardships caused by the COVID-19 pandemic and  
102 associated health mandates:

- 103  
104 a) Household Economic Relief Grant (HERG) Program  
105 b) Nonprofit Economic Relief Grant (NERG) Program  
106 c) Social Services Economic Relief Grant (SoSERG) Program  
107 d) Childcare Business Economic Relief Grant (CBERG) Program

108  
109 BE IT FURTHER RESOLVED that the City's ability to successfully run these programs is  
110 contingent upon receiving CARES Act funding from the State of Alaska.

111  
112 BE IT FURTHER RESOLVED that the parameters of the abovementioned programs are  
113 adopted as the HERG, NERG, SoSERG, and CBERG program policies under this resolution.

114  
115 BE IT FURTHER RESOLVED that the City of Homer will exercise best efforts to  
116 communicate the opportunities for these programs throughout the community and provide  
117 technical assistance to anyone who is working to submit successful applications to the grant  
118 programs.

119  
120 BE IT FURTHER RESOLVED that the City administration will provide regular reports to  
121 the Homer City Council about the status of these programs including information such as the  
122 number of applications received, number of applications processed, issues encountered, and  
123 account balances of program funds.

124

125 BE IT FURTHER RESOLVED that these programs will be issued with a given application  
126 period to assess whether additional funds for the programs are needed or to assess if unspent  
127 funds allocated to these programs need to be reappropriated to meet other needs.  
128

129 BE IT FURTHER RESOLVED that nothing in this Resolution shall preclude the Homer City  
130 Council from creating additional distributions to the community that follow CARES Act  
131 prescriptions, and that the provisions in this Resolution become effective upon adoption and  
132 shall continue until further formal action of the Homer City Council or until the date that all  
133 CARES Act funds must be expended on eligible costs by December 30, 2020.  
134

135 PASSED AND ADOPTED by the City Council of Homer, Alaska, this \_\_\_ day of \_\_\_\_\_,  
136 2020.

137

138

139

140

141

142

143

144

145

146

147

148

149

CITY OF HOMER

\_\_\_\_\_

KEN CASTNER, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: N/A



1 **City of Homer Household Economic Relief Grant Program Policy Draft**

2  
3 **Purpose**

4 The Household Economic Relief Grant (HERG) Program is designed to provide  
5 economic relief to households within the City of Homer that have suffered economic  
6 hardship due to the novel coronavirus (Covid-19). The City of Homer, using Coronavirus  
7 Aid, Relief, and Economic Security (CARES) Act funding, has allocated \$1,000,000 to  
8 be distributed through this program in up to \$1,000 grants.

9  
10 **Eligibility Criteria**

- 11 1. At least one adult member (18 or older) of the household must be a City of  
12 Homer resident, permanently living within the City of Homer prior to March 18,  
13 2020.
- 14 2. Only one grant is available per household. A household is defined as a social unit  
15 composed of those living together in the same dwelling for a primary place of  
16 residence. All members of the household over the age of 18 must be listed in the  
17 application.
- 18 3. Must disclose, certify, and document how the household has experienced, or  
19 continues to experience, economic hardship as a result of the Covid-19  
20 pandemic, with hardship incurred between March 30, 2020 and December 30,  
21 2020. The individual on behalf of the household must agree the household was/is  
22 negatively impacted by the COVID pandemic. If it is determined the HERG funds  
23 were used for an ineligible purpose, the applicant may be required to return those  
24 funds back to the City.
- 25 4. The funds cannot be used to reimburse an expense that was already covered by  
26 or anticipated to be covered by another grant.
- 27 5. Any misuse of funds or falsification in an application will result in repayment of  
28 the funds and potential fines.

29  
30 **Grant funds are eligible for:**

- 31 1. Payment of rent or required monthly loan payments
- 32 2. Payment of utilities
- 33 3. Childcare fees
- 34 4. Groceries and/or food delivery
- 35 5. Other expenses that are necessary for household stability that are not covered  
36 by current wages or other forms of support (i.e., unemployment, SNAP, etc).
- 37 6. Purchase of personal protective equipment required by the grantee and/or any  
38 other measures recommended by the CDC to enhance COVID-19 safety  
39 measures.
- 40 7. Medical bills incurred as a result of COVID-19 (ie. testing for COVID-19,  
41 treatment/hospitalization as a result of COVID-19, medical supplies needed as a  
42 result of COVID-19, doctor’s visits as a result of COVID-19) not reimbursable by  
43 insurance or other government programs.

44 Please note: Grant proceeds are to be used for eligible Covid-19 emergency related  
45 expenses, whether those expenses were previously paid by the grantee personally and

46 not through another loan/grant, are currently unpaid, or are held in arrears between  
47 March 30, 2020 and December 30, 2020; additional guidance is provided in the “Grant  
48 Funds Ineligible For” section.

49

50 **Grant funds ineligible for:**

51 1. Any expense considered ineligible under the State of Alaska CARES Act grant  
52 program and any expense that would not be considered an eligible expense by  
53 IRS rules.

54 2. Political contributions

55 3. Expenses above and beyond those needed for household stability

56 4. Gifts or events

57 5. Pay down or pay off debt by more than required in underlying debt instrument

58 6. Any expense considered ineligible under the State of Alaska CARES Act grant  
59 program

60 7. Any expenses that have already been reimbursed by other funding sources.

61 Grantees will be required to keep payment records to show how the funds were  
62 used.

63 8. Use of funds to support business operations/expenses.

64 9. Any other activity not listed under the ‘Grant Funds are Eligible for’ section.

65

66 **Application Process**

67 1. An individual 18 years of age or older application on behalf of the household  
68 must fill out the available online at the City of Homer website or paper application  
69 available from the Clerk’s office. Applications must be submitted within the  
70 advertised application period.

