



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

City of Homer
Agenda
City Council Regular Meeting
Tuesday, May 28, 2019 at 6:00 PM
Council Chambers

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. Homer City Council unapproved Regular Meeting Minutes of May 13, 2019. City Clerk. Recommend adoption.
- b. **Memorandum 19-059** from Mayor Re: Appointment of Charles Barnwell to the Parks, Art, Recreation & Culture Advisory Commission and Reappointment of Franco Venuti to the Homer Advisory Planning Commission. Recommend approval.
- c. **Memorandum 19-064,** Reappointment of Franco Venuti to the Kenai Peninsula Borough Planning Commission. Recommend approval.
- d. **Resolution 19-033,** A Resolution of the City Council of Homer, Alaska Awarding the Art Work Contracts for the New Homer Police Station Project to Rohleder Borges Architecture of Seattle, Washington, for the Sculpture, Together, Ascend In the Amount of \$26,800 and Austin Parkhill and David Pettibone of Homer, Alaska, for the Mural, Sandhill Cranes In Flight In the Amount of \$20,000 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk. Recommend adoption.

Memorandum 19-062 from Art Selection Committee as backup.
- e. **Resolution 19-034,** A Resolution of the City Council of Homer, Alaska, Establishing the Mil Rate at 4.5 for 2019. City Manager. Recommend adoption.

- f. **Resolution 19-035**, A Resolution of the City Council of Homer, Alaska, Establishing a 2019 Mil Rate of 9.962541 Mills for the Ocean Drive Loop Special Service District. City Manager. Recommend adoption.

VISITORS

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

- a. Committee of the Whole Report
- b. Worksession Report
- d. Mayor's Report
 - i. Letter from the Alaska Municipal League to the Governor and the Alaska State Legislature
- e. Borough Report
- f. Library Advisory Board
- g. Homer Advisory Planning Commission
- h. Economic Development Advisory Commission
- i. Parks Art Recreation and Culture Advisory Commission
- j. Port and Harbor Advisory Commission
- k. Americans with Disabilities Act Compliance Committee

PUBLIC HEARING(S)

- a. **Ordinance 19-20**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Capital Budget to Appropriate Funds in the Amount of \$5,328,306 from the Police Station Project Account for Completion of the New Homer Police Station Project. City Manager/Public Works Director. Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019

Memorandum 19-050 from Public Works Director as backup

- b. **Ordinance 19-20(S)**, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating the Police Station General Obligation Bond Proceeds in the Amount of \$4,804,047 to the Police Station Fund and Amending the 2019 Capital Budget to Appropriate \$5,285,806 from the Police Station Fund to Complete the New Homer Police Station Project and Authorizing the City Manager to Execute All Appropriate Documents Necessary to Complete the Project Within the Approved Budget. City Manager/Public Works Director.
- c. **Ordinance 19-21**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Operating Budget to Appropriate Funds in the Amount of \$104,000 from General

Fund Fund Balance as a Mid-Year Budget Adjustment to Fund Additional Fire Department Personnel. Mayor. Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019

- d. Ordinance 19-22**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.05.030(b) to Change How Building Height is Measured within Areas of Special Flood Hazard. Smith/Erickson. Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019

Memorandum 19-053 from City Planner as backup

CITY MANAGER'S REPORT

- a.** City Manager's Report
- b.** BID REPORT – INFORMATIONAL ONLY

ORDINANCE(S)

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

Memorandum 19-058 from Councilmembers Lord and Stroozas as backup

Memorandum 19-063 from City Attorney as backup

- b. Ordinance 19-24**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Capital Budget by Authorizing the Expenditure of an Additional \$16,100 from the Police Fleet Reserves for the Outfitting of Two New Police Vehicles and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Recommended dates: Introduction May 28, 2019, Public Hearing and Second Reading June 10, 2019.

Memorandum 19-061 from Police Chief as backup

- c. Ordinance 19-25**, An Ordinance of the City Council of Homer, Alaska Approving the Sale of Homer Public Library Lot Located at 3713 Main Street and Authorizing the City Manager to Execute the Appropriate Documents to Dispose of the Lot. Aderhold.

Recommended dates: Introduction May 28, 2019, Public Hearing and Second Reading June 10, 2019.

PENDING BUSINESS

- a. Ordinance 19-19**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 14.08, "Water Rules and Regulations" to add HCC 14.08.015, "Water Service Area" and Prohibiting the City from Providing Water Service Outside the City of Homer Unless Authorized by Ordinance or Required by Law and Requiring the Adoption of Extraterritorial Public Utility Agreements by Resolution. Aderhold. Introduction April 22, 2019, Postponed to May 28, 2019.

NEW BUSINESS

- a. Memorandum 19-060** from City Clerk Re: Correcting appointment term in Memorandum 19-049

RESOLUTIONS

- a. Resolution 19-036**, A Resolution of the City Council of Homer, Alaska, Amending the City of Homer Water and Sewer Rates and Updating the Fee Schedule Accordingly. City Manager/Finance Director. Recommend Schedule for Public Hearing on June 10, 2019.
- b. Resolution 19-037**, A Resolution of the City Council of Homer, Alaska, Requesting the City Manager Issue a Request for Proposals for Real Estate Broker Services. Erickson.
- c. Resolution 19-038**, A Resolution of the City Council of Homer, Alaska, Requesting the City Manager Issue a Request for Proposals for General Counsel Legal Services for the City of Homer. Mayor.

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 June 10, 2019 at 6:00 p.m., Worksession at 4:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Session 19-13 a Regular Meeting of the Homer City Council was called to order on May 13, 2019 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, ERICKSON, LORD, SMITH, STROOZAS, VENUTI

STAFF: CITY MANAGER KOESTER
CITY CLERK JACOBSEN

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

The following changes were made: **Consent Agenda Memorandum 19-052** from City Clerk re: Approval of a Letter from Council to Senator Murkowski Regarding Assistance for Erosion on Homer Spit. Smith. Photo attachment referenced in letter and *Beach Wildrye Planting Guide* provided by public member, Nancy Hillstrand; **Resolution 19-026**, A Resolution of the City Council of Homer, Alaska, Approving a Recreational Use Agreement Between the City of Homer and South Peninsula Little League, Inc., Regarding the Maintenance and Operation of Little League Activities on City Owned Land at Karen Hornaday Park and the Maintenance Building (HERC 2). City Manager. Homer Little League Insurance information provided as backup.

Mayor Castner asked for a motion for the approval of the agenda as amended.

ERICKSON/VENUTI SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA

Nancy Hillstrand, property owner on the Homer Spit, commented regarding the erosion issues on the spit. She's noticed the rock and rip rap being placed and the parking that's proposed across from her land and it's concerning to her. She provided the supplemental packet information regarding beach wildrye grass and addressed the wildrye grass as erosion control from a natural, free ecosystem service. She encouraged members to read the information and consider this as an important tool the help decrease erosion and preserve the spit.

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 April 22, 2019. City Clerk. Recommend adoption.
- b. **Memorandum 19-049** from Mayor re: Appointment of Deborah Brown to the Economic Development Advisory Commission. Recommend approval.
- c. **Memorandum 19-054** from City Clerk re: Approval of an Assessment Deferment Request for the Kachemak Drive Phase III Water/Sewer Assessment for Connie Hines, KPB Parcel No. 17915074. Recommend approval.
- d. **Memorandum 19-052** from City Clerk re: Approval of a Letter from Council to Senator Murkowski Regarding Assistance for Erosion on Homer Spit. Smith. Recommend approval.
- e. **Ordinance 19-20**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Capital Budget to Appropriate Funds in the Amount of \$5,328,306 from the Police Station Project Account for Completion of the New Homer Police Station Project. City Manager/Public Works Director. Recommended dates: Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019

Memorandum 19-050 from Public Works Director as backup

- f. **Ordinance 19-21**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Operating Budget to Appropriate Funds in the Amount of \$104,000 from General Fund Fund Balance as a Mid-Year Budget Adjustment to Fund Additional Fire Department Personnel. Mayor. Recommended dates: Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019
- g. **Ordinance 19-22**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.05.030(b) to Change How Building Height is Measured within Areas of Special Flood Hazard. Smith/Erickson. Recommended dates: Introduction May 13, 2019, Public Hearing and Second Reading May 28, 2019
- h. **Resolution 19-025**, A Resolution of the City Council of Homer, Alaska, Approving Dr. Landess as Medical Director to Lead in the Oversight and Medical Direction of the Homer Volunteer Fire Department's Advanced Life Support Ambulance Service and the Homer Police Department's Emergency Medical Dispatch Programs. City Manager. Recommend adoption.

- i. **Resolution 19-026**, A Resolution of the City Council of Homer, Alaska, Approving a Recreational Use Agreement Between the City of Homer and South Peninsula Little League, Inc., Regarding the Maintenance and Operation of Little League Activities on City Owned Land at Karen Hornaday Park and the Maintenance Building (HERC 2). City Manager. Recommend adoption.

Memorandum 19-057 from Deputy City Planner as backup

- j. **Resolution 19-027**, A Resolution of the City Council of Homer, Alaska, Amending the Economic Development Advisory Commission Bylaws by Amending Articles Titled Names and Authorization, Purpose, Members, Officers, Meetings, Committees, Bylaw Amendments, and Teleconferencing. City Clerk. Recommend adoption.

Memorandum 19-055 from Deputy City Clerk as backup

- k. **Resolution 19-028**, A Resolution of the City Council of Homer, Alaska, Memorializing the Council's Intent for the Contracting and Expenditure of Funds, Including the Proceeds from the Issuance of Bonds, and the Management of Funds Dedicated Towards the Retirement of the Bonded Debt. Mayor. Recommend adoption.

Moved to Resolutions A. Smith.

- l. **Resolution 19-029**, A Resolution of the City Council of Homer, Alaska, Requesting the State of Alaska Department of Transportation Include Additional Enhanced Pedestrian Crossing Safety Measures in Project CFHWY00148. Mayor. Recommend adoption.

- m. **Resolution 19-030**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Construction of the East End Road/Ronda Street Water Main Crossing Project to the Firm of East Road Services, Inc. of Homer, Alaska, in the Amount of \$162,025 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.

Memorandum 19-051 from Public Works Director as backup

- n. **Resolution 19-031**, A Resolution of the City Council of Homer, Alaska Awarding a Consultation Contract to Coffman Engineers of Anchorage, Alaska in the Amount of \$40,000 for the Purpose of Optimizing and Upgrading the City Owned Ice Plant and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Port Director. Recommend adoption.

- o. **Resolution 19-032**, A Resolution of the City Council of Homer, Alaska Authorizing the City Manager to Widen a Public Utility Easement on the Homer Spit and Authorizing the City Manager to Enter into A Memorandum of Agreement with Alaska Communications

Systems (ACS) for Access to Fiber Optic Cable and Mulliken Surveys for a New Survey.
City Manager/Port Director. Recommend adoption.

Item k. moved to Resolutions item A. Smith.

City Clerk Jacobsen read the consent agenda into the record.

ERICKSON/VENUTI MOVED TO ADOPT THE CONSENT AGENDA AS READ

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

VISITORS

- a. ADA Accessibility –Science Fair report – Raiden Skorski-O’Donnell (10 minutes)

Raiden Skorski-O’Donnell, a 6th grader from McNeil Canyon School, presented his science fair project, for which he won first place, to Council. His project performing ADA Accessibility surveys at select local businesses, government buildings, and his school and he shared his findings with Council.

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

- a. Committee of the Whole Report

Councilmember Smith reported Mayor Castner provided flow chart to begin the conversation on how to consider the baskets of money in our budget. We look forward to extended conversations on establishing a policy on dealing with our revenue.

- b. Worksession Report

City Manager Koester commented the worksession was a review of water and sewer rates, and a proposed 10% rate increase that was developed using the consumption based model, which is a tool developed by the Water and Sewer Rate Task Force. There will be a resolution and public hearing coming forward. They also heard a very informative overview of the water and sewer system, and an explanation of why we flush and water quality.

- c. Mayor's Report

- i. National Public Works Week May 19-25
- ii. National Police Week May 12-18
- iii. National Peace Officers Memorial Day May 15
- iv. National Health Care Week May 12-18

d. Borough Report

e. Library Advisory Board

Mark Massion, Library Advisory Board Member, reported the Board welcomed new member Gordy Vernon and said goodbye to Student Representative Ethan Benedetti. The Board is looking for a new student to fill the next term and hope to have more than one applicant to choose from. They also recognized two other students, Olivia Glassman and Delilah Ferrero for their work and leadership roles in library programs. They also reviewed their 2019 goals and strategic plan. He provided a brief update on upcoming library activities.

f. Homer Advisory Planning Commission

Roberta Highland, Planning Commissioner, reported the Commission discussed a notice from FEMA agreeing to fund the Bluff Stability Project beginning October 1st. The Economic Development Advisory Commission is bringing information about signage to their next meeting. Commissioner Bentz attended a Climate Adaption Conference and will be reporting on sessions she attended focused on smaller rural communities. They addressed two plats, reviewed building heights, and reviewed the landscape plan for the new Police Department, and discussion about green infrastructure with educational signage.

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 19-16**, An Ordinance of the City Council of Homer, Alaska, Amending HCC Chapter 5.06, Nuclear Free Homer, to Update and Reflect Current Practices and Terminology. Erickson. Introduction April 22, 2019, Public Hearing and Second Reading May 13, 2019.

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

ERICKSON/ADERHOLD MOVED TO ADOPT ORDINANCE 19-16 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Councilmember Aderhold thanked Councilmember Erickson for bringing forward this updated code language.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- b. **Ordinance 19-17**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Capital Budget by Appropriating Funds in the Amount of \$40,000 from the Port and Harbor Reserves Fund for a Consultation Contract that Evaluates Options and Lists Recommendations for Optimizing and Upgrading the Ice Plant. Stroozas. Introduction April 22, 2019, Public Hearing and Second Reading, May 13, 2019.

Memorandum 19-048 from Harbormaster as backup.

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

STROOZAS/ADERHOLD MOVED TO ADOPT ORDINANCE 19-17 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There were no comments.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. **Ordinance 19-18**, An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Capital Budget to Appropriate Funds in the Amount of \$229,452 from the City Hall Reserve Account for the City Hall Roof Replacement Project. City Manager/Public Works Director. Introduction April 22, 2019, Public Hearing and Second Reading May 13, 2019.

Memorandum 19-047 from Public Works Superintendent as backup

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

LORD/ADERHOLD MOVED TO ADOPT ORDINANCE 19-18 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There were no comments.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

ORDINANCE(S)

CITY MANAGER'S REPORT

a. City Manager's Report

Councilmembers discussed the information in the City Manager's report regarding the Real Estate Broker services and the old Library lot. Some members were in support of issuing an RFP for broker services. In discussion regarding the library lot, some members were supportive of selling it while others prefer that the City maintain the lot. City Manager Koester said she will bring these to an upcoming agenda as actionable items.

There was discussion regarding public outreach regarding the erosion on the spit so the public know what's going on. City Manager Koester explained it's a multi-jurisdictional issue and the City is working with the other groups, including ACOE, DOT, and property owners on problem solving and next steps. She will continue to bring updates back.

b. Bid Report - Informational Only

PENDING BUSINESS

NEW BUSINESS

RESOLUTIONS

- a. **Resolution 19-028**, A Resolution of the City Council of Homer, Alaska, Memorializing the Council's Intent for the Contracting and Expenditure of Funds, Including the Proceeds from the Issuance of Bonds, and the Management of Funds Dedicated Towards the Retirement of the Bonded Debt. Mayor.

Mayor Castner asked for a motion for the adoption of Resolution 19-028 by reading of title only.

ERICKSON/STROOZAS SO MOVED

SMITH/LORD MOVED TO AMEND LINE 69 ADD DEDICATED POLICE STATION BOND REPAYMENT BEFORE ACCOUNT; LINE 62 CHANGE TO READ THE DEDICATED POLICE STATION BOND REPAYMENT ACCOUNT; AND LINE 65-66 CHANGE TO READ SHALL BE DEPOSITED IN THE DEDICATED POLICE STATION REPAYMENT ACCOUNT.

Councilmember Smith explained his intent that there be a dedicated police station bond repayment account and that the money is for the express interest of not only reducing the amount we have to pay over time, and get it paid off as soon as possible.

Mayor Castner noted the bond can't be retired prior to ten years, so this keeps building the account and once the account is full and we have a protected amount, we stop collecting tax. It won't pay it off faster, but cuts the tax off sooner. His intent with the resolution is to be transparent and known to everyone.

City Manager Koester clarified the restriction on the dedicated fund is less than five percent so the restriction on our earnings is quite a bit less to restrict the funds from an investment opportunity.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

LORD/ERICKSON MOVED TO AMEND LINE 10 TO ADD AT THE END FOR THE CONSTRUCTION OF THE NEW HOMER POLICE DEPARTMENT BUILDING.

There was no discussion.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the motion as amended.

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

Motion carried.

COMMENTS OF THE AUDIENCE

Mark Massion, city resident, asked about the schedule for the Pioneer Avenue Improvements.

The Mayor noted there is a public meeting on the project scheduled for June 6th.

COMMENTS OF THE CITY ATTORNEY

COMMENTS OF THE CITY CLERK

City Clerk Jacobsen had no comments.

COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

COMMENTS OF THE MAYOR

Mayor Castner commented regarding the Homer Steps Up Challenge and since he's been walking around more it's becoming more apparent how challenging it is for pedestrians walking in town. He encouraged drivers to slow down, the speed limit is 25 mph. He thanked

Council for adopting the resolution for pedestrian safety improvements on Pioneer Avenue. He also noted he's seen many drivers talking on their phones or looking at their phones. The town is not pedestrian friendly. It's a good goal to do more walking and also to take the town more walkable.

COMMENTS OF THE CITY COUNCIL

Councilmember Stroozas had no comment.

Councilmember Aderhold thanked the Mayor for his comments. She walks and bikes and experiences these challenges regularly. She commented that Friday at Alice's there is a fund raiser for the needle exchange. It's a vaudeville theme, there will be a silent auction, and the funds will go toward purchasing safe syringe disposal containers.

Councilmember Erickson commented that cruise ship season starts on Wednesday. She encouraged people to pay attention to the increased pedestrian activity, and there's a dedicated wheelchair taxi so if you see someone in need give them a call. There will be a lot of activity with 4 ships in this month, and coming in back to back in June. There will be a lot of travelers in town and it's important to pay attention to our guests on the sides of the road.

Councilmember Lord agrees we have challenges with sidewalks and cross walks and she supports any efforts to improve pedestrian safety. She thanked the folks who put the Shorebird Festival on, it was fun and her family loved the junior birding opportunity. It's the last full week of school so there will be fewer school busses and kids out and about. She thanked the teachers, administrators, support staff, bus drivers, and everyone who makes the school year so successful. She thanked Raiden for his presentation tonight, his public speaking was pretty incredible for anyone, much less a 6th grader. The Farmers Market is starting Memorial Day weekend, there are a lot of things going on.

Councilmember Smith thanked the people who do stop and let pedestrians cross. He gave kudos to the Lady Mariner softball team and wished them luck going into Regions and hopefully winning State. He shared about going to have tacos with his son at Save U More and seeing a young man who didn't look like he was doing well. He visited with the young man for a bit, and encouraged others to reach out to people in need more often. We all have something to offer.

Councilmember Venuti thanked the Mayor for his resolution and comments about pedestrian crossings. She commented the KBC Graduation was on Wednesday and it was wonderful to see support for the graduates. GED students were there, Emilie Springer received her PHD in anthropology, and Carol Swartz was awarded a Professor Emeritus. That's the first time it's happened in Homer. She shared a poem written by Emilie Springer titled *Creating a Community Web* that talks about a fishing net and the community web.

ADJOURNMENT

There being no further business to come before the Council Mayor Castner adjourned the meeting at 7:25 p.m. The next Regular Meeting is Tuesday, May 28, 2019 at 6:00 p.m., Worksession at 4:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

Melissa Jacobsen, MMC, City Clerk

Approved: _____



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

Memorandum 19-059

TO: HOMER CITY COUNCIL
FROM: MAYOR CASTNER
DATE: MAY 28, 2019
SUBJECT: APPOINTMENT OF CHARLES BARNWELL TO THE PARKS, ART, RECREATION
& CULTURE ADVISORY COMMISSION AND REAPPOINTMENT OF FRANCO
VENUTI TO THE HOMER ADVISORY PLANNING COMMISSION

Charles Barnwell is appointed to the Parks, Art, Recreation & Culture Advisory Commission to fill the seat vacated by Caitlin Walls. Term expires October 31, 2021.

Franco Venuti is reappointed to the Homer Advisory Planning Commission with a term to expire July 1, 2022.

Recommendation: Confirm the appointment of Charles Barnwell to the Parks, Art, Recreation & Culture Advisory Commission and the reappointment of Franco Venuti to the Homer Advisory Planning Commission.



CITY OF HOMER
APPLICATION TO SERVE ON ADVISORY BODY
COMMISSION, BOARD, COMMITTEE, TASK FORCE

CITY CLERK'S OFFICE
CITY OF HOMER
491 E. PIONEER AVE
HOMER, AK 99603
PH. 907-235-3130
FAX 907-235-3143
clerk@cityofhomer-ak.gov

The information below provides some basic background for the Mayor and Council
This information is public and will be included in the Council Information packet

Received
City Clerk's Office
MAY 16 2019
City of Homer
Alaska RK

Name: Charles Barnwell Date: 5/16/19

Physical Address: 410 Crestwood Circle, Homer, AK. 99603

Mailing Address: same

Phone #: 907-602-1213 Cell #: same Work #: _____

Email Address: barnwellc@gmail.com

The above information will be published in the City Directory and within the city web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council

Please indicate the advisory body that you are interested in serving on by marking with an X.
You may select more than one.

ADVISORY PLANNING COMMISSION

1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 PM
WORKSESSION PRIOR TO EACH MEETING AT 5:30 PM

PARKS ART RECREATION & CULTURE ADVISORY COMMISSION

3RD THURSDAY OF THE MONTH AT 5:30 PM
NO MEETINGS IN JANUARY, JULY & DECEMBER

PORT & HARBOR ADVISORY COMMISSION

4th WEDNESDAY OF THE MONTH
OCT-APRIL AT 5:00 PM
MAY - SEPT AT 6:00 PM

ECONOMIC DEVELOPMENT ADVISORY COMMISSION

2ND TUESDAY OF THE MONTH AT 6:00 PM

CITY COUNCIL

2ND & 4TH MONDAY OF THE MONTH
SPECIAL MEETINGS & WORKSESSIONS AT 4:00 PM
COMMITTEE OF THE WHOLE AT 5:00 PM
REGULAR MEETING AT 6:00 PM

LIBRARY ADVISORY BOARD

1ST TUESDAY OF THE MONTH AT 5:30 PM
NO MEETINGS IN JANUARY, JUNE AND JULY

OTHER - PLEASE INDICATE

I have been a resident of the city for 25 years. I have been a resident of the area for 23 years.

I am presently employed at Kinney Engineering LLC (part time)

Please list any special training, education or background you may have which is related to your choice of advisory body.

M.S. Planning; B.S. Geology; ^{Master of} Anchorage GIS Mgr; Trails design and building - Anchorage & Kincaid single track, Hillside Jr. Nordic ski trails.

Have you ever served on a similar advisory body? If so please list when, where and how long:

Rabbit Creek Community Council board member, Head of Trails Committee; Jr. Nordic Trails Committee

Why are you interested in serving on the selected advisory body?

I think this is a crucial time in Homer's development to plan and implement trails and parks in the city.

Please list any current memberships or organizations you belong to related to your selection(s):

Kachemak Nordic Ski Club.

Please answer the following only if you are applying for the Advisory Planning Commission:
Have you ever developed real property other than a personal residence, if so briefly explain:

No.

Please answer if you are applying for the Port & Harbor Advisory Commission:
Do you use the Homer Port and/or Harbor on a regular basis?

Yes

No

What is your primary use? Commercial

Recreational

Please include any additional information that may assist the Mayor in his/her decision making:

When you have completed the application please review and return to the City Clerk's Office. You may also email this to clerk@cityofhomer-ak.gov or fax to 907-235-3143. Thank you for applying!



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

Memorandum 19-064

TO: Homer City Council
FROM: Mayor Castner
DATE: May 28, 2019
SUBJECT: Reappointment of Franco Venuti to the Kenai Peninsula Borough Planning Commission

Franco Venuti is reappointed to the Kenai Peninsula Borough Planning Commission with a term to expire July 31, 2022.

Recommendation: Confirm the reappointment of Franco Venuti to the Kenai Peninsula Borough Planning Commission.



F. Venuti ~ Box #3652 ~ Homer, Alaska 99603 ~ office (907)235-7480 ~ cell 399-1550

04/13/2019

Homer City Council
Mayor Ken Castner
City of Homer, Alaska

Dear Mayor Castner and members of the Homer City Council:

For the past three years I have had the honor of serving as the City of Homer representative on the Kenai Peninsula Borough Planning Commission. My term will expire on July 11, 2019. I am writing to request that I be re-appointed to this Commission. The Borough has asked that the City send a letter to Kenai Borough Mayor Charlie Pierce requesting I be re-appointed.

Thank you for serving this wonderful community and for considering my request.

Respectfully submitted,

F. Venuti
Homer, Alaska



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

May 7, 2019

Franco Venuti
PO Box 3652
Homer, AK 99603

Dear Mr. Venuti:

According to our records your term as Borough Planning Commissioner for the City of Homer will expire July 31, 2019.

If you are interested in serving another three (3) year term, please contact the City of Homer and have them send a letter to Mayor Charlie Pierce requesting that you be re-appointed. If you do not want to serve another term, please send a letter of resignation to the Mayor.

We would appreciate a response to this letter before June 11, 2019.

Sincerely,

Max J. Best
Planning Director

MJB:jah

cc: Blair Martin
KPB Planning Commission Chairman

CITY OF HOMER
HOMER, ALASKA

City Clerk

RESOLUTION 19-033

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
AWARDING THE ART WORK CONTRACTS FOR THE NEW
HOMER POLICE STATION PROJECT TO ROHLEDER BORGES
ARCHITECTURE OF SEATTLE, WASHINGTON, FOR THE
SCULPTURE, *TOGETHER, ASCEND*, IN THE AMOUNT OF
\$26,800 AND AUSTIN PARKHILL AND DAVID PETTIBONE OF
HOMER, ALASKA, FOR THE MURAL, *SANDHILL CRANES IN
FLIGHT*, IN THE AMOUNT OF \$20,000 AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE APPROPRIATE
DOCUMENTS.

WHEREAS, The Request for Proposals was advertised in the Homer News on February 7
and 14, 2019, CodaWORX.com (a website for collaboration of Design + Art); Two Plans Rooms
in the State and on the City's website; and

WHEREAS, Proposals were due by 4:30 p.m. on Thursday, April 4, 2019 and 12
responsive proposals were received by the City Clerk's Office; and

WHEREAS, The Art Selection Committee reviewed the proposals in accordance with
the criteria outlined and recommended awarding Rohleder Borges Architecture of Seattle,
Washington, an art contract for the sculpture entitled, *Together, Ascend* in the amount of
\$26,800 and Austin Parkhill and David Pettibone of Homer, Alaska an art contract for a mural
described as *Sandhill Cranes in Flight* in the amount of \$20,000; and

WHEREAS, The award is not final until notice is received by Rohleder Borges
Architecture of Seattle, Washington, and Austin Parkhill and David Pettibone of Homer,
Alaska, by the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby
awards an art work contract for the New Homer Police Station Project to Rohleder Borges
Architecture of Seattle, Washington for the sculpture, *Together, Ascend* in the Amount of
\$26,800 and Austin Parkhill and David Pettibone of Homer, Alaska for a mural described as,
Sandhill Cranes in Flight, in the Amount of \$20,000 and authorizes the City Manager to execute
the appropriate documents and proceed accordingly.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 28th day of May,
2019.

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CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: Acct. No. 151-7010 \$46,800 New Police Station Project



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

MEMORANDUM 19-062

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: 1% FOR ART SELECTION COMMITTEE - NEW POLICE STATION PROJECT

THRU: RENEE KRAUSE, MMC, DEPUTY CITY CLERK

DATE: MAY 6, 2019

SUBJECT: RECOMMENDATION FOR AWARDING THE NEW POLICE STATION PROJECT 1%
FOR ART CONTRACTS

The City Council approved appointments to the Art Selection Committee via Memorandum 19-020 at their regular meeting on February 11, 2019.

The Request for Proposals was approved and issued in accordance with Homer City Code 3.16 and 18.07 by the Selection Committee and advertised in the Homer News on February 7 & 14, 2019; listed with the Plans Rooms in the State; CodaWORX, a website that offers free advertising and industry resources for businesses, municipalities, governmental agencies with artists, designers and creative teams; and the City website.

One Addendum was issued, there were 13 artists and/or businesses listed on the Plan Holders List and 13 submissions were received of which 12 were considered responsive. One submission was received after the time and dated stated in the advertised Request for Proposal.

The Committee evaluated all responsive submissions in accordance with the criteria outlined in the Request for Proposals (RFP). Due to the number of submissions received and the quality of the proposals the Committee required three meetings, April 11th, April 25th and May 2, 2019 in order to review and evaluate proposals.

The Committee selected two proposals based on the concept, quality, how they related to the community as a whole and with the assistance of staff was able to negotiate with the selected artists to meet the given budget for the project.

Recommendation:

Approve the recommendation to award artwork contracts to Rohleder Borges Architecture of Seattle, Washington for the sculpture, *Together, Ascend* in the Amount of \$26,800 and Austin Parkhill and David Pettibone for the mural, *Sandhill Cranes in Flight* in the Amount of \$20,000 and authorize the City Manager to execute the appropriate documents.

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager

4 RESOLUTION 19-034

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6 A RESOLUTION OF THE HOMER CITY COUNCIL ESTABLISHING
7 THE CITY OF HOMER PROPERTY TAX MIL LEVY RATE AT 4.5
8 MILS FOR 2019.

9
10 WHEREAS, Homer City Code 9.04.040 states that the City Council must establish a mil
11 rate no later than June 15th of each year; and

12
13 WHEREAS, Council set the mil rate at 4.5 mils for 2019 with the adoption of budget
14 Ordinance 18-44(A); and

15
16 WHEREAS, The 4.5 mil rate established by Ordinance 18-44(A) will be maintained.

17
18 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby establishes
19 the City of Homer property tax mil levy rate at 4.5 mils for 2019 and authorizes the City
20 Manager to so inform the Kenai Peninsula Borough.

21
22 PASSED AND ADOPTED by the Homer City Council this 28th day of May, 2019.

23
24 CITY OF HOMER

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26 _____
27 KEN CASTNER, MAYOR

28
29 ATTEST:

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31 _____
32 MELISSA JACOBSEN, MMC, CITY CLERK

33
34 Fiscal Note: Estimated real property tax revenue \$3,075,573, Account No. 100-0005-4101.
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1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager

4 RESOLUTION 19-035
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6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 ESTABLISHING A 2019 MIL RATE OF 9.962541 MILS FOR THE
8 OCEAN DRIVE LOOP SPECIAL SERVICE DISTRICT.
9

10 WHEREAS, The City of Homer may by ordinance, establish, alter, and abolish
11 differential tax zones to provide and levy property taxes for services not provided generally in
12 the City, or a differential levy than that generally provided in the City; and
13

14 WHEREAS, The City Council adopted Ordinance 11-49(S) to create the Ocean Drive
15 Loop Special Service District to provide special services to the properties along the seawall to
16 include operation, maintenance, repair, reconstruction, improvement, insurance,
17 administration and other related activities conducted in the course of making and keeping the
18 seawall operational for its intended erosion control purpose; and
19

20 WHEREAS, The District is funded by a property tax levied on the properties in the
21 Special Service District; and
22

23 WHEREAS, HCC 15.10.020 provides that "The City Council shall annually set the mil
24 levy pursuant to Section 9.04.040"; and
25

26 WHEREAS, HCC 9.04.040 states that the City Council must establish a mil rate no later
27 than June 15TH of each year; and
28

29 WHEREAS, The mil rate established herein is in addition to the general real property
30 tax mil rate.
31

32 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby establishes a
33 2019 mil rate of 9.962541 mils for the Ocean Drive Loop Special Service District and authorizes
34 the City Manager to so inform the Kenai Peninsula Borough.
35

36 PASSED AND ADOPTED by the Homer City Council this 28th day of May, 2019.
37

38 CITY OF HOMER

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40 _____
41 KEN CASTNER, MAYOR
42

43 ATTEST:
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47 _____
MELISSA JACOBSEN, MMC, CITY CLERK

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49 Fiscal Note: Revenue \$25,000, Acct. 808-375-4518

Working Toward Solutions, Together

An Open Letter from the Alaska Municipal League to the Governor, and the Alaska State Legislature

As locally-elected officials in Alaska, mayors represent the needs and interests of 165 cities and boroughs in Alaska, or roughly 97% of Alaskans. We firmly believe that a stronger Alaska depends on strengthening local governments. Considering the Governor's proposed budget, we have expressed concerns that certain budget cuts would weaken our ability to support public safety, utilities and quality of life programs for residents.

In particular, we disagree with an approach that eliminates the sharing of petroleum property tax and fisheries tax with local governments; this \$450 million represents 25% of some budgets and more than 80% of others. We object to shifting \$900 million in school construction costs to local taxpayers, which would result in increased taxes for residential and commercial property owners. Shifting construction costs to local governments may also result in the inability to provide additional local contributions to support education. Finally, we are concerned that the cuts to the ferry, education, health, and the university do not reduce the size of the State government, but directly impact Alaskans on a day-to-day basis in their local communities.

We are encouraged by the Legislature's willingness to protect local governments and residents from the negative social and economic impacts of budget cuts, and we ask the Governor to respect the Legislature's FY20 budget.


We welcome this approach, which recognizes and builds on the important role of cities and boroughs in Alaska. In many ways, the Legislature's budget includes a community dividend, setting aside a portion of State revenue so that local governments can keep local taxes stable while continuing to provide essential services to residents. This puts decision-making back at the local level, which in many ways meets the Administration's goals to let the people decide. Alaskans can engage at the local level to determine how State resources are allocated within the community.


The governing boards of both the Alaska Municipal League and the Alaska Conference of Mayors, joined by many other mayors from across the State, ask that the Governor respect the hard work that has been taken up this year. Vetoes will not strengthen Alaska. But keeping Alaska's local governments healthy will. Let's work toward solutions, together.


Alaska's mayors call on the Governor to:


- Recognize the importance to communities of taxes on local economic activity, specifically Petroleum Property Tax and Shared Fisheries Taxes
- Keep the State's promises – do not shift School Bond Debt back to municipalities, and keep our ferry system whole.
- Restore trust in government – work with the Legislature toward a sustainable and fair dividend.
- Continue to reduce State spending over time, in partnership with local governments, and consider new revenue options.