71 2. The application must be submitted with a W-9 form from the Internal Revenue  
72 Service.

73 3. All household members over the age of 18 must be listed on the application.

74 4. Upon receipt of a complete application and verification that the applicant meets  
75 the eligibility requirements, a grant payment covering eligible, documented  
76 expenses but not exceeding \$1,000 may be dispersed. Payments may be  
77 dispersed to eligible applicants on a rolling basis. Applicants will be notified via  
78 email once their application has been approved.

79 5. Applicants who submit incomplete applications will be notified by email.  
80 Applications may be amended before the deadline.

81 6. Applicants whose requests are denied will be notified via email. An applicant who  
82 is denied may appeal (in writing) to the City Manager no later than 5PM the 10th  
83 calendar day after the applicant receives notice from the City.

84 7. Household information provided in the HERG application will be kept confidential  
85 to the extent authorized by law.

86 8. Grant funds received must be fully expended by December 30, 2020. If funds  
87 have not been expended, they must be returned to the City. Funds must be used  
88 in accordance with the guidelines of this program.

- 89 9. An IRS 1099 Misc. income form will be issued by January 31, 2021.  
90 10. It is incumbent upon the applicant to determine the tax ramifications and/or  
91 whether the receipt of a grant under this program might preclude eligibility for any  
92 other grant or aid programs.  
93 11. The City reserves the right to interpret the terms of this program.  
94

95 **Reporting**

96 In the application, grantees are required to provide a budget that documents how grant  
97 funds are to be used to reimburse expenses associated with COVID-19. Grant funds  
98 must be either fully expended or any unused portion returned to the City by December  
99 30, 2020. When funds are fully expended, Grantees must submit a reporting form  
100 provided by the City documenting how the funds were used.

101 Grants received under this program are subject to audit and may be randomly selected  
102 to produce documentation for program evaluation. Grantees are required to maintain  
103 records and receipts for grant expenditures for a period of 6 years and make them  
104 available upon request.

105  
106  
107  
108  
109  
110

1 **City of Homer Nonprofit Economic Relief Grant Program Policy Draft**

2 **Purpose**

3 The Nonprofit Economic Relief Grant (NERG) Program is designed to provide economic  
4 relief to the nonprofit sector operating within the City of Homer and/or providing ongoing  
5 services within the City of Homer. All grantees must certify they have suffered loss of  
6 revenue due to the novel coronavirus (Covid-19). The City of Homer, using Coronavirus  
7 Aid, Relief, and Economic Security (CARES) Act funding, has allocated \$1,250,000 to  
8 be distributed through this program in up to \$10,000 grants.

9 **Eligibility Criteria**

- 10 1. Must be a 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(19), 501(e) or 501(k) designated  
11 nonprofit entity under the Internal Revenue Service. Faith-based nonprofit  
12 organizations are eligible to apply as long as they provide services available to the  
13 general public regardless of religious affiliation.  
14 Nonprofit organizations that are principally engaged in teaching, instructing,  
15 counseling, or indoctrinating religion or religious beliefs, whether in a religious or  
16 secular setting, or primarily engaged in political or lobbying activities are not  
17 eligible (as per 13 CFR § 120.110(k) in the Code of Federal Regulations).
- 18 2. Must provide regular, ongoing services to the residents of the City of Homer,  
19 however nonprofits are not required to have their main office physically located  
20 within Homer.
- 21 3. Must have been in operation serving City of Homer residents since at least  
22 January 1, 2020.
- 23 4. Must be directed by a voluntary board of directors or local advisory board whose  
24 majority of members are residents of the state of Alaska. A local affiliate of a  
25 national organization must have a local advisory or governing board.
- 26 5. Must be in good standing within the State of Alaska Corporations database, and,  
27 unless Federally exempt, have a current or 2018 IRS Form 990 or a current year  
28 filing extension on file with the IRS.
- 29 6. All grantees must disclose, certify, and document that the nonprofit suffered a loss  
30 of revenue and/or incurred additional expenses either through rapid expansion or  
31 adaptation to serve the community or because of forced closure in the name of  
32 public health between March 30, 2020 and December 30, 2020.
- 33 7. Any misuse of funds or falsification in an application will result in repayment of the  
34 funds and potential fines.

35  
36 **Grant funds are eligible for:**

- 37 1. Payment of rent or required monthly loan payments  
38 2. Payments of essential wages, taxes, and normal benefits to employees

- 39 3. Normal operating expenses (utilities, insurance, professional services, etc.)
- 40 4. Purchase of personal protective equipment required by the nonprofit business
- 41 and/or any other measures recommended by the CDC to enhance COVID-19
- 42 safety measures.
- 43 5. Expenses incurred to replenish inventory, necessary re-opening expenses,
- 44 temporary housing for quarantined employees, hiring necessary additional staff,
- 45 or responding to additional non-budgeted needs related to COVID responses not
- 46 paid for by another grant.

47 Please note: Grant proceeds are to be used for eligible Covid-19 emergency related  
48 expenses, whether those expenses were previously paid by the grantee personally and  
49 not through another loan/grant, are currently unpaid, or are held in arrears between  
50 March 30, 2020 and December 30, 2020; additional guidance is provided in the “Grant  
51 Funds Ineligible For” section.

52 **Grant funds ineligible for:**

- 53 1. Any expense considered ineligible under the State of Alaska CARES Act grant
- 54 program and any expense that would not be considered an eligible expense by
- 55 IRS rules.
- 56 2. Political contributions or lobbying.
- 57 3. Bonuses to employees or Directors.
- 58 4. Gifts or events.
- 59 5. Draw or salary to employees that exceeded the amount that they were paid on a
- 60 weekly or monthly basis for the same period last year.
- 61 6. Pay down or pay off debt by more than required in underlying debt instrument.
- 62 7. Any expenses that have already been reimbursed by other funding sources.
- 63 Grantees will be required to keep payment records to show how the funds were
- 64 used.
- 65 8. Any other activity not listed under the ‘Grant Funds are Eligible for’ section.