Lloyd Davis
Mayor of Kake



Loren Jones,
Assembly – City and
Borough of Juneau



John Whiddon
Council – City of Kodiak


Mayor Alice Ruby
City of Dillingham



Mayor Andrew Cremata
City and Borough of Skagway



Mayor Bert Cottle
City of Wasilla



Mayor Bryce Ward
Fairbanks North Star Borough



Mayor Calvin Casipit
City of Gustavus


Mayor Christina Tippin
City of Point Hope

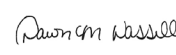

Mayor Clay Koplin
City of Cordova



Mayor Clay Walker
Denali Borough

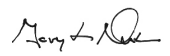

Mayor Dan O'Hara
Bristol Bay Borough

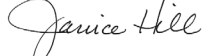

Mayor Daniel Harrelson
City of White Mountain



Mayor David Landis
Ketchikan Gateway Borough

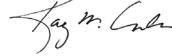

Mayor Dawn Wassilie
City of Newhalen


Mayor Frank Kelty
City of Unalaska



Mayor Gary Paxton
City and Borough of Sitka



Mayor Jan Hill
Haines Borough

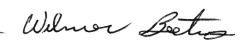

Mayor Jeremy O'Neil
City of Valdez



Mayor Kay Andrews
City of Aleknagik


Mayor Lucy Nelson
Northwest Arctic Borough


Mayor Mark Jensen
Petersburg Borough


Mayor Richard Tuluk
City of Chevak


Mayor Wilmer Beetus
City of Hughes


Pete Peterson
Assembly – Municipality of Anchorage


Sabrena Combs
Council – City of Palmer


Mayor Pat Branson
City of Kodiak



ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-20

An Ordinance of the City Council of Homer, Alaska Amending the 2019 Operating Budget to Appropriate Funds in the Amount of \$5,328,306 from the Police Station Reserve Account to Complete the New Homer Police Station Project and Authorizing the City Manager to Execute All Appropriate Documents Necessary to Complete the Project Within the Approved Budget.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting May 13, 2019 Introduction
Memorandum 19-050 from Public Works Director as backup

2. City Council Regular Meeting May 28, 2019 Public Hearing and Second Reading
Memorandum 19-050 from Public Works Director as backup

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Public Works Director

5 ORDINANCE 19-20
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
8 AMENDING THE 2019 OPERATING BUDGET TO APPROPRIATE
9 FUNDS IN THE AMOUNT OF \$5,328,306 FROM THE POLICE
10 STATION RESERVE ACCOUNT TO COMPLETE THE NEW
11 HOMER POLICE STATION PROJECT AND AUTHORIZING THE
12 CITY MANAGER TO EXECUTE ALL APPROPRIATE DOCUMENTS
13 NECESSARY TO COMPLETE THE PROJECT WITHIN THE
14 APPROVED BUDGET.
15

16 WHEREAS, The Police Station project design is essentially 100% complete, bond
17 monies have been received, and early site civil construction is proceeding; and
18

19 WHEREAS, Public Works (in negotiations with the Contractor) has established a
20 guaranteed maximum price for building construction; the scope and cost of other work
21 (inspection, 1% for art, furnishings and other miscellaneous items in support of the project)
22 have been established; and
23

24 WHEREAS, The anticipated project costs are within the budget established by the City
25 Council for the new police station and authorization to incur expenses beyond those previously
26 authorized are needed at this time (see Memorandum 19-050).
27

28 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
29

30 Section 1. The Homer City Council hereby amends the FY 2019 Operating Budget to
31 appropriate \$5,328,306 from the Police Station Reserve Account to complete the new police
32 station.
33

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
Revenue		
151-7010	Police Station Reserves	\$5,328,306
Expenditure		
151-7010	New Police Station Project	\$5,328,306

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41 Section 2. This is a budget amendment ordinance, is not of a permanent nature, and is
42 a non-code ordinance.
43

44 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 28th day of May, 2019.

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CITY OF HOMER

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KEN CASTNER, MAYOR

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53 ATTEST:

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57 _____
MELISSA JACOBSEN, MMC, CITY CLERK

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60 Introduction:

61 Public Hearing:

62 Second Reading:

63 Effective Date:

64

65 YES:

66 NO:

67 ABSTAIN:

68 ABSENT:

69

70 Reviewed and approved as to form:

71

72

73 _____
Katie Koester, City Manager

Holly Wells, Attorney

74

75 Date: _____

Date: _____



City of Homer

www.cityofhomer-ak.gov

Public Works

3575 Heath Street
Homer, AK 99603

publicworks@cityofhomer-ak.gov

(p) 907- 235-3170

(f) 907-235-3145

Memorandum 19-050

TO: KATIE KOESTER, CITY MANAGER
FROM: CAREY S. MEYER, PUBLIC WORKS DIRECTOR
DATE: MAY 7, 2019
SUBJECT: FINAL APPROPRIATION AUTHORIZATION NEW POLICE STATION – 3RD (FINAL) APPROPRIATION

Below is the original budget and existing/proposed expenditure authorizations approved or expected to be approved by the City Council regarding the new Police Station project:

	Approved Budget	Previous Appropriation	Currently Needed Appropriation
Building Construction	\$4,533,460	\$1,183,565	\$3,349,895
Sally Port	\$126,000		\$126,000
Civil Site Improvements	\$565,000	\$159,500	\$405,500
Accessory Buildings	\$350,000		\$350,000
Design (8% of construction)	\$473,829	\$473,829	
Inspection	\$139,362	\$39,500	\$99,862
1% for Art	\$45,335		\$45,335
Furnishings	\$145,000		\$145,000
Communications	\$205,000		\$205,000
Contingency (10%)	\$659,015	\$57,300	\$601,715
Repay HART for property	\$258,000	\$258,000	
Total Project	\$7,500,000	\$2,171,694	\$5,328,306

Previous appropriations authorized design, early civil site construction and other miscellaneous tasks. Design is effectively complete, civil site work is under contract and work has started. Bond monies have been received, a Guaranteed Maximum Price has been negotiated with the Contractor, art has been selected, and a significant contingency remains. To allow the project to proceed on various fronts, authorization to incur costs beyond the current appropriated funds is necessary.

Recommendation: The City Council pass an ordinance appropriating \$5,328,306 from the Police Station Reserve Account for completion of the new Homer Police Station project. (151-7010)

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

ORDINANCE 19-20(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA ACCEPTING AND APPROPRIATING THE POLICE STATION GENERAL OBLIGATION BOND PROCEEDS IN THE AMOUNT OF \$4,804,047 TO THE POLICE STATION FUND AND AMENDING THE 2019 CAPITAL BUDGET TO APPROPRIATE \$5,285,806 FROM THE POLICE STATION FUND TO COMPLETE THE NEW HOMER POLICE STATION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL APPROPRIATE DOCUMENTS NECESSARY TO COMPLETE THE PROJECT WITHIN THE APPROVED BUDGET.

WHEREAS, The Police Station project design is essentially 100% complete, bond monies have been received, and early site civil construction is proceeding; and

WHEREAS, Public Works (in negotiations with the Contractor) has established a guaranteed maximum price for building construction; the scope and cost of other work (inspection, 1% for art, furnishings and other miscellaneous items in support of the project) have been established; and

WHEREAS, The anticipated project costs are within the budget established by the City Council for the new police station and authorization to incur expenses beyond those previously authorized are needed at this time (see Memorandum 19-050).

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby appropriates the Police Station Building General Obligation bond proceeds in the amount of \$4,804,047 to the Police Station Fund as follows:

Revenue:		
<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
	Police Station GOB Proceeds	\$4,804,047
Transfer:		
<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-7010	Police Station Fund	\$4,804,047

44 Section 2. The Homer City Council hereby amends the FY 2019 Capital Budget to
45 appropriate \$5,285,806 from the Police Station Fund to complete the new police station.

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Revenue:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-7010	Police Station Fund	\$5,285,806

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-7010	Police Station Fund	\$5,285,806

Section 3. This is a budget amendment ordinance, is not of a permanent nature, and is
a non-code ordinance.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 28th day of May, 2019.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Introduction:
Public Hearing:
Second Reading:
Effective Date:

YES:
NO:
ABSTAIN:
ABSENT:

Reviewed and approved as to form:

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88 _____

89 Katie Koester, City Manager

90

91 Date: _____

Holly Wells, Attorney

Date: _____

1 CITY OF HOMER
2 HOMER, ALASKA

3 Mayor

4 ORDINANCE 19-21
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING THE 2019 OPERATING BUDGET TO APPROPRIATE
8 FUNDS IN THE AMOUNT OF \$104,000 FROM GENERAL FUND
9 FUND BALANCE AS A MID-YEAR BUDGET ADJUSTMENT TO
10 FUND ADDITIONAL FIRE DEPARTMENT PERSONNEL.
11

12 WHEREAS, The Homer Volunteer Fire Department is comprised of a small leadership
13 staff and volunteer fire and emergency medical personnel; and
14

15 WHEREAS, The Fire Chief has identified several areas of improvement necessary to
16 maintain or improve the City's ISO rating; and
17

18 WHEREAS, The ISO rating has a direct correlation to the insurance premiums that the
19 residents and businesses in Homer pay; and
20

21 WHEREAS, In order to effectively and efficiently provide personnel for 24 hours a day,
22 seven days a week coverage at the fire station, an additional full-time Emergency Service
23 Specialist is needed; and
24

25 WHEREAS, the annualized cost for an employee in that classification, including
26 benefits, is ~\$86,200; and
27

28 WHEREAS, In 2018, more than three quarters of the emergency responses involved an
29 EMS (medical ambulance) response; and
30

31 WHEREAS, The Fire Chief has also identified the necessity of hiring an Assistant Chief
32 for Emergency Medical Services to fulfill and maintain the high degree of the training
33 necessary for effective response; and
34

35 WHEREAS, The annualized cost for an employee in that classification, including
36 benefits, is ~\$121,000; and
37

38 WHEREAS, The combined cost for the two positions, which by this Ordinance are
39 funded from July 1, 2019 through the remainder of the fiscal year, is \$104,000; and
40

41 WHEREAS, Nothing in this Ordinance prevents the City Manager from hiring either or
42 both positions using her budgetary authority, for the interim period between the effective date
43 of this Ordinance and the July 1 funding provision; and
44

45 WHEREAS, The City of Homer is financially healthy with the fourth quarter report of
46 the 2018 City of Homer Operating Budget indicating an unaudited surplus of about \$736,000.
47

48 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
49

50 Section 1. The Homer City Council hereby amends the FY 2019 Operating Budget to
51 appropriate \$104,000 from the General Fund Fund Balance for additional Fire Department
52 personnel.
53

Revenue:

<u>Account No:</u>	<u>Description</u>	<u>Original</u>	<u>Amended</u>
100-0099-4990	Operating Transfers (Other)	\$614,843	\$718,843

Expenditure:

<u>Account No:</u>	<u>Description</u>	<u>Original</u>	<u>Amended</u>
100-0150-5101	Fire Admin Salary and Wages	\$152,442	\$175,602
100-0150-5102	Fire-Admin Fringe Benefits	\$ 90,859	\$104,119
100-0151-5101	Fire Services Salary and Wages	\$148,262	\$161,137
100-0151-5102	Fire Services Fringe Benefits	\$ 84,312	\$ 93,087
100-0152-5101	EMS Salary and Benefits	\$148,262	\$176,577
100-0152-5102	EMS Fringe Benefits	\$ 84,312	\$101,927

54
55 Section 2. This is a budget amendment ordinance, is temporary in nature, and shall not
56 be codified.
57

58 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 28th day of May, 2019.
59

60 CITY OF HOMER
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63 _____
64 KEN CASTNER, MAYOR
65

66 ATTEST:
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68 _____
69 MELISSA JACOBSEN, MMC, CITY CLERK

70 Introduction:
71 Public Hearing:
72 Second Reading:
73 Effective Date:

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YES:
NO:
ABSTAIN:
ABSENT:

Reviewed and approved as to form:

Katie Koester, City Manager

Date:_____

Holly Wells, Attorney

Date:_____

ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-22

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.05.030 to Change How Building Height is Measured within Areas of Special Flood Hazard.

Sponsor: Smith/Erickson

1. City Council Regular Meeting May 13, 2019 Introduction

Memorandum 19-053 from City Planner as backup

2. City Council Regular Meeting May 28, 2019 Public Hearing and Second Reading

Memorandum 19-053 from City Planner as backup

1 CITY OF HOMER
2 HOMER, ALASKA

Smith/Erickson

3
4 ORDINANCE 19-22

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 21.05.030 TO CHANGE HOW
8 BUILDING HEIGHT IS MEASURED WITHIN AREAS OF SPECIAL
9 FLOOD HAZARD.

10
11 WHEREAS, The building height limit is generally 35 feet which usually allows for three
12 stories of construction; and

13
14 WHEREAS, Buildings located within a special flood hazard area are required to be
15 elevated above the regulatory flood plain, which may cause a three-story structure to be taller
16 than 35 feet; and

17
18 WHEREAS, Buildings of three stories can be accommodated by excluding the distance
19 between grade and the required flood plain elevation when calculating building height, and

20
21 WHEREAS, Buildings must be elevated one foot above base flood elevation under HCC
22 21.41.220, 21.41.240 and 21.41.250 ; and

23
24 WHEREAS, Federal Emergency Management Agency guidance offers incentives for
25 higher flood protection, such as buildings two feet above the base flood elevation, and may
26 require this in the future; and

27
28 WHEREAS, Amending how building height is calculated within special flood hazard
29 areas, with allowance for increased building elevation above the base flood elevation is in the
30 long term interests of the City and will provide additional protection for structures within flood
31 hazard areas.

32
33 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

34
35 Section 1. The Homer City Council hereby amends Homer City Code 21.05.030 to read
36 as follows:

37
38 21.05.030 Measuring heights.

39
40 a. When measuring height of a building, the following are included in the
41 measurement: screening, parapets, mansards or similar structures.

42 b. When measuring height of a building, the following are excluded from the
43 measurement:

44
[Added language bold and underlined.] ~~Deleted language stricken through.~~

45 1. Steeples, spires, belfries, cupolas and domes if not used for
46 human occupancy, chimneys, ventilators, weather vanes, skylights, water tanks,
47 bulkheads, monuments, flagpoles, wind energy systems, television and radio
48 antennas, other similar features, and necessary mechanical appurtenances
49 usually carried above roof level.

50
51 2. Wireless communications equipment that does not extend more than 10 feet
52 above the height of the building.

53
54 **3. For buildings located within an area of special flood hazard, the vertical**
55 **distance between grade and the base flood elevation plus two feet is**
56 **excluded from the calculation of building height.**

57
58 c. When determining building height on a sloping lot, building height shall be
59 calculated as follows: more than 50 percent of the perimeter of the building shall
60 meet the maximum building height requirements; the maximum elevation of
61 the remainder of the building shall not exceed the elevation of the first portion
62 nor add more than 12 feet of building height at any point.

63
64 d. When determining the height of a nonbuilding structure, such as a sign,
65 fence, amateur radio tower, communications tower or wireless communications
66 support structure, the height shall be calculated as the distance from the base of
67 the structure at normal grade to the top of the highest part of the structure,
68 excluding lightning rods. For this calculation, normal grade shall be construed to
69 be the lower of (1) existing grade prior to construction or (2) the newly
70 established grade after construction, exclusive of any fill, berm, mound, or
71 excavation made for the purpose of locating or supporting the structure. In
72 cases in which the normal grade cannot reasonably be
73 determined, structure height shall be calculated on the assumption that the
74 elevation of the normal grade at the base of the structure is equal to the
75 elevation of the nearest point of the crown of a public street or the grade of the
76 land at the principal entrance to the main building on the lot, whichever is lower.

77
78 Section 2. This Ordinance is of a permanent and general character and shall be
79 included in the Homer City Code.

80
81
82 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this 28th day of May, 2019.

83
84 CITY OF HOMER

85
86 _____
87 KEN CASTNER, MAYOR

88
[Added language bold and underlined. Deleted language stricken through.]

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ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and Approved as to form and content:

Katie Koester, City Manager

Holly Wells, City Attorney

Date: _____

Date: _____

[Added language bold and underlined. Deleted language stricken through.]



City of Homer

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MEMORANDUM 19-053

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
THROUGH: KATIE KOESTER, CITY MANAGER
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: MAY 1, 2019
SUBJECT: BUILDING ELEVATION IN A FLOOD HAZARD AREA

At the request of the City Council, the Planning Commission has reviewed options for building elevation in areas subject to regulatory requirements for flood elevation per Memorandum 19-016. This item was a subject of four meetings of the Commission, including a public hearing at the Commission's meeting on April 17, 2019.

The Commission proposes that the building height be measured at the base flood elevation (BFE) as determined by FEMA mapping plus two feet (BFE +2). The regulatory minimum standard for building elevation is currently BFE +1. FEMA encourages additional freeboard (above +1) and offers lower flood insurance rates for those that exceed the minimum requirements. Recent news articles also suggest that they are considering raising the current standard to BFE +2.

The Commission's recommendation of BFE +2 allows for the incorporation of flood elevations and allows structures to exceed the minimum FEMA elevation requirements while allowing the structures to build to the height allowances in code.

It was moved and approved by unanimous consent that the Commission forward the draft ordinance to City Council for approval.

Attachments

Staff reports & minutes from the following recent Planning Commission meetings:

- March 6, 2019
- March 20, 2019
- April 3, 2019
- April 17, 2019

Bookmark Summary

March 6, 2019 Planning Commission Meeting

March 6, 2019 Planning Commission Work Session Agenda

Staff Report 19-20 Review of Height Restrictions

Robert Purcell email excerpt

Memo 19-016 from City Council

Josh Garvey comment

Minutes excerpt

March 20, 2019 Planning Commission Meeting

Staff Report 19-25 Building Height Definition

Minutes excerpt

April 3, 2019 Planning Commission Meeting

Staff Report 19-29 Building Height

Email from Commissioner Smith re: EEMU height limit

Minutes excerpt

April 17, 2019 Planning Commission Meeting

Staff Report 19-33 Amending HCC 21.05.030 Measuring Heights

Draft Ordinance

Public Notice Advertisement

Minutes excerpt

**NOTICE OF MEETING
WORKSESSION AGENDA**

1. **CALL TO ORDER, 5:30 P.M.**
2. **REGULAR AGENDA**
3. **Staff Report 19-20, Building Height Maximum**
4. **PUBLIC COMMENTS**
The public may speak to the Planning Commission regarding matters on the work session agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).
5. **COMMISSION COMMENTS**
6. **ADJOURNMENT, 6:30 P.M.**



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Staff Report PL 19-20

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: March 6, 2019
SUBJECT: Review of height restrictions

Introduction We have been asked to look into regulations regarding the calculation of the maximum height of a structure when subjected to a flood elevation requirement. We have scheduled Robert Purcell to speak of the regulatory consequences of height restrictions.

Analysis While we were tasked in a specific manner to address one issue, there are other scenarios we should evaluate. One being the general definition of the measurement of height, regardless if located on land that is subject to elevation requirements.

Current code:

“Building height” is the vertical distance from grade to the maximum point of measurement of the building, measured according to HCC 21.05.030.

Another issue is about height in general. How would a greater or lower height allowance effect health, safety, and welfare?

These are just some subjects that come to mind in height conversation.

Staff Recommendation

Discuss possible steps forward.

Attachments:

Purcell email excerpt

Memo 19-016



Memorandum 19-016

TO: HOMER ADVISORY PLANNING COMMISSION
FROM: COUNCILMEMBERS SMITH AND ERICKSON
THROUGH: HOMER CITY COUNCIL
DATE: JANUARY 28, 2019
SUBJECT: PLANNING COMMISSION REVIEW OF REGULATORY REQUIREMENT FOR FLOOD
ELEVATION ON HOMER SPIT

It has come to our attention that structures subject to increasing regulatory requirements for flood elevation may become noncompliant with height requirements due to circumstances out of their control.

Homer's participation in Federal Emergency Management Association (FEMA) Flood Insurance Program requires that new and rebuilt structures must elevate the bottom floor. This elevation is subject to change and is subject to increases in the future. **Compliance with FEMA's Flood Insurance Program** is critical for area wide insurance ratings and eligibility for FEMA funding.

The purpose of this memo is to request that the Planning Commission review the topic and consider a height allowance based on FEMA elevation requirements and prepare a draft Ordinance for review by City Council.

From: Josh Garvey <ceo@endofthespit.com>
Sent: Tuesday, March 05, 2019 5:20 PM
To: Travis Brown; Rick Abboud
Cc: Jonathan Faulkner; steve agni
Subject: FW: City Rules for Building Height
Attachments: 3.6.19 WS.pdf; SR 19-20 height restrictions.pdf

Travis,

Thank you for keeping me in the loop on this. I will plan on attending this meeting.

While I appreciate the planning commission looking at building height restrictions for buildings with elevation requirements such as Land's End Resort, I would also suggest that this scope be broadened to include all structures in city limits, regardless of whether or not they have elevation requirements. These overly restrictive height requirements drastically reduce economic investment and development throughout the city and contribute to our overall housing shortage, especially in the low-mid income housing market.

Now that the insurance ISO ratings supposedly driving the height restrictions are not a factor, I really hope the planning commission will act quickly to recommend changes.

Thank you,

Josh Garvey
Land's End Acquisition Corp. – CEO
Phone: 907-235-0470
Cell: 907-299-4577
Fax: 907-235-0430
Email: ceo@endofthespit.com



...Just The Beginning

- Further discuss permitting more than one structure in the GC2, this includes application of the Design Manual which is triggered by Conditional Use Permits in the CBD, this does not apply in the GC1 and GC2

Discussion ensued on the large project requirements commercial versus residential; Addressing the more than one structure in the commercial districts, open GC2, GC1 there were a few more considerations and in the CBD there were even more restrictions to consider.

City Planner Abboud responded that over time maybe one or two Conditional Use Permits were issued when comparing the “more than one structure” category with “over 8000 sf” category.

Further discussion on the things that the City oversees versus what they should be concerned about ensued and that those items fell under a Building Department not planning and zoning. The commission commented that it should forward a recommendation to Council that the Commission has thoroughly reviewed the Conditional Use process and that it does not believe there is any way to sufficiently amend the City Code to reduce the number of applications since there are too many variables other than the Code Amendments the commission spoke about tonight.

City Planner Abboud will wrap up what they talked about here bring it back for the Commission review and public hearing.

NEW BUSINESS

- A. Staff Report 19-20, Building Height Maximum

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud commented on the topic and learning about the availability of residential sprinkler systems, three story buildings and how they measure height from Fire Chief Purcell at the worksession. He is not sure what direction to take on this issue noting that the City could possibly eliminate the issue of three stories if they are sprinklered.

Further discussion ensued with the Commission commenting on the following topics:

- FEMA requirements for the Spit and how that effects the height requirements
- Commercial three story building requirements on Fire Suppression systems
- Requiring conditions for commercial
- Evaluation of East End Mixed Use and codify the height with an exception in one district, Marine Commercial
- The need for three story commercial buildings
- Recommend Staff draft sprinkler code and bring back more info on the proposed regulation
- Have Fire Department involvement

Chair Venuti provided historical information on sprinkler system requirement in residential projects for the State.

INFORMATIONAL MATERIALS

- A. City Manager's Report for the February 11, 2019 Homer City Council meeting

COMMENTS OF THE AUDIENCE

COMMENTS OF THE STAFF

Deputy City Clerk Krause expressed apologies for omitting the page numbers on the Chair's Agenda.

City Planner Abboud commented on the holding the worksessions and further in development they haven't created a record to document the discussion such that they had tonight with Fire Chief Purcell. This is used to provide Council documentation of their work.

COMMENTS OF THE COMMISSION

Commissioner Bos stated that it was a good meeting and was disappointed that no one stayed in the audience like they had for the worksession. He believes that the worksessions are valuable and provide the Commission an opportunity to make worthwhile process on the issues before them.

Commissioner Bernard will be absent for the March 20th commission meeting.

Commissioner Bentz echoed Commissioner Bos' sentiments on the worksessions as it allows them to work through the details without the pressure of Robert's Rules and noted that she will not be attending the March 20th meeting either.

Commissioner Smith is finally not feeling like a rookie and really sees that they are a board that is advocating for the development of Homer and that they advocate and facilitate for the individual but with concern for the whole. He noted that he is learning the language and working with Council and so forth. He appreciates how everyone is diligent and works through everything with respect for each other. Tonight was very interesting and he thoroughly enjoyed it.

Commissioner Banks is a fan of the worksessions and believes they are pretty useful for the commission, educating them on a broad variety of subjects and toss around ideas. It is a prerequisite for decisions. He noted that they are going to finalizing a few things on their worklist and getting them completed before summer.

Chair Venuti appreciated the worksessions also and agreed that it was a good meeting tonight.



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Staff Report PL 19-25

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: March 20, 2019
SUBJECT: Building Height Definition

Recap from 2/6/19 Work Session and Regular Meeting

Chief Purcell spoke at the last work session about Insurance Services Office (ISO) ratings, building height, life safety, fire department capabilities, and sprinkler systems. In summary, he provided information about the change in ISO ratings and evaluations, and that a building height of 35 feet was no longer the standard. He states in his email of February 26th that the new ISO standard is three stories, or 32 feet or more measured from ground to eaves. This new standard allows for more flexibility in roof design. Additionally, he recommended in his email that all three-story buildings have full fire sprinkler systems installed.

The current building height limit of 35 feet does allow for a three-story building, but limits a developer to a very low pitch roof. Changing the definition of building height, or how it is calculated, will give developers a little more leeway in roof design. Chief Purcell does not think that a small change in building height will affect the community's ISO rating. However, it is relevant from a life safety perspective, all three-story buildings, regardless of final roof height, should be sprinkled.

Based on Chief Purcell's comments, and Memorandum 19-016, the Planning Commission is looking at several topics related to building height. Staff would like to work through one to two topics per meeting. The 'topic list' as staff understands it is provided below.

1. Building height calculation in flood hazard areas
2. Definition of building height and grade
3. Existing sprinkler requirements in three story commercial structures
4. Building heights in EEMU, GC1, GC2, MC, MI
5. Sprinkler requirements for all three-story buildings, including residential
6. Should there be an allowance for buildings higher than 35 feet in the CBD?

Staff comment: This staff report has two sections below. The first section will address a possible code amendment to respond to Memorandum 19-016, regarding building height in flood hazard areas. The second section contains a discussion of the definitions of building height and grade. **Recommendation:** Work through section one and provide direction to the City Planner for next steps. Time allowing, discuss section two; does the city want to amend its height definition to allow for greater roof design variation? (We would follow that conversation up with a discussion of sprinklers, but first, does the Commission want to pursue this topic?)

Section 1 Building height in flood zones

Analysis

Staff has provided draft language for amending HCC 21.05.030, measuring heights. While there is a general standard of a 35 foot height limit, Homer City Code also specifies how this vertical distance is measured. See # 3 below. The proposed amendment would exclude the vertical distance for the required flood elevation, from the measurement of building height.

21.05.030 Measuring heights.

a. When measuring height of a building, the following are included in the measurement: screening, parapets, mansards or similar structures.

b. When measuring height of a building, the following are excluded from the measurement:

1. Steeples, spires, belfries, cupolas and domes if not used for human occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads, monuments, flagpoles, wind energy systems, television and radio antennas, other similar features, and necessary mechanical appurtenances usually carried above roof level.

2. Wireless communications equipment that does not extend more than 10 feet above the height of the building.

3. Elevation from grade to lowest horizontal structural member of the lowest floor for buildings located within an area of special flood hazard.

c. When determining building height on a sloping lot, building height shall be calculated as follows: more than 50 percent of the perimeter of the building shall meet the maximum building height requirements; the maximum elevation of the remainder of the building shall not exceed the elevation of the first portion nor add more than 12 feet of building height at any point.

d. When determining the height of a nonbuilding structure, such as a sign, fence, amateur radio tower, communications tower or wireless communications support structure, the height shall

be calculated as the distance from the base of the structure at normal grade to the top of the highest part of the structure, excluding lightning rods. For this calculation, normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any fill, berm, mound, or excavation made for the purpose of locating or supporting the structure. In cases in which the normal grade cannot reasonably be determined, structure height shall be calculated on the assumption that the elevation of the normal grade at the base of the structure is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the main building on the lot, whichever is lower. [Ord. 14-18(A)(S-2) §§ 2, 3, 2016; Ord. 09-34(A) § 3, 2009; Ord. 08-29, 2008].

Part 1 Staff recommendation: Discuss the code amendment proposed above. Ask for any additional information needed, and when ready, ask staff to draft an ordinance.

Part 2 Building height and grade Analysis

Homer generally has a current height limit of 35 feet. While it is possible to build a three story building in 35 feet, the options for roof design are limited. Additionally, from Chief Purcell's information, 35 feet is no longer a standard that merits strict adherence. There is a lot more conversation to be had about sprinklered buildings, but for the start of this topic, is the Commission interested in amending code to allow for roof variation?

Staff has included zoning code language from Kenai and Soldotna. Both communities have adopted the building code and have a building permit review and inspection process. Staff brings this up because the adopted zoning code may have district height limitations, but may not be the definitive measure of height – or grade. This conversation about the relationship and effect of a building code vs the zoning code is rapidly advancing beyond what Homer planning staff is knowledgeable about.

Homer City Code: *"Building height" is the vertical distance from grade to the maximum point of measurement of the building, measured according to HCC 21.05.030.*

"Grade" in reference to adjacent ground elevation means the lowest point of elevation of the existing surface of the ground within the area between the structure and a line five feet from the structure.

Soldotna: "Building Height" means the vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building is the maximum height of any segment of the building. *(Staff note – generally, heights range from 36-48 feet)*

Kenai: “Building Height” means the vertical distance from the “grade,” as defined herein, to the highest point of the roof. *(Staff note: generally a 35 foot height limit in residential districts)*

“Grade (Ground Level)” means the average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five (5) feet of a public sidewalk, the ground level shall be measured at the sidewalk.

2003 IBC Building Height: The vertical distance from grade plane to the average height of the highest roof surface.

Part 2 Staff Recommendation: Be familiar with Homer definitions of height and grade. Briefly discuss if any changes should be considered, and provide staff direction. Should the City consider a code amendment to allow for more varied rooflines than are allowed under current code?

Attachments

Memorandum 19-016
Minutes excerpt from 3/6/19 meeting
2/26/19 email From Chief Purcell

Motion failed.

Commissioner Smith commented that he was in support on going forward with direction from City Council.

Chair Venuti requested a motion to forward a request to City Council.

Commissioner Bos stated he would support the statement made previously by Commissioner Banks.

Deputy City Clerk Krause read the statement:

BOS/BANKS MOVED TO REQUEST DIRECTION FROM CITY COUNCIL TO UPDATE THE PLANNING AND ZONING SECTION OF THE CLIMATE ACTION PLAN.

There was no discussion.

Chair Venuti inquired if there was any dissent to the motion. Dissent was indicated. Chair Venuti requested a roll call vote.

VOTE. YES. BANKS, BOS, SMITH, VENUTI

VOTE. NO. HIGHLAND.

Motion carried.

C. Staff Report 19-25, Building Height

Chair Venuti introduced the item by reading of the title.

City Planner Abboud provided information and review on the discussion from the worksession with Fire Chief Purcell regarding ISO rating and building height limitations. He referenced the memorandum in the packet and suggested the Commission work through section one and if time allowed section two.

City Planner Abboud provided a brief explanation on how the vertical distance is measured currently in Homer City Code 21.35.030. He clarified how effectively the Fire Department fights fire now as well as he understood Chief Purcell's explanation.

Further discussion and comments ensued on determining building heights and how the determination of 35 feet in maximum height.

City Planner Abboud recommended waiting on having a discussion or recommendation on sprinkler system regulations. He reaffirmed that he is not advocating a blanket increase for building height.

Commissioner Banks recommended specificity in location on the structural member.

City Planner Abboud responded that in addressing the particular location this was the recommended language from FEMA.

Commissioner Smith reiterated a discussion the Commission had at the last meeting that whatever they drafted they would submit it to the Fire Chief for review before submittal to Council. He then informed the Commission that he had a discussion with one local company who advocated for 52 feet height limit and is currently playing phone tag with another company and suggested that they have a worksession prior to the next meeting with those two for official communication so the Commission can have a discussion on height limitations in Commercial versus Residential applications to allow for flexibility.

Chair Venuti inquired if Commissioner Smith was making a motion.

City Planner Abboud did not recommend addressing residential unless the Commissioners felt it was really necessary. He preferred to review it by district.

There was a brief discussion on further review and proper input on the issue and bringing it back for additional discussion by the Commission.

D. Staff Report 19-26, Permitting Process and Building Location Verification

Chair Venuti introduced the item by reading of the title into the record.

City Planner Abboud provided a very brief summary of requested action for Staff by the Commission.

Commissioners recommended inviting local contractors, surveyors, realtors and person who performed clearing and or dirt work.

City Planner Abboud responding to a question from Chair Venuti that there was one issue within the last year before the commission that was required to purchase additional property and had to replat their property.

Additional discussion was entertained on the following points:

- adding the requirement of providing an Asbuilt upon completion of the project
- Making it a requirement of the conditional use permitting process
- Good conversation the commission should have in a worksession
- Preference to leave some ability for conceptual planning



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Staff Report PL 19-29

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 3, 2019
SUBJECT: Building Height

Introduction

- The goal at this meeting is for the Commission to continue discussions on building height. We will continue working from last meeting's staff report, SR 19-25. It is attached to this report with the minutes.
- Commissioner Smith provided an email about some conversations he has had with businesses located in the East End Mixed Use District. Currently, EEMU allows for a building height of 35 feet. I'd like the Commission to think of some questions they would ask the business owners and the Fire Chief, so that staff can put together a work session in May.
- What is the level of interest on the Commission to require sprinklers on all three-story buildings – residential and commercial? What additional information would you like to have prior to making a recommendation?

Analysis

Staff has continued to analyze the draft code amendment concerning building height measurement, within a flood area. The language below is staff's new recommendation:

For buildings located within an area of special flood hazard, the vertical distance between grade and the Base Flood Elevation (BFE) plus two feet is excluded from the calculation of building height.

If the Commission is satisfied with this language, please make a motion and move to public hearing.

Attachments

1. Staff report 19-25 from 3/20/19 meeting
2. Minutes excerpt from 3/20/19 meeting
3. Email from Commissioner Smith re: EEMU height limit

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

A. Staff Report 19-29, Building Height Maximum

Chair Venuti introduced the item into the record by reading of the title.

Deputy City Planner Engebretsen reviewed the three items of action that is requested of the Commission:
1. Approve the recommended amended language, *for buildings located within an area of special flood hazard, the vertical distance between grade and the Base Flood Elevation (BFE) plus two feet is excluded from the calculation of building height* and forward to Public Hearing.