66 **Application Process**

- 67 1. An authorized agent for the nonprofit must fill out the application available online
- 68 at the City of Homer website or paper application available from the Clerk’s
- 69 office. Applications must be submitted within the advertised application period.
- 70 2. The application must be submitted with a W-9 form from the Internal Revenue
- 71 Service.
- 72 3. Upon completion of application and verification that the applicant meets the
- 73 eligibility requirements, a grant payment covering eligible, documented expenses
- 74 but not exceeding up to \$10,000 may be disbursed. Payments may be dispersed
- 75 to eligible applicants on a rolling basis. Grantees will be notified via email once
- 76 their application has been approved.

- 77 4. Grantees who submit incomplete applications will be notified by email.  
78 Applications may be amended before the deadline.
- 79 5. Grantees whose requests are denied will be notified via email. A grantee who is  
80 denied may appeal (in writing) to the City Manager no later than 5PM the 10th  
81 calendar day after the applicant receives notice from the City.
- 82 6. Information provided in the NERG application will be kept confidential to the  
83 extent authorized by law.
- 84 7. Grant funds received must be fully expended by December 30, 2020. If funds  
85 have not been expended, they must be returned to the City. Funds must be used  
86 in accordance with the guidelines of this program.
- 87 8. An IRS 1099 Misc. income form will be issued by January 31, 2021.
- 88 9. It is incumbent upon the applicant to determine whether the receipt of a grant  
89 under this program might preclude eligibility for any other grant or aid programs.
- 90 10. The funds cannot be used to reimburse an expense that was already covered by  
91 or anticipated to be covered by another grant.
- 92 11. The City reserves the right to interpret the terms of this program.

93 **Reporting**

94 In the application, grantees are required to provide a budget that documents how grant  
95 funds are to be used to reimburse expenses associated with COVID-19. Grant funds  
96 must be either fully expended or any unused portion returned to the City by December  
97 30, 2020. When funds are fully expended, Grantees must submit a reporting form  
98 provided by the City documenting how the funds were used.

99 Grants received under this program are subject to audit and may be randomly selected  
100 to produce documentation for program evaluation. Grantees are required to maintain  
101 records and receipts for grant expenditures for a period of 6 years and make them  
102 available upon request.

103 **Matching Opportunities/Leveraging City Dollars**

104 The City is aware of at least one matching program to further leverage municipal  
105 CARES Act dollars in the nonprofit sector. The City of Homer supports efforts to further  
106 stabilize all sectors of the community, and will work in good faith with organizations to  
107 assist to the extent possible with leveraging opportunities.

108  
109  
110  
111  
112  
113  
114  
115

1 **City of Homer Childcare Business Economic Relief Grant Program Policy Draft**

2  
3 **Purpose**

4 The Childcare Business Economic Relief Grant (CBERG) Program is designed to  
5 provide additional economic relief to those organizations providing childcare services to  
6 residents within the City of Homer. For childcare providers to be successful, they will  
7 need some fiscal certainty to remain operational as they work to stabilize their workforce  
8 and enrollment for reasons including: not all families feel comfortable immediately  
9 bringing their children to childcare and providers need time to work with families to  
10 determine if their childcare spots should be held or if the child will not be reenrolled;  
11 additional staff may be needed to assure appropriate social distancing measures are  
12 taken and to clean and sanitize the childcare spaces; and childcare centers may  
13 anticipate a higher than normal need for substitute staff since employees who might  
14 normally work through “a few sniffles” will need to stay home until their symptoms clear  
15 up. Childcare facilities are necessary in order to allow the economy to begin to return to  
16 normal. All grantees must certify they have suffered economic hardship due to the novel  
17 coronavirus (Covid-19). The City of Homer, using Coronavirus Aid, Relief, and  
18 Economic Security (CARES) Act funding, has allocated \$150,000 to be distributed  
19 through this program in grants of varying amounts for different types of  
20 businesses/nonprofits providing childcare services in the City of Homer.

21  
22 **Eligibility Criteria**

- 23 1. Businesses must meet the eligibility guidelines under the City’s Small Business  
24 Economic Relief Grant program; nonprofits must meet eligibility guidelines under  
25 the City’s Nonprofit Economic Relief Grant Program.
- 26 2. Grantees must provide regular, ongoing childcare services within City limits  
27 active from at least January 1, 2020 until January 1, 2021. This may include  
28 afterschool care for school-aged children, infants, and toddler care. An  
29 explanation of these services and the population served will be required for  
30 eligibility.
- 31 3. All grantees must disclose, certify, and document that they suffered a loss of  
32 revenue and/or incurred additional expenses either through rapid expansion or  
33 adaptation to serve the community or because of forced closure in the name of  
34 public health between March 30, 2020 and December 30, 2020.
- 35 4. Licensed Child Care Providers are eligible for grant funds up to \$30,000. A copy  
36 of the active license must be provided in the application. Detailed descriptions  
37 and backup information to justify requested amount needed will be required.
- 38 5. Legally Exempt Providers are also eligible for grant funds up to \$5,000 and must  
39 provide proof of approval to operate from the State of Alaska. Detailed  
40 descriptions and backup information to justify requested amount needed will be  
41 required.
- 42 6. Businesses/Non-Profits providing afterschool services are eligible for up to  
43 \$10,000 grants specific to this aspect of their operation. Detailed descriptions  
44 and backup information to justify requested amount needed will be required.