Deputy City Planner Engebretsen explained that in further review of the existing city code that this recommendation would fit the broadest number of categories, it could be a future standard.

Commissioner Bentz questioned the typical vertical distance for applicable properties.

Deputy City Planner Engebretsen responded that it would be dependent on the location as the Spit, Beluga Lake or Old Town would be different. She noted that it addresses the request from Council and does not answer all the questions with Building Height issue and moving forward this would be one solution.

BOS/HIGHLAND MOVE TO AMEND HOMER CITY CODE CONCERNING BUILDING HEIGHT MEASUREMENT WITHIN A FLOOD AREA WITH LANGUAGE RECOMMENDED IN STAFF REPORT 19-29 AND MOVE TO A PUBLIC HEARING.

There was a discussion on possible issues with height, definition of grade, and nuances in city code. There was some concerns expressed by the Commission with creating more issues especially with a limitation of 35 feet and that this would address the difference in the height that due to flood issues you could not build.

Clarification was provided by Staff:

- that the recommendation was to address specific issues as requested;
- was not particularly time sensitive
- easier to address specific sections than the whole
- This change does not allow additional usable occupied space in the structure

Chair Venuti asked if there was any dissent to the motion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Smith spoke with some business owners in EEMU who recommended building heights and Staff would like input from Commission on scheduling a worksession with these businesses and the Fire Chief to discuss building heights and sprinkler systems.

Discussion ensued by the Commission on points of interest in addressing during the worksession for the following:

- EEMU as industrial uses, No residential space in the buildings or use of short term rentals.
- Viewshed issues
- Possible limitation of residential use to the first floor only
- Composition of structure steel versus wood due to size
- Fire Marshall approval requirement
- The use of combustible materials used in the boat building industry

Item three for discussion was Fire Sprinkler System requirements for three story buildings

Deputy City Planner Engebretsen inquired what additional information the commission required before making a recommendation.

Discussion ensued and covered the following points:

- Information on measurements
- Definition in city code for "story" there is definitions to support the determination of a 2 or 3 story building
- Consideration of a building that is on pilings/piers
- If a structure has a daylight or basement that is considered a story
- Building a structure with 8 foot walls and height to 30 feet would allow only for a flat roof
- Most residential buildings are 1 or 2 story

Commissioner Banks expressed concern if the discussion should follow building heights instead of preceding it stating that currently there is probably not many, if any 3 story commercial buildings. He opined that the Commission should consider building heights then sprinkler systems.

There was a brief discussion on applying the standard language when speaking with the contractors and outlining the schedule for discussion on building height and sprinklers for the meetings in April, May and June.

Discussion ensued briefly on fire service to structures that are higher than the Fire Department is able to service further comments on choosing not to regulate to that standard.

B. Staff Report 19-30, Permitting Process and Building Location Verification

Chair Venuti noted the feedback received during the worksession.

Commissioners then commented on the following:

- lack of the perspective from a surveyor and emphasized the benefits from hearing from that profession
- enforcement of regulations
- Asbuilts

To: Rick/Travis
From: Scott Smith
Date: March 27, 2019
Re: EEMU Build Height Discussion

Greetings,

I was finally able to have a talk with Ken Moore, owner of Northern Enterprises. He offered insights on the inability to truly serve the growing Homer fleet of vessels due to the current building height limitations.

He reflected on how most commercial boat owners have to build temporary sheds often costing in excess of \$20,000 to be able to work on their vessels. These temporary structures are built as extensions to structures owned by Northern Enterprises to facilitate the needed repairs and alterations. Mr. Moore said they dreaming of building a structure that would have 50' to 60' doors into which a commercial vessel could fully fit without the need to build a temporary shed. If the Planning commission could increase the building height in this area, they would probably move forward with construction. He offered the building would need sufficient height to have a sloped roof rather than flat roof which has much higher maintenance costs, which will need to be considered in the discussion.

Both Mr. Moore and Mr. Alan Engebretsen would attend a Work Session to answer direct questions from the Planning Commission. Mr. Moore is in Utah and would need to be phoned in. Mr. Moore suggested we include Eric Sloth, owner of Sloth Boats, who does additions and repairs on fiberglass boats in Homer.

Mr. Engebretsen offered a building of 52' would be very helpful toward their desired growth. He has other suggestions that are worthy of consideration.

I am suggesting we have a work session soon including these three men to discuss the topic of Building Height in the EEMU district as soon as possible. I am happy to set this up.

Contact information:

Alan Engebretsen	907-399-4895
Ken Moore	907-299-0188
Eric Sloth	907-435-7881



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Staff Report PL 19-33

TO: Homer Advisory Planning Commission
FROM: Julie Engebretsen, Deputy City Planner
DATE: April 17, 2019
SUBJECT: Amending HCC 21.05.030 Measuring Heights

Introduction

The Homer City Council sent Memorandum 19-016 to the Homer Advisory Planning Commission in January 2019. The Council requested the Commission review the requirements for elevating buildings within flood zones on the Spit, in regard to building height limits. The Commission discussed building height at their 2/6/2019 work session, and March 6th, March 20th and April 3rd meetings. The Commission determined that amending how building height is measured in special flood hazard areas would address the issue of buildings that exceed the 35-foot building height limit due to flood plain requirements to elevate the building. The Planning Commission is working on several topics relating to building height, and further amendments are expected over the coming months.

Analysis

FEMA requires buildings to be elevated above the designated flood plain. Further elevation of one foot is a recognized best practice and is required by the City. Elevating the building two feet above the floodplain is not a regulatory requirement at this time, but property owners receive a discount on insurance.

HCC 21.05.030 Measuring Heights, describes how building height is measured, and includes exceptions to those rules. The proposed ordinance would create a new exclusion from building height measurement. The distance from the ground (grade) to two feet above the base flood elevation would not be included in the measurement of building height.

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: 2018 Comprehensive Plan Chapter 4 Land Use Goal 3 Objective A supports creating a clear, coordinated regulatory framework to guide development. The code amendment will reduce conflict between flood hazard regulations and building height regulations.

b. Will be reasonable to implement and enforce.

This amendment will be reasonable to implement and enforce. All new or substantially improved structures planned within areas of special flood hazard are required to provide pre and post construction elevation certificates from a licensed surveyor.

c. Will promote the present and future public health, safety and welfare.

This amendment promotes health, safety and welfare by preserving the right of building a three-story building while allowing the structure to be elevated above the flood hazard area.

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, and forward a recommendation to the City Council.

Attachments

1. Draft Ordinance
2. Memorandum 19-016 CC

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**CITY OF HOMER
HOMER, ALASKA**

-Sponsor

ORDINANCE 19-xx DRAFT

AN ORDINANCE OF THE CITY COUNCIL, AMENDING HOMER CITY
CODE 21.05.030(b) TO CHANGE HOW BUILDING HEIGHT IS
MEASURED WITHIN AREAS OF SPECIAL FLOOD HAZARD.

WHEREAS, The building height limit is generally 35 feet which allows for three stories;
and

WHEREAS, Buildings located within a special flood hazard area are required to be
elevated above the regulatory flood plain, which may cause a three story structure to be
nominally taller than 35 feet; and

WHEREAS, Buildings of three stories can be accommodated by excluding the distance
between grade and the required flood plain elevation when calculating building height, and

WHEREAS, Buildings must be elevated one foot above Base Flood Elevation under HCC
21.41, 21.41.240 and 21.41.250 ; and

WHEREAS, FEMA guidance offers incentives for higher flood protection, such as
buildings two feet above the Base Flood Elevation, and may require this in the future; and

WHEREAS, Amending how building height is calculated within special flood hazard
areas, with allowance for advanced, superior proactive elevation is in the long term interests
of the city to protect structures win flood hazard areas.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.05.030(b)(3) is hereby amended to read as follows:

**3. For buildings located within an area of special flood hazard, the vertical distance
between grade and the Base Flood Elevation (BFE) plus two feet is excluded from
the calculation of building height.**

Section 2 or the last section. This Ordinance is of a permanent and general character.
and shall be included in the City Code.

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ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2019.

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 and content:

Katie Koester, City Manager

Holly Wells, City Attorney

Date: _____

Date: _____

PUBLIC HEARING NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, April 17, 2019 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matters:

Request for Conditional Use Permit (CUP) 19-04 to allow a group care home at 397 E. Pioneer Avenue, under Homer City Code (HCC) 21.18.030(k). The request is to approve a residential drug and alcohol treatment facility. CUP approval is also required for the building area to exceed 30% of the lot area, under HCC 21.18.040(d). The proposal is located on the following 3 lots: Lots 5 & 6, Block 6 and Lot 5, Block 7 Glacier View Subdivision, T.6S., R.13W., S1/2, NE1/4, NW1/4 Sec. 20, S.M.

An Ordinance of the City Council of Homer, Alaska amending Homer City Code 21.05.030(b) Measuring Heights, to exclude the vertical distance between grade and the Base Flood Elevation (BFE) plus two feet from the calculation of building height for buildings located within areas of special flood hazard.

Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

The complete proposals are available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Travis Brown at the Planning and Zoning Office, 235-3106.

PLEASE PUBLISH ONCE

ACCOUNT 100.0130.5227

Commissioner Smith departed the meeting at 8:12 p.m.

B. Staff Report 19-33, An Ordinance of the Homer City Council Amending HCC 21.05.030(b) to change how building height is measured within areas of special flood hazard.

Chair Venuti introduced the item by reading of the title.

Deputy City Planner Engebretsen provided a summary of the report for the Commission.

Chair Venuti opened the Public Hearing.

Josh Garvey, CEO, Land's End Resort commented in support of the ordinance.

HIGHLAND/BOS MOVED TO ADOPT STAFF REPORT 19-33 AND FORWARD THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.05.030(b) TO CHANGE HOW BUILDING HEIGHT IS MEASURED WITHIN AREAS OF SPECIAL FLOOD HAZARD TO CITY COUNCIL FOR APPROVAL.

There was no discussion.

Chair Venuti inquired if there was any dissent.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager's Report for the April 8, 2019 Homer City Council meeting
- B. Kenai Peninsula Borough Notice of Decision for Commercial Park Unit 2 Preliminary Plat

COMMENTS OF THE AUDIENCE

COMMENTS OF THE STAFF

Deputy City Clerk Krause commented well done.

Deputy City Planner Engebretsen commented thank you for smooth meeting.

COMMENTS OF THE COMMISSION

Commissioner Highland welcomed Commissioner Petska-Rubalcava to the Commission.

Commissioner Bos complimented the Chair on a well-run meeting and welcomed Commissioner Petska-Rubalcava to the commission.



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum

TO: Mayor Castner and Homer City Council
FROM: Katie Koester, City Manager
DATE: May 22, 2019
SUBJECT: May 28th City Manager Report

Visit with Open World Delegation

Mayor Castner, Harbormaster Hawkins and I had the pleasure of visiting with a delegation of fishing industry professionals from the Russian Far East who are touring Alaska through a partnership with Rotary International and the State Department. The group was composed of seafood processors, commercial fishermen, professors, government advisors, and environmental regulators. They were very engaged and drilled the Mayor with a gamut of questions regarding industry in Alaska. These cultural exchanges are a great opportunity to share our experiences, learn from others, and appreciate what we all have in common (like a true appreciation for fresh grilled salmon!).

ISO Visit This Summer

The ISO will be in Homer on July 18th or 19th to review and evaluate Homer's fire protection. Unlike the full evaluation that was performed in 2014, this will be more similar to an audit to see if anything has changed. The process consists of the completion of a number of surveys and a thorough review of our records. There is also a quality assurance and quality control component to confirm the surveys and records are accurate. The ISO will review emergency communications provided by the Police Department's Dispatch Center, the Public Works' water supply and hydrants, and all aspects of the fire suppression capabilities of the Fire Department. The surveys have been distributed to the three departments and work has begun to prepare for the evaluation. The surveys contain the information collected in 2014 so it becomes a matter of updating the information to reflect any changes. In addition the ISO will review records of relevant activities, staffing, and required maintenance that has occurred since 2014. We are beginning an internal review of the surveys and our records to determine if there might be a change in the overall Class-4 ISO Rating. The outcome of this ISO audit process will provide a thorough assessment of the City's current level of fire protection. This will provide an excellent baseline for the new Fire Department leadership team working in conjunction with the Public Works and Dispatch to develop strategies to restore the community's Class-3 ISO rating and reduce fire insurance premiums in the future.

USS Theodore Roosevelt

Councilmembers Aderhold, Smith, Stroozas and I had the opportunity to tour the aircraft carrier USS Theodore Roosevelt in the Gulf of Alaska as part of the Navy's public outreach to local communities. In 2016, Senator Murkowski's Office contacted the City of Homer and shared that the Senator had been insisting the Navy and Alaskan Command work with local communities regarding exercise scheduling and activities. It was a fast paced and exciting peek into the world of military operations and a chance to observe an airport at sea; they can land and launch a jet airplane every 30 seconds. The USS Roosevelt is in Alaskan waters as part of Northern Edge 2019, a biennial training exercise that



brings troops, aircrafts, and ships from all the service branches together. Northern Edge representatives attended a Homer City Council meeting on December 5, 2016. A member of that delegation accompanied us on the tour to answer environmental impact questions. In addition to the four of us from Homer, there were representatives from Native villages around Kodiak and members of the Community Advisory Board.



From right to left: Councilmember Aderhold, City Manager Koester, Councilmembers Stroozas and Smith, along with a Navy staff member who photo-bombed us!

Term Sublease at Homer Airport Terminal

Alaska Ultimate Safaris, a bear viewing company, has requested a short term sublease with the City for the cargo area at the west end of the airport. The City leases the land from the State but owns the terminal, so any leases the City has within the terminal must be approved by the State. With this sublease, Alaska Ultimate Safaris will be able to use the State's tarmac to conduct business with their helicopter, which will carry passengers to Katmai and Lake Clark National Parks and Preserves. The increased activity will be beneficial to the vibrancy of the Homer airport. If you know of anyone interested in leasing space at the airport, please visit the City of Homer website where availability and rates are published <https://www.cityofhomer-ak.gov/airport/leasing-terminal-space>.

Fire Chief Kirko Hired

I am pleased to welcome Mark Kirko as the new Fire Chief for the Homer Volunteer Fire Department. Mr. Kirko currently serves as Fire Chief/CEO for North Whidbey Fire & Rescue in Oak Harbor, Washington where his duties include supervising six career staff and seventy-six part time and on-call volunteer firefighters and EMS providers. He brings 34 years of experience in fire service to the position, with twenty-five of those years in Alaska. Mr. Kirko started his fire service working twenty years with the Cordova Volunteer Fire Department. Beginning as a volunteer, he advanced through lieutenant and training officer positions to Fire Chief. He then served five years as Fire Chief and Emergency Management Director for the Skagway Fire Department until the need to be near elderly parents took Mr. Kirko and his wife to Vermont where he served six years as Fire Chief at the Windsor Fire Department. The position attracted 46 candidates, but after a lengthy hiring process that included written responses to questions, two interviews, meetings with career staff, officers, and the volunteer membership while instructing a section on an emergency service subject, Chief Kirko stood out as a great fit for our fire department and our community. Chief Kirko will begin in July. In the meantime, I will be continuing to work with Chief Purcell on the transition including establishing a fleet replacement schedule and emergency operations.

Homer Foundation listening session June 6th at 5:30pm in Council Chambers

The Homer Foundation will host a listening session in Council chambers June 6th at 5:30pm to gather input from nonprofits on how the Foundation might use City of Homer grant funds most effectively to support Homer's nonprofit community. Council and City staff are encouraged to attend. This will also be a great opportunity to welcome the new executive director, Mike Miller who will be replacing long serving Joy Steward. Please thank Joy for all her work on behalf of the community when you get a chance.

Erosion on Homer Spit

On May 21st, representatives from Alaska Department of Transportation (ADOT), Army Corps of Engineers (Corps), and staff from the offices of Representative Vance, Senator Stevens, and Senator Murkowski met with Harbormaster Hawkins and me to discuss the recent erosion on the Homer Spit that has threatened local businesses, City property and the Sterling Highway. This was a productive meeting and I was pleased to see active participation by multiple jurisdictions. In the short term, ADOT is going to contract with a coastal engineer to study the erosion and the potential impact to the highway. This study should come out in the fall and will be the basis for pursuing federal highway dollars to protect the highway. ADOT was very clear that they can only work within their right of way and that their only obligation is to protect the Sterling Highway. A reinforcement project (think rip rap) may take many, many years to fund without a catastrophic event that opens up emergency funding channels. The Corps is going to look at doing some beach re-nourishment with City of Homer Harbor 2019 dredge materials as a pilot project this fall. Corps staff emphasized it would be difficult to see the result of beach re-nourishment in the short term as it requires ongoing sustained effort. Participants discussed initiating a Planning Assistance to States grant through the Corps (50/50 match) to start the broader conversation on what the Spit should look like over the next 50 years. This may be a great topic for a re-write of the Homer Spit Comprehensive Plan. The community will need to be both a part of this

long term conversation and educated about what the Corps, ADOT and the City can and cannot do and the significant costs associated with the different options.

AML Online Sales Tax Meeting in June

At the May 13th Council meeting I briefed Council on ongoing conversations through Alaska Municipal League regarding online sales tax collection and let you know about a June 6th meeting where municipal representatives will be meeting to hash out common definitions for a state wide sales tax that could be applied to online sales. I was happy to let the Kenai Peninsula Borough take the lead on this conversation, however the City of Homer's participation was requested by the Borough and neighboring municipalities. Because the State's largest communities, Anchorage and Fairbanks, do not collect a sales tax, the Kenai Peninsula Borough is a major player in this conversation and if we can act as one voice we will have a lot to contribute. Some of the definitions that could be problematic for Homer included the definition of temporary lodging. This is a long way of saying I will be out of the office June 6th to ensure City of Homer interests are represented in the online sales tax conversation. I have attached some materials from Larry Persily that help explain the issues municipalities will be wrestling with. I welcome your comments, concerns and anything you would like me to emphasize as I dive into this topic.

Kenai Peninsula Public Transportation Plan Available for Public Comment

A Coordinated Transportation Plan is required every 5 years for providers to apply for Human Services Transportation funds through DOT. City Planner Abboud has been representing the City of Homer by participating in monthly teleconference meetings. Currently in Homer, the Independent Living Center receives funding to operate a voucher program for elders and persons with disabilities. The Homer/Anchor Point area receives \$50,000 to assist approximately 150 individuals with vouchers to subsidize rides with local cab companies. The intention of the Coordinated Plan is to maintain these services and collaborate with the Borough and local Cities to develop a more comprehensive transit plan for the Kenai Peninsula road system. The Kenai Peninsula Borough is soliciting comments on the draft plan. You can contact Project Coordinator Shari Conner at 907-714-4521 sconner@cpgh.org for more information (see attached flyer).

Enc:

FAQ on Online Sales Tax Collection from AML

Kenai Peninsula Public Transportation Plan Update Flyer

City of Homer Comments on 2019 STIP

Homer Foundation First Quarter City of Homer Fund Report

ADOT Field Survey Announcement for Sterling Highway MP 45-60

Letter of Support for Alaska State Parks' Application to Exxon Valdez Oil Spill Trustee Council Grant

Letter from Rasmuson Foundation re: Awarding Library Grant

May Employee Anniversaries

AML Online Sales Tax FAQ from Larry Persily- 4-24-19

How did the June 2018 U.S. Supreme Court decision change the sales tax world?

The U.S. Supreme Court on June 21, 2018, upheld the state of South Dakota's right to require online sellers to collect and remit sales tax on orders delivered into the state. The 5-4 decision effectively overturned a Supreme Court decision from 1992 that went against the state of North Dakota. The 2018 case is South Dakota vs. Wayfair (a nationwide online retailer of furniture and home goods).

What were the issues in the court case?

In its ruling, the Supreme Court noted that the South Dakota Legislature had determined "that the inability to collect sales tax from remote sellers was 'seriously eroding the sales tax base' ... causing revenue losses and imminent harm."

The court explained, "The central dispute is whether South Dakota may require remote sellers to collect and remit the tax without some additional connection to the state," such as an office or warehouse or employees. And although the 1992 decision against North Dakota commented that requiring remote sellers to collect and remit sales tax "might unduly burden interstate commerce" without such a physical or legal connection, called nexus, the court's 2018 decision found otherwise. "The administrative costs of compliance, especially in the modern economy with its Internet technology, are largely unrelated to whether a company happens to have a physical presence in a state," the Supreme Court said in its 2018 decision.

Allowing online sellers to avoid collecting sales taxes "has come to serve as a judicially created tax shelter for businesses that decide to limit their physical presence and still sell their goods and services to a state's consumers," the court added.

In its order, the Supreme Court said it overruled the 1992 decision because it was "unsound and incorrect."

Does the court decision require online sellers to collect sales tax?

No, it does not require online merchants of goods and services to do anything unless a state's sales and use tax is written to apply to online orders (remote merchants). If a state chooses not to extend its sales and use tax to online orders, the Supreme Court decision does not require merchants to voluntarily collect and remit the tax. The decision is up to each state.

Does the court decision apply to municipalities?

No, not exactly, not directly. The word "municipality" appears nowhere in the Supreme Court decision. The case, the briefings, the discussion and the order focused solely on state sales and use tax. But, the same reasoning, the same legal questions likely would apply to municipal sales taxes: Are they discriminatory against interstate commerce, do they pose an undue burden on interstate commerce, are they administered fairly to all parties. As Alaska is the only state that allows municipal sales taxes without an overriding set of rules in a state sales tax, Alaska is unique. But we're used to that.

What are the challenges for Alaska municipalities?

Without a clearly defined set of legal standards in the court decision for municipalities, Alaska cities and boroughs have to make their best legally educated guess at what set of tax definitions, rules, exemptions and administrative procedures would be needed to replicate and adhere to the intent of the court opinion allowing taxation of online sales. Such as, no undue burden on interstate commerce, no retroactive taxation, and a system that standardizes tax rules to reduce administrative and compliance costs for remote merchants. There is no checklist of what will work or what is not allowed — Alaska municipalities will have to set their own trail.

What's the path forward for Alaska municipalities that want to collect taxes on online sales?

A coordinated approach is best. In fact, it's probably the only way to succeed. It's hard to imagine that a large, nationwide online merchant, a small remote seller — or a court, in the event of a legal challenge — would accept dozens of municipal codes, each with its own unique set of definitions, administrative rules, limits and exemptions as an acceptable system that standardizes taxes to reduce administrative and compliance costs.

By working together, Alaska cities and boroughs stand the best chance of crafting a workable sales and use tax structure that serves local needs while establishing a legally secure path to collecting municipal taxes from online sales.

What is the Alaska Municipal League doing to help?

The Alaska Municipal League established a working group in 2018 to explore the best answers for bringing Alaska cities and boroughs into the world of collecting tax revenue from online sales. AML is looking into the legal issues, software and administrative costs, including the option of contracting with a third-party vendor with experience in state sales taxes to handle the collection and distribution of tax remittances from online merchants. AML plans to provide frequent updates on its progress to its members, with reports at the board meeting in Anchorage in May, the summer meeting in Soldotna in August, and a final review at the general membership meeting in Anchorage in November.

The idea is that AML would establish a cooperative effort — entirely optional for each Alaska municipality — to participate in a centralized online sales tax collection, administration and enforcement program. Municipalities that join and agree to adopt the required changes to their sales tax codes would benefit from the collective strength of presenting a unified approach to online merchants nationwide. Cities or boroughs that choose not to join still could try on their own to adopt and enforce sales taxes on online merchants.

State law allows Alaska municipalities to sign intergovernmental cooperating agreements — similar to mutual-aid pacts between fire departments. AML's legal review concluded that a cooperative tax administration and collection agreement essentially would be the same and would not require any state legislation.

Is there any guarantee that municipalities can force online sellers to collect the tax?

There is no guarantee that every online merchant will willingly collect and remit sales taxes to a centralized administration for Alaska municipalities. But the odds of success are much better than 100+ different sales tax administrations statewide.

The deciding factor may be how “homogenized” Alaska’s cities and boroughs are willing to make their tax codes. The more the codes are the same, the better the argument that the municipalities are adhering to the standards the Supreme Court cited in its Wayfair decision.

“Nobody can give you an absolute legal answer” as to how far municipalities can stray from the intent and spirit of the Wayfair decision and still win if taken to court, the vice president and tax counsel for the National Retail Foundation told AML. Her advice: Go with the Streamlined Sales Tax Project’s definitions

What is the Streamlined Sales Tax Project?

The Streamlined Sales Tax Project began in March 2000 with the goal “to find solutions for the complexity in state sales tax systems.” It was, in great part, that complexity that led to the 1992 Supreme Court decision against North Dakota’s efforts to require tax collections by remote merchants.

The result is the Streamlined Sales and Use Tax Agreement, which targets simplifying and modernizing sales and use tax administration to substantially reduce the burden of tax compliance. The agreement focuses on state-level administration of sales and use taxes; uniformity in each state’s state and local tax bases; uniformity of major tax base definitions; central electronic registration for merchants; simplification of state and local tax rates; uniform sourcing rules for all taxable transactions (defining the point of the taxable transaction); and simplified administration of exemptions, tax returns and payments.

As of March 2019, 24 states had adopted the agreement. No federal law requires states to sign on for the Streamlined Sales Tax Project, but doing so makes it easier for states to capture maximum revenues from remote merchants.

The more that Alaska municipalities can follow the Streamlined Sales and Use Tax Agreement, the better the odds of success in achieving full compliance from online merchants.

Can complexity lead to legal objections?

Yes, but it is unknown how much complexity would break the legal back of taxing online sales. In his dissenting opinion in the Wayfair case, Chief Justice John Roberts pointed to the complexity of sales tax laws nationwide. “Correctly calculating and remitting sales taxes on all e-commerce sales will likely prove baffling for many retailers. Over 10,000 jurisdictions levy sales taxes, each with different tax rates, different rules governing tax-exempt goods and services, (and) different product category definitions.” He noted that New Jersey collects sales tax on yarn purchased for art projects but not on yarn made into sweaters. “Texas taxes sales of plain deodorant at 6.25 percent but imposes no tax on deodorant with antiperspirant.” Illinois categorizes Twix bars as food and Snickers candy, and taxes them differently, the chief justice noted, only because Twix includes flour.

Why are Amazon and some merchants already collecting sales tax for Alaska municipalities?

Amazon has started collecting sales tax in several Alaska jurisdictions, though it appears that in most (many?) cases it is collecting tax only on Amazon’s own goods and not on sales of third-party merchandise. A coordinated, AML-led approach could remedy this shortcoming by directing municipalities to change their codes to encompass all goods sold online, whether direct by the merchant or fulfillment by a third-party seller. A coordinated effort also would clarify which business is responsible for collecting and remitting the tax: The website that takes the order or the business that fills the order?

As of March 2019, Amazon had yet to register with all Alaska municipalities, and for most municipalities the online merchant’s first sales tax returns are not due until a month after the end of the first quarter. After Amazon and other vendors file their first returns, Alaska municipalities will have a better sense of any enforcement issues.

There have been reports that Amazon is misapplying local taxes on some sales that should be tax-exempt. As it is now, each municipality has to contact Amazon individually — or any other online vendor — to educate the merchant on the details of their specific municipal tax code. A single online sales tax administrator for Alaska municipalities would improve the situation.

As to Amazon specifically, in a few cases the online retailer is collecting sales tax for deliveries in Alaska because it has a legal connection — a nexus — in that city or borough, such as an Amazon subsidiary or affiliate that does business in the municipality. But in most cases in Alaska, Amazon is collecting sales tax voluntarily. Unless a municipal code is written as a sales and use tax, or otherwise specifically addresses online sales, merchants such as Amazon are not legally obligated to collect the city or borough sales tax.

What’s a ‘use tax,’ and does it apply to Alaska municipalities?

A “use tax,” as part of a “sales and use tax,” makes it clear under the law that the tax applies to goods regardless whether they were sold over the counter in the jurisdiction or delivered into the jurisdiction for use. The Streamlined Sales Tax Project model code recommends participating states adopt a sales and use tax. Some Alaska municipalities already have it in code, but most do not. It is unknown at this time if the AML online sales tax project will adopt sales and use tax as its recommended language for municipalities.

How can online merchants determine which municipality gets the taxes?

One significant problem that Alaska municipalities must overcome is to construct a user-friendly online mapping system so that merchants can accurately determine the correct tax jurisdiction. Such as, a buyer may have a Soldotna ZIP code and mailing address but does not live within the city of Soldotna and believes they should not be liable for Soldotna city sales taxes. The same can be said for Interior residents with a North Pole mailing address. (ZIP+4, unfortunately, does not always match municipal boundaries in Alaska, and therefore cannot be used for determining the tax jurisdictions.) Other states and third-party contractors provide

online mapping tools for sellers, and third-party vendors could help Alaska develop one that covers the entire state. In addition to creating the “tax look-up map” (as it is called in the state of Washington), Alaska municipalities would have to establish a system for keeping the map current with new subdivisions, new addresses for businesses and residences, annexations and such.

Can online vendors handle additional, specific sales taxes?

Yes, such as on alcohol or tobacco taxes, in addition to general sales taxes. Other states levy additional taxes on certain items, such as alcohol, and nothing in the Streamlined Sales Tax Project argues against such additional sales or excise taxes. The third-party vendors that offer administration software for states can accommodate such taxes.

What are some of the tax code decisions that Alaska municipalities will have to make?

Taxation limits

- Several Alaska municipalities have in place a limit on the amount of a single transaction subject to sales tax. For example, in Juneau the sales tax stops charging after a single transaction (an invoice, not a single item) reaches \$12,000 (though there is no limit to taxation of jewelry). In the Kenai Peninsula Borough, the cap is \$500. It is unknown at this time if Alaska municipalities can maintain their disparate application of such “tax caps” and still have a reasonable chance of surviving a legal challenge should an online merchant want to contest the “undue burden” of navigating different tax limitations.

Point of taxation

- Alaska municipalities most certainly will need to define and adopt a common definition for the point of the taxation transaction, especially since this could affect the rate charged and where the tax is remitted. Such as, if a buyer receives the order at a post office in one city but takes it to their residence in another city, where did the taxable transaction occur, and which city gets the money? Where the item was delivered or where it was used? The same difficulty would apply to the online seller as it tries to determine the tax rate — it needs to know which address to check on the tax look-up map, the point of delivery or the residence of the buyer? This definition will need to be consistent for all Alaska municipalities that choose to participate in the AML effort.

Definitions

- Definitions should be consistent among participating municipalities for any tax-exemptions, such as food (taxed or not taxed, or divided between prepared and unprepared, and how to define those terms), sale-for-resale, purchases by senior citizens, manufacturing components, construction materials that will be incorporated into real property in the municipality, farming supplies, funeral supplies, medical equipment, over-the-counter drugs and medical items, sales to and/or by nonprofits,

sales by government agencies. The definitions will require a lot of work between municipalities.

Collection thresholds

- South Dakota sets a significantly higher minimum threshold for annual sales into the state by a remote merchant than for local businesses before the out-of-state business has to collect and remit sales taxes. Whatever Alaska municipalities decide needs to be consistent for all municipalities in the AML program. Otherwise, remote merchants could get caught up in a maze of different registration and reporting standards.
- For example, municipalities may want to exempt small-scale sellers from registering, collecting and remitting, such as businesses with less than \$2,500 a year of sales into the jurisdiction. An example would be an online jewelry maker in New York that might sell \$300 of goods into any one Alaska city in a year. How much do Alaska municipalities want to exempt occasional sellers from collecting sales tax? And should it be the same threshold for remote sellers as in-town businesses?

Examples of taxable decision items

- Do municipalities want to collect sales tax on motor vehicles, boats and airplanes imported into the municipality?
- How will municipalities treat commissions that are retained by online sellers? Is the tax applied to the total price of the goods, or only on the net received by the seller after the commission is deducted?
- Are delivery charges taxable if they are listed separately from the purchase price?
- Are software downloads taxable, such as music and apps and streaming services?
- Are Amazon Prime membership dues taxable?
- Are online subscriptions taxable, such as news sites?

Administrative issues

- How will municipalities handle refunds of sales taxes paid in error by the seller or collected in error by an online seller? Who will issue the refund: The seller or the municipality?
- Will municipalities allow a discount or “commission” of tax collections, intended to partially compensate the merchant for its costs of bookkeeping as the municipality’s tax collector? Should this discount, or retention, be the same for online and local vendors? Many Alaska cities and boroughs allow their local merchants to hold back a small percentage as compensation for their work as a tax collector.
- Can the AML project accommodate seasonal adjustments to a municipality’s tax rates, or special “tax holidays” as municipalities sometimes offer for back-to-school shopping or other annual categories?
- Are intrastate online sales treated differently than interstate sales?

Central Kenai Peninsula
**Public Transportation
Planning** *Let's get our community rolling!*

View the current transportation plan then share your ideas and comments about current public transportation gaps, successes and suggestions for growth.
Contact: Shari at 714-4521 for more information

Central Kenai Peninsula Public Transportation Task Force

Monday, May 20th

6pm-8pm

Transportation Task Force planning meeting

Location: KPB Assembly Chambers on Binkley Street • Soldotna

**Your Opinion
Matters!**

**Public Comments Welcome at
the Meeting**



Public transportation provides personal mobility and freedom for people from every walk of life



City of Homer

www.cityofhomer-ak.gov

Planning

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(f) 907-235-3118

May 21, 2019

State of Alaska Department of Transportation & Public Facilities
Division of Program Development, ATTN: STIP
PO BOX 112500
Juneau, AK 99811-2500

RE: STIP 2018-2021 Amendment 3

The City of Homer would like to comment on a project listed in the 2018-2021 Draft Amendment 3.

Need ID 23197, Lake Street Rehabilitation

Lake Street is an essential route through Homer that supports auto-oriented businesses while functioning as one of the few roads that connect the two main East-West transportation options in town. Lake Street has not undergone a major rehabilitation project since 1997. The pavement routinely experiences major failures. The thin asphalt overlays applied to sections of the street in 2011 and 2013 are not expected to offer any structural correction of the deficiencies that will inevitably lead to reoccurrence of the frequent failures. Several public meetings have been held and a design has been produced that has been found to have the support of the city and residents.

Since the project has been designed, Grubstake Avenue has been extended and improved. Grubstake extends to Lake Street and forms a four-way intersection. It is nearly in the middle of the Lake street project, which does not have any designated pedestrian crossings between the Sterling Highway and Pioneer Avenue. The City of Homer requests that a pedestrian crossing be incorporated at Grubstake Avenue and Lake Street. We feel that it will offer pedestrians a reasonable option for a safe route between current areas of interest, which will certainly see more activity as the community grows and infill develops. A current infill project underway is the construction of a new police station on Grubstake Avenue and Snow Bird Street.

We urge the state to keep the project moving forward and not introduce any other additional delays.