- 45 7. This is considered additional economic relief; grantees receiving grant funds  
46 through the SBERG or NERG may still be eligible for CBERG funds if all eligibility  
47 criteria are met.  
48 8. Any misuse of funds or falsification in an application will result in repayment of  
49 the funds and potential fines.  
50 9. The funds cannot be used to reimburse an expense that was already paid by or  
51 anticipated to be paid by another grant.  
52 10. The City reserves the right to interpret the terms of this program.

53

54 **Grant funds are eligible for:**

- 55 1. Payment of rent or required monthly loan payments  
56 2. Payments of essential wages, taxes, and normal benefits to employees  
57 3. Normal operating expenses (utilities, insurance, professional services, etc.)  
58 4. Purchase of personal protective equipment required by the nonprofit business  
59 and/or any other measures recommended by the CDC to enhance COVID-19  
60 safety measures.  
61 5. Expenses incurred to replenish inventory, necessary re-opening expenses,  
62 temporary housing for quarantined employees, hiring necessary additional staff,  
63 other expenses related to changes in the way services are provided due to the  
64 COVID-19 pandemic, or responding to additional non-budgeted needs related to  
65 COVID responses not paid for by another grant.  
66 6. Childcare organizations that are currently open/active.

67

68 Please note: Grant proceeds are to be used for eligible Covid-19 emergency related  
69 expenses, whether those expenses were previously paid by the grantee personally and  
70 not through another loan/grant, are currently unpaid, or are held in arrears between  
71 March 30, 2020 and December 30, 2020; additional guidance is provided in the “Grant  
72 Funds Ineligible For” section.

73

74

75 **Grant funds ineligible for:**

- 76 1. Any expense considered ineligible under the State of Alaska CARES Act grant  
77 program and any expense that would not be considered an eligible expense by  
78 IRS rules.  
79 2. Political contributions or lobbying.  
80 3. Bonuses to employees or Directors.  
81 4. Gifts or events.  
82 5. Draw or salary to employees that exceeded the amount that they were paid on a  
83 weekly or monthly basis for the same period last year.  
84 6. Pay down or pay off debt by more than required in underlying debt instrument.



- 85 7. Any expenses that have already been reimbursed by other funding sources.  
86 Grantees will be required to keep payment records to show how the funds were  
87 used.  
88 8. Any other activity not listed under the 'Grant Funds are Eligible for' section.  
89

90 **Application Process**

- 91 1. An authorized agent for the business/non-profit must fill out the application  
92 available online at the City of Homer website or paper application available from  
93 the Clerk's office. Applications must be submitted within the advertised  
94 application period.  
95 2. The application must be submitted with a W-9 form from the Internal Revenue  
96 Service.  
97 3. Upon receipt of a complete application and verification that the applicant meets  
98 the eligibility requirements, the grant payment covering eligible, documented  
99 expenses may be disbursed. Payments may be dispersed to eligible applicants  
100 on a rolling basis. Applicants will be notified via email one their application has  
101 been approved.  
102 4. Grantees who submit incomplete applications will be notified by email.  
103 Applications may be amended before the deadline.  
104 5. Grantees whose requests are denied will be notified via email. An applicant who  
105 is denied may appeal (in writing) to the City Manager no later than 5PM the 10th  
106 calendar day after the applicant receives notice from the City.  
107 6. Information provided in the CBERG application will be kept confidential to the  
108 extent authorized by law.  
109 7. Grant funds received must be fully expended by December 30, 2020. If funds  
110 have not been expended, they must be returned to the City. Funds must be used  
111 in accordance with the guidelines of this program.  
112 8. An IRS 1099 Misc. income form will be issued by January 31, 2021.  
113 9. It is incumbent upon the applicant to determine whether the receipt of a grant  
114 under this program might preclude eligibility for any other grant or aid programs.  
115 10. The City reserves the right to interpret the terms of this program.  
116

117 **Reporting**

118 In the application, grantees are required to provide a budget that documents how grant  
119 funds are to be used to reimburse expenses associated with COVID-19. Grant funds  
120 must be either fully expended or any unused portion returned to the City by December  
121 30, 2020. When funds are fully expended, Grantees must submit a reporting form  
122 provided by the City documenting how the funds were used.

123 Grants received under this program are subject to audit and may be randomly selected  
124 to produce documentation for program evaluation. Grantees are required to maintain

125 records and receipts for grant expenditures for a period of 6 years and make them  
126 available upon request.

127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170

1 **City of Homer Social Services Economic Relief Grant Program Policy Draft**

2 **Purpose**

3 The Social Services Relief Grant (SoSERG) Program provides funds for eligible  
4 expenses incurred by organizations providing social services to residents within the City  
5 of Homer in excess of any other award offered by or received from the City of Homer.  
6 The City of Homer, using Coronavirus Aid, Relief, and Economic Security (CARES) Act  
7 funding, has allocated \$200,000 to be distributed through this program in up to \$25,000  
8 grants.

9 **Eligibility Criteria**

- 10 1. Grantees must meet eligibility criteria under the City’s Nonprofit Economic Relief  
11 Grant (NERG) Program or the Small Business Economic Relief Grant (SBERG)  
12 Program.
- 13 2. Must provide social services to the residents of the City of Homer. For the  
14 purposes of the SoSERG program, “social services” includes mental health  
15 services, child and family support services that are substantially different from  
16 providing direct childcare (which is funded through the CBERG program),  
17 substance use/misuse treatment and referral services, food/nutrition services, job  
18 training services, and housing assistance. An explanation of these services and  
19 the population served will be required for eligibility.
- 20 3. Must disclose, certify and document how the applicant suffered a loss of revenue  
21 and/or has or will incur additional expenses either through expansion of services  
22 or adaptation to serve the community or because of forced closure in the name of  
23 public health between March 30, 2020 and December 30, 2020.
- 24 4. Grantees receiving grant funds through the SBERG or NERG may also be  
25 eligible for SoSERG funds if:  
26 a. all eligibility criteria are met and  
27 b. eligible expenses incurred have not already been reimbursed by other  
28 funding sources.
- 29 Receipt of SBERG or NERG funds is not a prerequisite to receive SoSERG  
30 funds.
- 31 5. The funds cannot be used to reimburse an expense that was already covered by  
32 or anticipated to be covered by another grant.