Sincerely,

Rick Abboud, AICP
Homer Alaska City Planner

HOMER FOUNDATION

Quarterly Report to Fund Holders

Homer Foundation Fund Details - January through March 2019

Fund Holder City of Homer
Fund **City of Homer Fund**

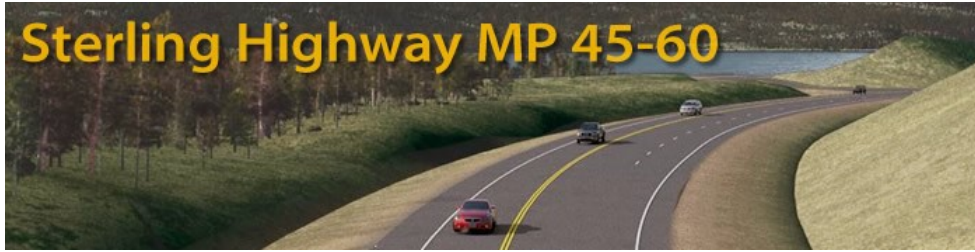
Fund Type: FIELD OF INTEREST
Fund Code: 1305

PORTFOLIO SHARE (Corpus)

Beginning Balance	185,638.84
Contributions	-
Withdrawals	-
Quarterly Portfolio Change	13,972.61
Ending Balance	199,611.45

AMOUNT AVAILABLE TO SPEND (ATS)

Beginning Balance	9,624.22
FY19 ATS (posted annually in September quarter)	-
Grants Total	-
Transfer to restricted fund	-
Ending Balance	9,624.22



DOT&PF Project No. STP-F-021-2(15)/53014

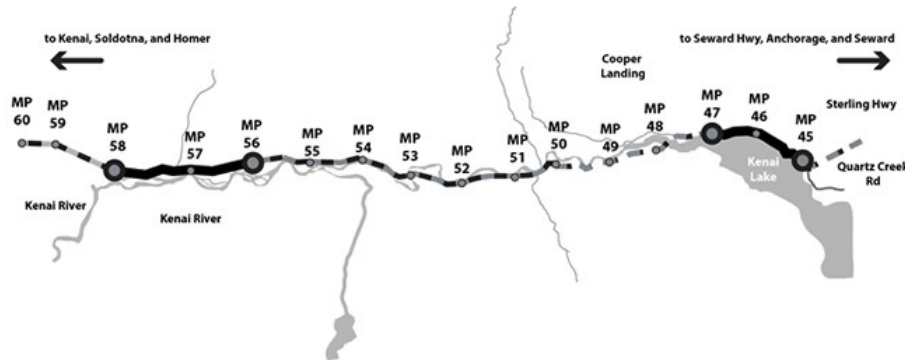


Welcome to the web site for the Sterling Highway Milepost 45 to 60 Project. This project examines highway upgrade alternatives in the Cooper Landing and Russian River area of Southcentral Alaska.

2019 Field Survey

The Alaska Department of Transportation and Public Facilities (DOT&PF) is beginning the design of the selected alternative, the Juneau Creek Alternative. The project will be phased and constructed in pieces, with the initial design work directed at MP 45-47 and MP 56-58, as shown in the figure below.

Surveyors from R&M Consultants will be working along the Sterling Highway from MP 45-60 in order to establish survey control. They are planning to be in the corridor from May to July 2019. They will also be flying a drone to capture aerial imagery of the corridor. A current, detailed survey will provide necessary data for the highway design team as they begin the design phase. Later this summer and fall, survey of the new highway portion (approx MP 46-56) will take place.



[DOWNLOAD PDF FLYER](#) - 106 kb pdf

Record of Decision Published

The Federal Highway Administration (FHWA) signed a Record of Decision (ROD) on May 31, 2018. The ROD officially selects the Juneau Creek Alternative to design and construct. This completes the Environmental Impact Statement (EIS) review.

[View the ROD](#)



Sandra Garcia-Aline, FHWA's Alaska Division Administrator signs the Record of Decision while DOT&PF Commissioner Marc Luiken looks on.

Juneau Creek Alternative is Selected

The Final EIS identifies the [Juneau Creek Alternative](#) as the preferred alternative. The Juneau Creek Alternative provides the best balance between meeting the project needs and minimizing impacts to the human and natural environment. From a traffic perspective, this alternative best satisfies the project purpose and need.

Project Information

- » [Sterling Highway Project Home](#)
- » [Project Description](#)
- » [History](#)
- » [Alternatives](#)
- » [Documents](#)
 - > [Record of Decision](#)
 - > [Final EIS](#)
 - > [Draft SEIS](#)
 - > [Other Documents](#)
- » [FAQs](#)
- » [Definitions](#)
- » [Public Involvement](#)
 - > [Contacts](#)

[Sign-up for Project Emails](#)

Regional Links

- » [Central Region](#)
- » [Central Region Projects](#)
- » [DOT&PF Project Info](#)

Juneau Creek Alternative Map - Click for larger view



Based on public and agency comments on the Final EIS, two additional mitigation measures have been added by DOT&PF and FHWA:

- A fourth dedicated wildlife underpass at the Bean Creek Trail crossing of the Juneau Creek Alternative. Location and design will be refined during final design. This additional crossing brings the total to five major wildlife crossings (4 underpasses and one overcrossing – Alaska’s first bridge dedicated to wildlife use)
- A separated roadside pathway on the south side of the highway between Quartz Creek Road and the intersection of the “old” highway. The precise terminus at the western end and its connection to the existing “safety path” along the old highway will be determined during final design.

For more details, review the [ROD](#).

Public Comment Period Closed

The public comment period on the NEPA process is closed. DOT&PF and FHWA received more than 100 comments on the Final EIS. The comments received and responses to those comments are appended to the ROD.



Next Steps

DOT&PF will now move forward with design and construction of the Juneau Creek Alternative. DOT&PF plans to phase the project, with construction occurring first on the east and west segments that overlap with the existing highway (approx. MP 45-47 and MP 56-58). DOT&PF plans to begin the final design in 2018. The project will take multiple years to design and construct. Construction could begin as early as 2020.

[Site Map](#) [Policies](#) [Nondiscrimination](#) [Accessibility](#) [DOT&PF Employee Directory](#) [DOT&PF Staff Resources](#)



Department of Transportation & Public Facilities
PO Box 112500
3132 Channel Drive
Juneau, Alaska 99811-2500

[Contact Information](#)

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City of Homer

www.cityofhomer-ak.gov

Homer City Council

491 East Pioneer Avenue
Homer, Alaska 99603

(p) 907-235-3130

(f) 907-235-3143

Mr. Rys Miranda
Design and Construction Section Chief
Alaska State Parks
550 West 7th Street, Suite 1380
Anchorage, AK 99501
Rys.Miranda@alaska.gov
Submitted electronically

May 28th, 2019

Mr. Miranda,

Homer's local and surrounding trail systems are a key resource for getting Alaskans and visitors alike outdoors. We support Alaskan State Parks' grant application to the Exxon Valdez Oil Spill Trustee Council for facility improvements at the Diamond Creek State Recreation Site. Alaska State Parks' proposed work will help protect this critical habitat while also addressing human impact occurring at this very popular area.

Installing an orientation kiosk, interpretative panels, vaulted toilet, 25-vehicle trailhead and viewpoint, and a host cabin are all ways to increase responsible public involvement and enjoyment within the Kenai Peninsula's natural environment. The facility improvements are a form of stewardship, ensuring this recreational area can accommodate multiple uses, activities, and foot traffic at a sustainable level.

Paired with Alaska State Parks' hopeful acceptance of FEMA funds to improve Diamond Creek's trail to the beach, the Diamond Creek State Recreation Site will become accessible to more users and continue to promote the importance of investing in community recreation opportunities.

Sincerely,

Katie Koester
City Manager



May 3, 2019

301 W. Northern Lights Blvd.
Suite 601
Anchorage, AK 99503

907.297.2700 *tel*
907.297.2770 *fax*
877.366.2700 *toll-free in Alaska*
info@rasmuson.org *email*
www.rasmuson.org

Ms. Katie Koester
City Manager
City of Homer
491 East Pioneer Avenue
Homer, AK 99603

Dear Ms. Koester:

I am pleased to inform you that the City of Homer has been awarded a \$12,550 grant to purchase books, media, and cabinets for the Homer Public Library.

Please have one official from your organization acknowledge receipt of this award and its terms by signing and returning the attached agreement by May 31, 2019. By depositing the enclosed \$12,550 check, you are agreeing to the terms and conditions of the grant. Reference grant number 13278 on correspondence regarding this award. A final report is due by May 31, 2020.

We are interested in keeping in touch with your organization. If you have a special event or a significant accomplishment, please let us know about it. We appreciate being included on your regular mailing list.

If you have any questions, contact Tanya Dumas by email at tdumas@rasmuson.org, or by phone at (907) 297-2700, or toll-free in Alaska (877) 366-2700.

Congratulations on your award.

Best regards,

Alexandra Kim McKay
Vice President of Programs

Encl:
Grant Agreement
Check
Final Report form

cc: David Berry, Library Director
RF grant number 13278 City of Homer

BOARD of
DIRECTORS

Edward B. Rasmuson
Chairman

Laura Emerson

Adam Gibbons

Jay Gibbons

Lile R. Gibbons

Rebecca Brice Henderson

Curtis McQueen

Jason Metrokin

Mike Navarre

Kris Norosz

Cathryn Rasmuson

Judy Rasmuson

Marilyn Romano

Natasha von Imhof

PRESIDENT
Diane Kaplan



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL
FROM: Katie Koester
DATE: May 28, 2019
SUBJECT: May 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.

Mark Whaley,	Port	14	Years
Pike Ainsworth,	Port	11	Years
Don Huffnagle,	Port	11	Years
Mike Gilbert,	Public Works	5	Years
Jackie McDonough,	Library	5	Years
Sean McGroarty,	Port	3	Years
Ryan Johnson,	Police	2	Years
Ralph Skorski,	Public Works	1	Year



City of Homer

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: RENEE KRAUSE, DEPUTY CITY CLERK
DATE: MAY 21, 2019
SUBJECT: BID REPORT – INFORMATIONAL ONLY

Enter Supplemental Information Here:

REQUEST FOR PROPOSALS FOR THE MANAGEMENT, LEASE, AND RENOVATION OF THE HOMER EDUCATION AND RECREATION COMPLEX (HERC) 1

The City of Homer, Alaska is requesting proposals from qualified organizations to lease, manage, and renovate the Homer Education and Recreation Complex (HERC) 1. Proposers must also accommodate the City's recreational activities currently occurring at the Complex. Grounds maintenance and management, including the skate park and plowing/sanding of both the upper and lower parking lot during the term of the lease, are negotiable. There is a mandatory pre-proposal meeting and ground tour scheduled on May 15, 2019 from 2:00 p.m. – 4:00 p.m. or May 22, 2019 from 2:00 – 4:00 p.m. The meetings will be held at the HERC1 building located at 450 Sterling Hwy, Homer, Alaska, 99603, and enter at the Woodside Avenue entrance. Sealed proposals shall be received at the office of the City Clerk no later than 4:00 p.m. Monday, June 24, 2019. The time of receipt will be determined by the City Clerk's time stamp. Proposals must be sent to: City of Homer – City Clerk's Office, ATTN: HERC1 RFP, 491 East Pioneer Avenue, Homer, Alaska 99603. Electronic and faxed proposals are not accepted. Proposals received after the time fixed for the receipt of the proposals shall not be considered.

INVITATION TO BID HOMER A-FRAME PRV STATION REPLACEMENT

Sealed bids for the construction of the City of Homer Alaska, A-Frame PRV Station Replacement will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 2:00 p.m. Thursday, June 6, 2019, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps> A Pre-Bid Conference will be held at 1:30 PM, May 6, 2019 in the City Hall Upstairs Conference Room (491 East Pioneer Avenue) to answer bidder questions.

NOTICE OF SALE OF VESSEL

Notice is hereby given that the *North Pacific*, a 98' Martinolich commercial vessel, Coast Guard Documentation #511698, located in the Homer Small Boat Harbor on JJ float below the Harbormaster's office in Homer, Alaska, will be sold by the City of Homer to the highest bidder as is, together with equipment, gear, furniture, apparel, fixtures, tackle, machinery, anchors and all appurtenances. The last known owner is North Pacific Gold, 1805 N. Carson St. #3, Carson City, NV 89701 or Box 1036, Walnut Grove, CA 95690. A bidder's packet and bidding instructions are available at Homer City Hall, Office of the City Clerk, 491 E. Pioneer Avenue, Homer, AK 99603, phone (907) 235-3130. Sealed bids will be received at the office of the City Clerk until 2:00 p.m., June 10, 2019 at which time they will be opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. Bidders are required to be on the City's plan holder's list for their bid to be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms are available online at <http://www.cityofhomer-ak.gov/rfps> The sale will be to the highest bidder. Payments must be made in cash, certified check or cashier's check. There is a minimum acceptable bid of \$15,000.00. The City of Homer reserves the right to reject all bids. The City will require the winning bidder to sign a Supplemental Moorage Agreement with conditions. This Notice of Sale is being published in accordance with the Homer City Code, HCC10.04.120(e). Questions with respect to this notice of sale may be directed to the Homer Harbormaster, 4311 Homer Freight Dock Road, Homer, Alaska 99603, (907) 235-3160.

REQUEST FOR PROPOSALS FOR STRUCTURAL FIREFIGHTING TURNOUT COATS, PANTS, GLOVES AND HOODS

The City of Homer is requesting proposals for the purchase of 15 sets of fire fighter structural protective turnout coats, pants, gloves and hoods as an initial order, and then continuing on an 'as-needed' basis as outlined in the proposal packet.

Sealed proposals shall be received by the City Clerk no later than 4:00 p.m. Friday, May 31, 2019. The time of receipt will be determined by the City Clerk's time stamp. Proposals received after the time fixed for the receipt of the proposals shall not be considered. All proposers must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan Holder Registration forms and Request for Proposal Specifications are available online at <http://www.cityofhomer-ak.gov/rfps> Technical questions concerning this RFP should be directed in writing to Robert Purcell rpurcell@ci.homer.ak.us or Dan Miotke dmiotke@ci.homer.ak.us. General RFP submission questions may be directed to the City Clerk's office at clerk@ci.homer.ak.us or 907-235-3130.

INVITATION TO BID CITY HALL ROOF REPLACEMENT 2019

Sealed bids for the replacement of the City of Homer Alaska, City Hall Roof 2019 will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m. Thursday, June 06, 2019** at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

A Pre-Bid site meet will be held at 1:00 PM, May 29, 2019 at City Hall. (491 East Pioneer Avenue) to answer bidder's questions. Ladder will be provided for roof access. The work includes, but is not limited to the following:

Removal and replacement of approximately 5900 S.F. of roofing membrane, including roof drains and flashing, and installation of new plywood decking material. The project includes proper handling and disposal of asbestos material as called for within the plans and bid documents.

Please direct all technical questions regarding this project to: Dan Gardner, City of Homer, Public Works

Department, 3575 Heath Street, Homer, Alaska 99603 (907) 235-3170

ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-23

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

Sponsor: Lord/Stroozas

1. City Council Regular Meeting May 28, 2019 Introduction

Memorandum 19-058 from Councilmembers Lord and Stroozas as backup

Memorandum 19-063 from City Attorney as backup

1 CITY OF HOMER
2 HOMER, ALASKA

3 Lord/Stroozas

4 ORDINANCE 19-23
5

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

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

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

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

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

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

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

41
42 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

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

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

90

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

93

94 14.01.030 Immunity for discretionary acts.

95

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

104

105 14.01.040 Violation.

106

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

111

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

116

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

121

122 14.01.045 Violation-Right of appeal.

123

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

126

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

130

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

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

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

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

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

145
146 14.01.050 Bond or cash deposit

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

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

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

170
171 14.01.060 State contractor required.

172

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

176

177 14.01.070 Utility permits-Appeal procedure.

178

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

182

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

187 1. Name and address of the permit applicant;

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

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

191

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

194

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

198

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

201

202 14.01.080 Utility permit appeals- Superior Court

203

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

207

208 14.01.090 Water and sewer rate schedule

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

212

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

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

217

218

CHAPTER 14.04

219

HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

220

221 Sections:

222 14.04.010 Purpose.

223 14.04.015 Definitions.

224 14.04.020 Connection – Required.

225 14.04.030 Industrial Waste.

226 14.04.050 Sewer service connections and extensions.

227 14.04.055 Sewer connection and extension permit fee.

228 14.04.060 Disposition of revenue.

229 14.04.070 Destruction of private sewage disposal systems.

230 14.04.080 Sewage or waste disposal permit.

231 14.04.090 Discharge of surface drainage into public sewer.

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

233 14.04.150 Water meter installation.

234 14.04.160 Backflow and cross-connection prevention.

235

236 14.04.010 Purpose.

237

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

244

245 14.04.015 Definitions.

246

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

249

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

251

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

256

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

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

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

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

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

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

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

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

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

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

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

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

294
295 14.04.018 Service connection charges.

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

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

302

303 14.04.020 Connection – Required.

304

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

308

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

311

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

315

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

319

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

329

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

332

333 14.04.030 Industrial Waste.

334

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

338

339 14.04.050 Sewer service connections and extension permits.

340

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

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

347

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

351

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

354

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

357

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

362

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

366

367 14.04.070 Destruction/Abandonment of private sewage disposal systems.

368

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

371

372 14.04.080 Commercial waste disposal permit.

373

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

378

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

382

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

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

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

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

394

395 14.04.090 Industrial waste disposal permit.