33 **Grant funds are eligible for:**

- 34 1. Payment of rent or required monthly loan payments  
35 2. Payments of essential wages, taxes, and normal benefits to employees  
36 3. Normal operating expenses (utilities, insurance, professional services, etc.) not  
37 covered as a result of loss of revenue from Covid-19.

- 38 4. Purchase of personal protective equipment required by the grantee and/or any  
39 other measures recommended by the CDC to enhance COVID-19 safety  
40 measures.  
41 5. Expenses incurred to replenish inventory, necessary re-opening expenses,  
42 temporary housing for quarantined employees, and hiring necessary additional  
43 staff or other expenses related to changes in the way services are provided due  
44 to the COVID-19 pandemic.

45 Please note: Grant proceeds are to be used for eligible Covid-19 emergency related  
46 expenses, whether those expenses were previously paid by the grantee personally and  
47 not through another loan/grant, are currently unpaid, or are held in arrears between  
48 March 30, 2020 and December 30, 2020; additional guidance is provided in the “Grant  
49 Funds Ineligible For” section.  
50

51 **Grant funds ineligible for:**

- 52 1. Any expense considered ineligible under the State of Alaska CARES Act grant  
53 program and any expense that would not be considered an eligible expense by  
54 IRS rules.  
55 2. Political contributions or lobbying.  
56 3. Bonuses to employees or Directors.  
57 4. Gifts or events.  
58 5. Draw or salary to employees that exceeded the amount that they were paid on a  
59 weekly or monthly basis for the same period last year.  
60 6. Pay down or pay off debt by more than required in underlying debt instrument.  
61 7. Any expenses that have already been reimbursed by other funding sources.  
62 Grantees will be required to keep payment records to show how the funds were  
63 used.  
64 8. Any other activity not listed under the ‘Grant Funds are Eligible for’ section.  
65

66 **Application Process**

- 67 1. An authorized agent must fill out the application available online at the City of  
68 Homer website or paper application available from the Clerk’s office. Applications  
69 must be submitted within the advertised application period.  
70 2. The application must be submitted with a W-9 form from the Internal Revenue  
71 Service.  
72 3. Upon completion of application and verification that the applicant meets the  
73 eligibility requirements, a grant payment covering eligible, documented expenses  
74 but not exceeding \$25,000 may be disbursed. Applicants will be notified via  
75 email once their application has been approved.

- 76 4. Applicants who submit incomplete applications will be notified by email.  
77 Applications may be amended before the deadline.
- 78 5. Applicants whose requests are denied will be notified via email. An applicant who  
79 is denied may appeal (in writing) to the City Manager no later than 5PM the 10th  
80 calendar day after the applicant receives notice from the City.
- 81 6. Information provided in the SoSERG application will be kept confidential to the  
82 extent authorized by law.
- 83 7. Grant funds received must be fully expended by December 30, 2020. If funds  
84 have not been expended, they must be returned to the City. Funds must be used  
85 in accordance with the guidelines of this program.
- 86 8. An IRS 1099 Misc. income form will be issued by January 31, 2021.
- 87 9. It is incumbent upon the applicant to determine whether the receipt of a grant  
88 under this program might preclude eligibility for any other grant or aid programs.
- 89 10. The City reserves the right to interpret the terms of this program.  
90

91 **Reporting**

92 In the application, grantees are required to provide a budget that documents how grant  
93 funds are to be used to reimburse expenses associated with COVID-19. Grant funds  
94 must be either fully expended or any unused portion returned to the City by December  
95 30, 2020. When funds are fully expended, Grantees must submit a reporting form  
96 provided by the City documenting how the funds were used.

97 Grants received under this program are subject to audit and may be randomly selected  
98 to produce documentation for program evaluation. Grantees are required to maintain  
99 records and receipts for grant expenditures for a period of 6 years and make them  
100 available upon request.

101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113



# City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

[citymanager@cityofhomer-ak.gov](mailto:citymanager@cityofhomer-ak.gov)

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum 20-111

TO: Mayor Castner and Homer City Council  
FROM: Rick Abboud, Interim City Manager  
DATE: July 23, 2020  
SUBJECT: Cares Act Programs

---

Administration has been working with Councilmembers Lord, Aderhold, and Venuti on producing several programs for the appropriation of CARES Act funds to the community. These include:

Nonprofit Economic Relief Grant Program (NERG)  
Social Services Economic Relief Grant Program (SoSerg)  
Childcare Business Economic Relief Grant Program (CBERG)  
Household Economic Relief Grant Program (HERG)

The programs include eligibility criteria to qualify for the program, lists of eligible and ineligible expenses for which the funds may be applied, an application process, and expectation for reporting. Accompanying the resolution establishing the programs is a funding ordinance that creates funding 'buckets' assigning amount to be distributed to the various programs.

Most of my concerns revolve around verifying that applicants qualify for the program and spend the award within program parameters.

1. You must have been impacted by either loss of income or additional expenses due to COVID-19.
2. You must not apply for costs that have been paid for by other programs.
3. You must spend the funds in accordance with CARES Act guidelines.

Better documentation will decrease our exposure to liabilities. We have developed several options for our documentation:

1. The applicant, when documenting need will be asked for a proposed list of uses for the funds. We were thinking of listing common accepted uses with a range of funds to be spent (in case they don't have exact figures) with another box for unanticipated (other) items. It would be good to get to this level with everyone (and I do not believe that we could add retroactive requirements, as the grantee has already agreed to terms).
2. They could submit bills/invoices and we pay. – This seems like a bit much for us to accomplish.

3. They could provide a report of how the money was spent. – Would be a challenge to follow up with everyone after they spent the money even though the onus would be on the grantee to submit the reporting form once the awarded funds had been spent.
4. The applicant is required to retain receipts and records for 6 years, documenting of how the money was spent and may be selected on a random basis for program evaluation.

I recommend at least using options 1 and 4 above; the policy documents currently before Council incorporate options 1, 3, and 4.

These documents were produced in an expedited manner and I would expect that in consideration with the dynamic nature of the guidance for the CARES Act program, they may need future amendments. Out of the four programs, I am most secure with NERG and I have the most reservations with HERG.

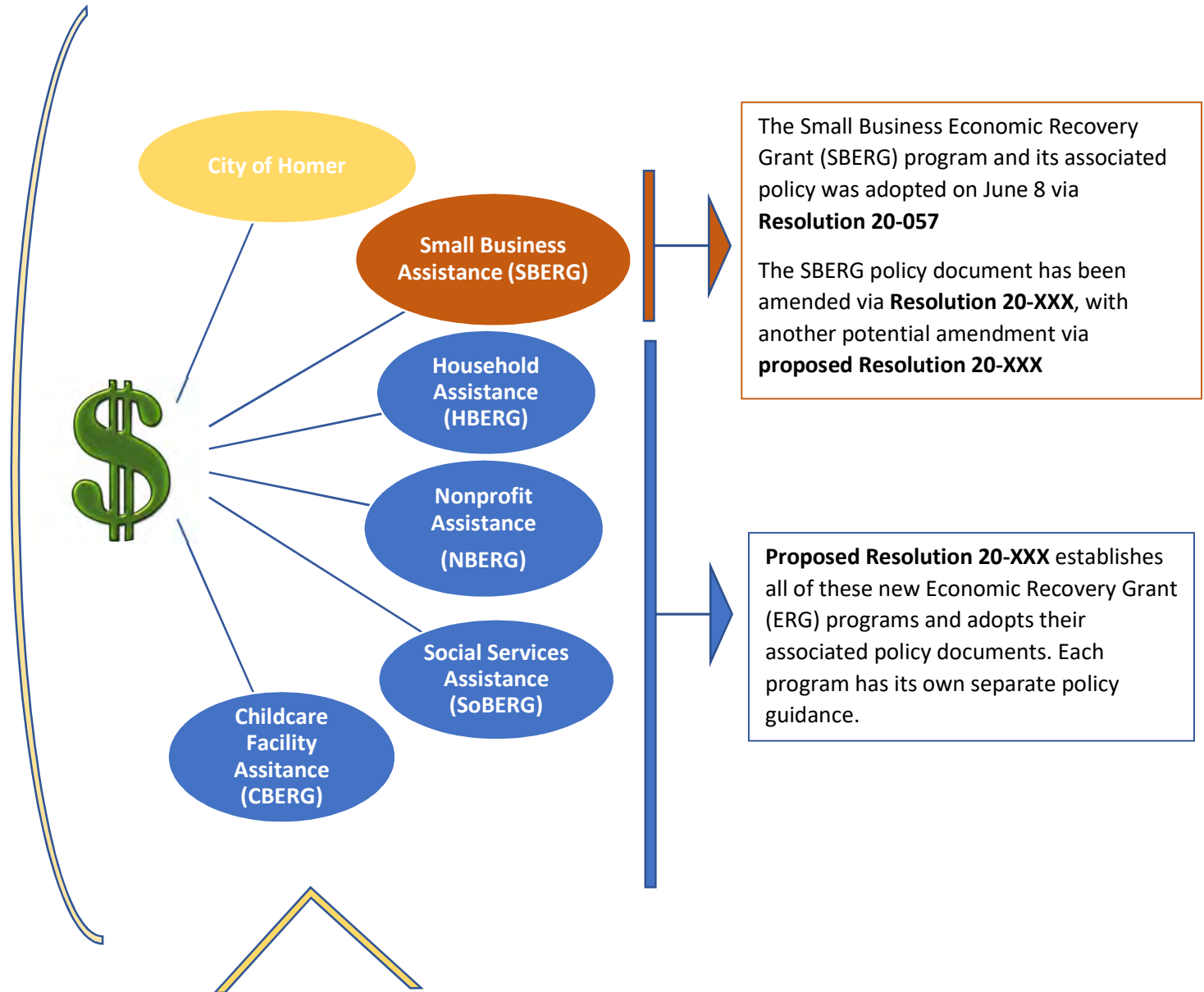
I look forward to receiving Council's direction on which programs to adopt and establish at this time and any additional direction from the body on reporting requirements options or any other features.

# City of Homer CARES Act Legislation

All CARES Act funds from the State of Alaska to the City of Homer were authorized for receipt under **Resolution 20-051**.

**Ordinance 20-25(S)** appropriated the first payment in June.

**Proposed Ordinance 20-XXX** provides appropriations for the remaining funds, and provides flexibility for spending between the approved buckets to ensure timely spending of funds.



The Small Business Economic Recovery Grant (SBERG) program and its associated policy was adopted on June 8 via **Resolution 20-057**

The SBERG policy document has been amended via **Resolution 20-XXX**, with another potential amendment via **proposed Resolution 20-XXX**

**Proposed Resolution 20-XXX** establishes all of these new Economic Recovery Grant (ERG) programs and adopts their associated policy documents. Each program has its own separate policy guidance.

Each bubble represents a “bucket” for identified by Council as a priority for appropriation of CARES Act funds



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 City Manager/  
4 Public Works Director

5 **RESOLUTION 20-072**

6  
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA  
8 APPROVING A POLICY TO ESTABLISH CAMPGROUND HOST  
9 STIPENDS AS A PROACTIVE STEP TO RECRUIT AND INCENTIVIZE  
10 CAMPGROUND HOSTS FOR CITY OWNED CAMPGROUNDS IN AN  
11 AMOUNT NOT TO EXCEED \$100 PER WEEK.  
12

13 WHEREAS, The City of Homer operates three public campgrounds, which are very  
14 popular during the summer, having served over 17,000 people in 2019, and on track to serve  
15 similar numbers of people in 2020; and  
16

17 WHEREAS, The City relies on Campground Hosts, one per campground, to perform a  
18 variety of duties related to the health and safety, as well as the enjoyment, of campers and day-  
19 users in the City's campgrounds, which comprise many hours of free labor; and  
20

21 WHEREAS, The Campground Hosts will be required to execute the attached  
22 Campground Host Memorandum of Understanding; and  
23

24 WHEREAS, The Campground Hosts are provided with a free campsite and supplies  
25 required to perform their duties, but are not paid a wage; and  
26

27 WHEREAS, It is in the City's best interest to incentivize Campground Hosts so the City is  
28 able to recruit capable, enthusiastic and reliable Hosts; and  
29

30 WHEREAS, The City Campgrounds generated \$190,569 in 2019 and are on track to  
31 generate similar revenues in 2020.  
32

33 WHEREAS, The City Manager is authorized to pay stipends, by check or the equivalent  
34 value of supplies, to each Campground Host in an amount not to exceed \$100 per week per  
35 Host during the months of April – September, inclusive, for a total stipend value not to exceed  
36 \$8,100. The stipend may be applied retroactively.  
37

38 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska approves the  
39 policy to establish campground host stipends as a proactive step to recruit and incentivize  
40 campground hosts for city owned campground in an amount not to exceed \$100 per week.  
41

42 PASSED AND ADOPTED by the Homer City Council on this 27<sup>th</sup> day of July, 2020.

43  
44  
45  
46  
47  
48  
49  
50  
51  
52

CITY OF HOMER

---

KEN CASTNER, MAYOR

ATTEST:

---

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal note: Parks Professional Services 100-0175-5210 up to \$8100 annually



## Campground Host Memorandum of Understanding

### General Duties

Campground Hosts support the City's Campground Operation Plan. The Hosts **do not collect money. Instead, send the visitor to the fee kiosks or refer them to the City's Campground Reservation System.** While on duty, you are an official representative of the City of Homer. It is very important that you speak and act courteously and professionally. Do not put yourself in a situation that is beyond the scope of your duties as a Campground Host. Remember that your job is primarily education, not enforcement.

### Duties will include, but not limited to the following.

- a. Assist campers in locating a campsite.
- b. Report situations that could affect the health and safety of visitors, and report any adverse conditions which need attention to the Parks Coordinator immediately.
- c. Answer questions and explain health mandates/regulations to visitors.
- d. Assist with campground sanitation as well as with distribution of signage and other public information.
- e. Hosts shall not attempt to discipline or apprehend any violators. Host will report all violations or disturbances to the Parks Coordinator and/or Homer Police Department depending on the circumstances. You are to inform campers of rules and regulations, but you are not to engage them in a confrontational manner.
- f. Hosts must set an example by being model campers practicing good housekeeping at all times in and around their assigned sites and by observing all rules and regulations.
- g. Hosts are expected to work most weekends and all holidays during their term.
- h. May be assigned other duties and projects not listed.

### Morning Rove (8:00ish), Afternoon Rove (2:00ish), and Evening Rove (8:00ish)

- Visit restroom and hand-wash facilities and assist with sanitation. Make sure these amenities are well supplied.
- Walk through the entire campground, to check for visitors that may have entered without your knowledge.
- Be on the lookout for campers who are not in approved campsites or do not have current fee stubs posted. Do not wake visitors up. Leave a pink slip on the post (not on their vehicle) identifying the concern. Visit the site later that same day to talk to them about remedying the concern.
- When the visitor has a current fee stub, please mark on the stub (with black marker in large print) the date they are leaving.
- **Do not collect money. Send them to the fee kiosk**
- Be available to answer questions, give directions, assist campers, and pick-up trash.
- Make sure that the fee kiosk is re-stocked and looks clean and orderly.
- When you are notified of an issue in the campground after 11:00pm, and it needs to be handled before morning, contact the Homer Police Department at 235-3150.

### Problems in the Campground

**Non-Emergency** – if the problem can be corrected and the campers seem cooperative, ask them to promptly correct the situation. Do not continue to make contact with that visitor. If you detect a problem and the campsite occupant is not present, leave a written notice noting the problem. If the problem persists after the occupant has returned, notify the Parks Coordinator or the Camp Fee Collectors.

**Emergency (Medical, Law Enforcement, Fire etc.)** – Call the Homer Police Department at 235-3150.

**A word about calling for help----If in doubt-Call!!!** If you're unsure whether it's an emergency, an opinion from someone else may be helpful.

**Working Conditions**

Work is mostly outside in hot, cold, wet, humid, wind, or other adverse conditions. Physical activity is required. Walking or bicycling is required. Must reside in park during time of service. Must be able to safely lift at least 20lbs. Ability to bend, stretch, pull and lift required. May be required to work overtime, holidays or weekends. You may be exposed to infectious disease.

**Benefits**

Provided use of a campsite and all at no charge for the duration of the term of service. Electric hook ups, if available, fuel, water and dump station use will be provided. You will be issued a vest and name tag as well as Covid-related PPE. A stipend of \$100 per full week of service will be paid to you as an independent contractor. This stipend can be waived if so chosen by the host. A form will be provided.

**Items Provided by Hosts**

Dependable mobile camping unit, (RV or trailer) food and any other personal items needed.

**Skills and Abilities**

Must be at least 25 years of age. Ability to pass a background check required. Ability to get along well with people. Ability to remain calm and friendly when confronted with upset visitors. Ability to physically get out and make rounds through the camping and park area. Ability to adapt to changing work conditions.

**Time Commitment**

At least 24 hours of service time per week for a minimum of four (4) weeks, to include most weekends and all holidays. Two consecutive days off in the summer

**Supervision and Training Provided**

Supervised by Parks Coordinator or designee. Trained in Covid-related safety measures, campground rules/registration procedures, and host responsibilities.

I further understand that: (Please initial each of the following)

\_\_\_\_\_ I agree to take a Covid-19 test or participate in other screening protocols as requested by my Supervisor.

\_\_\_\_\_ If experiencing any symptoms of illness, particularly any symptoms associated with Covid-19, I will immediately notify my Supervisor, cease performing Host duties and isolate myself in my mobile camping unit.

\_\_\_\_\_ I am not to appear for volunteer service under the influence of alcohol or any illegal drugs. I agree to inform the supervisor at the beginning of the shift if taking any over-the-counter or prescription medications that may impair my ability to perform volunteer duties.

\_\_\_\_\_ I will abide by all City and Public Works Department policies regarding personal conduct while performing volunteer services.

\_\_\_\_\_ I agree not to go beyond the scope of volunteer work agreed to without authorization.

\_\_\_\_\_ I hereby identify that I am capable of performing duties without accommodation, or with the following accommodation(s): \_\_\_\_\_.

\_\_\_\_\_ Depending on the scope of volunteer work, the following policies may apply: Covid-related Mandates, Safety Procedures, Computer Operation, Anti-Harassment, Confidentiality, Non-Discrimination, and Drug-Free Workplace.

\_\_\_\_\_ I understand that I am to report any on-the-job injury or illness, no matter how minor, to my supervisor. I authorize emergency medical care if it should become necessary.

\_\_\_\_\_ I grant full permission to use any photographs, videotapes, motion pictures or recordings for publicity purposes by the City of Homer.

I CERTIFY THAT I HAVE READ THIS MEMORANDUM OF UNDERSTANDING AND ACCEPT THE EXPECTATIONS OF MY DUTIES AND RESPONSIBILITIES AS A CONDITION OF MY SERVICE AS STATED HEREIN.

\_\_\_\_\_  
Camp Host Signature Date

\_\_\_\_\_  
Supervisor Signature Date

\_\_\_\_\_  
HR Director Signature Date

\_\_\_\_\_  
City Manager Signature Date



## **Memorandum 20-112**

TO: Mayor Castner and Homer City Council  
THROUGH: Rick Abboud, Interim City Manager  
FROM: Jan Keiser, PE, JD, Director of Public Works  
DATE: June 10, 2020  
SUBJECT: Proposal for Campground Host Stipends

---

**Issue:** The City relies on Campground Hosts to perform a variety of duties related to the health and safety, as well as the enjoyment of campers and day-users in the City's campgrounds. These Hosts provide many hours of free labor. It is in the City's best interest to incentivize Campground Hosts so the City is able to recruit capable, enthusiastic and reliable Hosts. We propose paying a Stipend to Campground Hosts for their service.

**Background:** When we developed our original Campground Operations Plan, following the declaration of the COVID 19-related emergency, the Fishing Hole Campground was the only campground open and we had few campers. We had a Campground Host at Fishing Hole and the state had not yet issued "hunker down" orders or Health Mandates related to campground operations. Time went by and the Governor issued Health Mandate #16, Attachment L, related to campground operations that dramatically increased functional requirements. For example, Attachment L specified that there needed to be a 25 foot separation between campsites, sanitation requirements were increased, etc. At this time, we hadn't hired our normal complement of seasonal employees and were really short-handed.

We enlisted our Fishing Hole Campground Host to help address elements set forth in Attachment L – helping to frequently clean heavily-used touch points around the campground, such as at the restrooms, and to situate campers in sites with appropriate distancing. We realized in order to keep up, we urgently needed hosts in the other campgrounds to maintain order and comply with the frequently changing health guidance's. We came up with the idea for a Campground Host Stipend to incentivize potential hosts. Originally, we thought we could get COVID funding for this expense under the presumption that we really wouldn't need the hosts if it weren't for the health mandates.

A few weeks later, most of the restrictions on campground operation were lifted, and we were able to go back to almost normal operation. We were attracting crowds of people and found the hosts were very helpful in keeping order, COVID or no COVID.

Now, we have more staff, almost 75% of our normal level, and most of the health mandates have been lifted. But, the Campground Hosts are so helpful, we want to keep them – it’s the most cost effective labor we have. We are getting hundreds of hours of free labor from these people. So, we’d like to pay them a stipend. We are no longer presuming this is a COVID-related expense, but is rather, part of our “new normal” to maintain public facilities that are safe and healthful for our patrons.

We propose a stipend of \$100 per week, to be paid for each week of April, May, June, July, August and September, for a total of \$8,100. There are funds in the Parks budget to support this because Parks did not bring on its full complement of seasonal employees until later in the season.

**Action Recommended:** That the City Council pass the proposed resolution authorizing a stipend for Campground Hosts not to exceed \$8,100 annually.