396

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

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

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

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

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

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

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

413

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

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

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

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

423

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

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

431

432 14.04.100 Discharge of surface drainage into HSWS Illegal.

433

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

441

442 CHAPTER 14.08

443 HOMER PUBLIC WATER SYSTEM

444 Sections:

445 14.08.010 Purpose.

446 14.08.020 Definitions.

447 14.08.030 Water connections and extensions.

448 14.08.037 Water meters.

449 14.08.040 Private water systems – Connection permits – Fees.

450 14.08.050 Condition of service – Rule making authority.

451 14.08.055 Rule making authority.

452 14.08.060 Frozen pipes – City not liable.

453 14.08.070 Discontinuance of supply.

454 14.08.072 Priority use of water.

455 14.08.074 Surplus water – Sale.

456 14.08.076 Water shortage or emergency declaration.

457 14.08.077 Water shortage or emergency – Interruption of sale of surplus water –

458 Other measures.

459 14.08.078 Water shortage or emergency – Appeal.

460 14.08.079 Immunity for discretionary acts.

461 14.08.080 Schedule of rates – Rules and regulations.

462 14.08.090 Schedule of rates outside of the City limits.

463 14.08.091 Service deposits.

464 14.08.100 Bulk water sales.

465 14.08.105 Resale of water.

466 14.08.110 Permit for resale of water.

467 14.08.120 Permit for water filling station.

468

469 14.08.010 Purpose.

470

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

475

476 14.08.020 Definitions.

477

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

480

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

484

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

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

490

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

495

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

498

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

502

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

506

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

509

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

512

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

514
515 "Water connection line" means a line or pipe carrying water from the water main to a
516 premises.

517
518 "Water extension" means an extension of the water main.

519
520 "Spaghetti line" means a pipe or line connecting to a sewer main that is not directly adjacent to
521 the lot being serviced by the line or pipe.

522
523 "Water filling station" means a non-City facility used to supply bulk water from the Water
524 System to a tanker truck or other means of conveyance.

525
526 14.08.030 Operation of water valves, fire hydrants and curb stops.

527
528 Only authorized City personnel shall operate water valves, fire hydrants, and curb stops.

529
530 14.08.040 Water meter installation.

531
532 a. Property owners must install a water meter and related components before they will be
533 eligible to connect to the Water System. Installation of all water meters must comply with
534 installation instructions drafted by the Public Works Department and approved by City Council
535 and available at the City Clerk's Office and Public Work's office. A violation of the installation
536 instructions shall constitute a violation of this chapter.

537
538 b. The property owner required to install the water meter shall be responsible for all costs
539 associated with installation of that meter and its corresponding mechanisms and a rental fee
540 for the meter from the City.

541
542 c. The City shall have the right to install a water meter remote on a building serviced or
543 scheduled to be serviced by the Water System. The meter shall be the size and model
544 indicated by the Public Works Director.

545
546 d. Water meters remain City property. Persons renting meters shall be responsible for damage
547 arising from external damage and freezing. Internal wear and tear and failure of the meter due
548 to general external wear and tear shall be the responsibility of the City. Customers shall
549 provide reasonable access for City personnel to maintain, monitor, and service a meter.

550
551 14.08.050 Water connections and extension permit.

552
553 a. All property owners connecting to the Water System must obtain a permit prior to starting
554 construction.

555

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

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

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

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

576
577 14.08.060 Disconnection due to nonpayment.

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

582
583 14.08.070 Frozen pipes – City not liable.

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

587
588 14.08.080 Discontinuance of water.

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

593
594 14.08.090 Priority use of water.

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

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14.08.100 Surplus water – Sale.

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

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

14.08.110 Water shortage or emergency declaration.

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

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

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

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

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

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

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

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14.08.130 Water shortage or emergency – Appeal.

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

14.08.140 Water Rate Schedule

- a. Water utility services shall be billed according to a schedule reviewed, revised, and adopted by City Council via resolution annually.
- b. Copies of the rate schedule shall be available at the City Clerk’s office and the Public Works Department. The schedule may also be available on the City’s website.

14.08.150 Service deposits.

- a. All water service users, at the time the service is established, shall pay a deposit based on meter size, established by Council via resolution.
- b. Deposits and any accrued interest shall be refunded:
 - 1. After one year of service provided the customer has made all payments owed in full and at the time due; or
 - 2. No more than 45 days after the date customer is disconnected from the Water System or stops receiving service. Service deposits and any interest shall first be applied to any outstanding balance owed by the disconnecting customer. If there is a balance, the remaining deposit and interest after the payment of that balance shall be refunded to the disconnecting customer.
- c. Waiving of Deposits. If a customer has had utility service with the City within the last two years and paid their City utility payments on time, the Finance Department may waive the deposit requirement under this section.
- d. Landlord Agreement. An owner/customer who requests an automatic continuance of utility service between renters may enter into a landlord agreement with the City for this purpose. This request should be directed to the Finance Department.

14.08.160 Bulk water sales.

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

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

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

695
696 14.08.170 Water filling station permit.

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

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

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

711
712 CHAPTER 14.50
713 UTILITY DISTRIBUTION FACILITIES

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

718
719 14.50.010 Definitions.

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

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

726

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

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

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

741
742 14.50.020 Underground installation of cable extensions.

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

750 14.50.030 Enforcement of this chapter.

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

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

758
759 TITLE 17
760 PUBLIC ASSESSMENTS

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

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CHAPTER 17.01
GENERAL PROVISIONS

Sections:

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

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

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

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

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

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

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

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

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

814

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

818

819 17.01.020 Purpose of title.

820

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

824

825 17.01.030 Assessment authority.

826

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

830

831 CHAPTER 17.02

832 SPECIAL ASSESSMENT DISTRICTS

833

834 Sections:

835 17.02.030 Purpose of and authority for special assessment district.

836 17.02.040 Initiation of a special assessment district.

837 17.02.050 Creation of a special assessment district.

838 17.02.060 Contract – Approval of increased costs.

839 17.02.070 Special assessment roll.

840 17.02.080 Certification of assessment roll.

841 17.02.090 Payment.

842 17.02.100 Subdivision after levy of assessments.

843 17.02.120 Reassessment.

844 17.02.130 Objection and appeal.

845 17.02.140 Interim financing.

846 17.02.150 Special assessment bonds.

847 17.02.160 Time limit for special assessment districts.

848 17.02.170 Water and sewer connections required.

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

850 17.02.190 Deferment of assessment payments for low income residents.

851 17.02.200 Payment in lieu of assessment.

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853 17.02.030 Purpose and authority for special assessment districts.

854
855 a. A special assessment district may be created for the purpose of acquiring, installing or
856 constructing a capital improvement that primarily benefits real property in the district, in
857 contrast to capital improvements that benefit the entire community and are paid for with
858 general government resources or improvements that benefit a specific individual parcel.

859
860 b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment
861 district, authorizing an improvement in a special assessment district, approving and levying
862 special assessments, payment of special assessments, and the authorization of special
863 assessment bonds, for public information and administrative guidance.

864
865 17.02.040 Initiation of district.

866
867 a. A special assessment district may be initiated by:
868 1. A Resolution, initiated by a Council member, the City Manager, or through the
869 developer reimbursement application process set forth in this Title and approved by a
870 vote of not less than three-fourths of Council; or
871 2. A Petition signed by 50% of the total record owners who receive notice from the City
872 Clerk's office that they will be assessed a portion of the costs of a single capital
873 improvement.

874
875 b. Special assessment petition applications are available from the Clerk's office. A benefited
876 property owner proposing a special assessment district by petition must file with the Clerk a
877 complete special assessment petition application no more than 60 days after the notice of
878 assessment is issued to record owners. The Clerk shall approve all properly and timely
879 submitted applications within 10 days of the date on which the application is filed. The Clerk
880 shall notify the petition sponsor in writing that the petition has been approved, prepare the
881 petition, and distribute it by certified mail to all record owners of property in the proposed
882 district no more than 30 days after the petition application is approved.

883
884 c. Upon adoption of a resolution initiating a special assessment district, or the filing of a
885 sufficient petition with the Clerk, the City Clerk shall:
886 1. Schedule a meeting of record owners of real property in the proposed district, notify
887 the record owners by mail of the date, time and location of the meeting, and include a
888 copy of the notice in the City's regular meeting advertisement; and
889 2. Refer the proposed district to the Public Works Director, who shall prepare an
890 improvement plan for the proposed district. The proposed district improvement plan
891 shall include:
892 A. The boundaries of the proposed district
893 B. The design of the proposed improvement
894 C. A cost estimate for the improvement
895 D. The assessment allocation method used to calculate the amount owed by
896 each record owner in the proposed district

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

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

900 G. Preliminary assessment roll for the proposed district.

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

903

904 17.02.050 Creation of a special assessment district.

905

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

911

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

921

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

928

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

932

933 17.02.060 Contract – Approval of increased costs.

934

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

939

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

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

952
953 17.02.070 Assessment roll.

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

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

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

969
970 17.02.080 Certification of assessment roll.

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

979
980 17.02.090 Payment.

981

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

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

993
994 17.02.100 Subdivision after levy of assessments.

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

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

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

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

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

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

1023
1024 17.02.120 Reassessment.

1025
1026 a. Council shall within one year correct any deficiency in a special assessment found by a court,
1027 under the procedure for certification of the assessment roll in HCC 17.02.

1028
1029 b. Payments on the initial assessment are credited to the property upon reassessment. The
1030 reassessment becomes a charge upon the property notwithstanding failure to comply with any
1031 provision of the assessment procedure.

1032
1033 17.02.130 Objection and appeal.

1034
1035 a. An assessment may only be contested by a person who filed a written objection to the
1036 assessment roll before its certification. Council's decision regarding an objection to the
1037 assessment role is final and may be appealed to the Superior Court within 30 days after the
1038 date of certification of the assessment roll.

1039
1040 b. If no objection is filed or appeal taken within the time provided in this section, the
1041 assessment procedure shall be considered regular and valid in all respects.

1042
1043 17.02.140 Interim financing.

1044
1045 a. Council may provide by resolution or ordinance for the issuance of notes to pay the costs of
1046 an improvement from the special assessments for that improvement. The notes shall bear
1047 interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed
1048 either in cash or bonds for the improvement project.

1049
1050 b. Notes issued against assessments shall be claims against the assessments that are prior and
1051 superior to a right, lien or claim of a surety on the bond given to the City to secure the
1052 performance of the contract for construction of the improvement, or to secure the payment of
1053 persons who have performed work or furnished materials under the contract.

1054
1055 c. The Finance Director may accept notes against special assessments on conditions prescribed
1056 by the Council in payment of:

- 1057 1. Assessments against which the notes were issued in order of priority;
1058 2. Judgments rendered against property owners who have become delinquent in the
1059 payment of assessments; and
1060 3. Certificates of purchase when property has been sold under execution or at tax sale
1061 for failure to pay the assessments.

1062
1063 17.02.150 Special assessment bonds.

1064
1065 a. Council by ordinance may authorize the issuance and sale of special assessment bonds to
1066 pay all or part of the cost of an improvement in a special assessment district. The principal and
1067 interest of the bonds shall be payable solely from the special assessments levied against

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

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

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

1083
1084 17.02.160 Time limit for special assessment districts.

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

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

1096
1097 17.02.170 Water and sewer connections required.

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

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

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

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

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

1119
1120 17.02.190 Hardship Deferrals.

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

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

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

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

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

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

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

1155
1156 17.02.200 In lieu of assessment.

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

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

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

1176
1177 CHAPTER 17.03
1178 ENFORCEMENT OF PUBLIC ASSESSMENTS

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

1182
1183 17.03.010 Delinquent assessment payments-enforcement.

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

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

1190
1191 17.03.020 Priority of Lien.

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

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

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

1201
1202 CHAPTER 17.18
1203 DEVELOPER REIMBURSEMENT PROGRAM

1204 Sections:

1205 17.18.010 Purpose.

1206 17.18.020 Definitions.

1207 17.18.030 Developer Requested Special Assessment District

1208 17.18.040 Developer Incentive and Reimbursement Program

1209
1210 17.18.010 Purpose.

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

1215
1216 17.18.020 Definitions.

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

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

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

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

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

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

1238

1239 17.18.030 Developer Requested Special Assessment District.

1240

1241 a. A developer may request a Resolution of the Council approving a special assessment district
1242 in connection with the construction of a Municipal Improvement as set forth in HCC 17.02.040.

1243

1244 b. A request for special assessment district initiated by a developer shall be filed on the Special
1245 Assessment District Resolution Request Form, which is available from the City Clerk's Office.

1246

1247 c. The developer's request must include all information required by the Special Assessment
1248 District Resolution Request Form, including, without limitation, a description of the boundaries
1249 of the district requested and the Municipal Improvement the developer intends to construct or
1250 extend, a cost estimate for the improvements to be constructed, the proposed method used to
1251 calculate the amount claimed by each record owner of Benefitted Property in the proposed
1252 district, the percentage of the improvement cost to be assessed to Benefitted Properties
1253 within the district, and the percentage of the improvement cost to be assessed to the
1254 developer's property and/or project.

1255

1256 d. Upon adoption of a Resolution of Council finding there is a necessity for the special
1257 assessment district identified by the developer in the developer's application and the initiation
1258 of the special assessment district process under this chapter, a Developer Reimbursement
1259 Agreement must also be presented to Council for approval. This agreement must include the
1260 terms and conditions of the improvement plan and the proposed construction and installation
1261 terms by the Contractor.

1262

1263 17.18.040 Developer Incentive and Reimbursement Program.

1264

1265 a. If Council approves the district and the Developer Reimbursement Agreement under the
1266 procedures set forth in Title 17.02, and upon completion of the approved Municipal
1267 Improvement in accordance with the City's standards and acceptance of the same by the City,
1268 and only to the extent permitted by law, the City shall transfer any payments received by the
1269 City in payment for the assessments within the district. The City will disburse any payments
1270 received from property owners in the district to the developer within 90 days from the date the
1271 City collects or receives the assessment payment.

1272

1273 b. The City may collect, but is not required to collect, the amounts assessed to any Benefitted
1274 Property for the pro rata share of the developer's Costs of Construction. The Pro Rata
1275 Payment must be paid before any Benefitted Property connects to or uses the Municipal
1276 Improvement. No Benefitted Property is permitted to connect to or use the Municipal
1277 Improvement without first making the Pro Rata Payment. The Pro Rata Payment is in addition
1278 to any connection fees, service fees, or other fees that may be charged for connection and/or
1279 use of the Municipal Improvement, or any other fees chargeable by the City under the Code for
1280 the construction of a particular Municipal Improvement.

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

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

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

1296
1297 CITY OF HOMER

1298
1299
1300 _____
1301 KEN CASTNER, MAYOR

1302 ATTEST:

1303
1304 _____
1305 MELISSA JACOBSEN, MMC, CITY CLERK

1306
1307
1308 YES:

1309 NO:

1310 ABSTAIN:

1311 ABSENT:

1312
1313 First Reading:

1314 Public Hearing:

1315 Second Reading:

1316 Effective Date:

1317
1318
1319 Reviewed and approved as to form:

1320
1321 _____
1322 Katie Koester, City Manager

1320
1321 _____
1322 Holly Wells, City Attorney

1324 Date: _____
1325

Date: _____



Memorandum 19-058

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: COUNCIL MEMBERS LORD AND STROOZAS

DATE: MAY 22, 2019

SUBJECT: REWRITE OF HOMER CITY CODE TITLE 14 AND TITLE 17

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

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

- Proposed Homer City Code (PHCC) 14.01. While also providing a critical consolidation of general provisions for Homer's water and sewer utilities, this section also includes basic language that is a skeleton of Ordinance 19-19 (14.04.010). We understand these are moving simultaneously, and suggest that the language be maintained in this Ordinance as a place-holder while 19-19 moves through the public process. As this Ordinance will likely take substantially longer to move, an amendment can be made to replace the language on Page 2, Lines 24-26 as appropriate. Note that this Ordinance also proposes deleting HCC 14.04.115
- Homer City Code (HCC)/PHCC 14.04.02 (Page 4 of the legal memo)
- HCC 14.30 deleted, revised and moved to PHCC 17.18. Pulls the developer reimbursement program in line with the special assessment district process and provides clarity on City responsibility (Page 7 of the legal memo)
- PHCC 17.02.010 Provides definitions for benefited area and developable land, providing a clear alternative to equal area assessments and maintaining flexibility in establishing the assessment method for a district.
- HCC/PHCC 17.02.100 is a revision of the subdivision after levy of assessment section of current code which you may recall from Ordinance 18.18 (failed). This proposal clarifies the calculation of the connection fee, and provides for a sunset date equal to the financing terms for the original assessment.
- HCC 17.04.190/PHCC 17.04.190 increases the qualifying income to 200% instead of 125% to be consistent with surrounding communities on the Kenai Peninsula. This would mean a family of four making less than \$64,380 would be able to qualify for a hardship deferral (vs. the current guideline of 125% or \$40,237).
- HCC 17.04.200/PHCC 17.02.200 Provides a clear process for properties outside an assessment district to join the district. See the accompanying diagram.

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

**CITY OF HOMER
HOMER, ALASKA**

*Failed
4/23/18*

Lord

ORDINANCE 18-18

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
REPEALING HOMER CITY CODE 17.04.100, SUBDIVISION AFTER
LEVY OF ASSESSMENT.

WHEREAS, Homer City Code 17.04.100 requires that a subdivision connection fee be collected when a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel creates a new lot by subdividing and connects to the improvement; and

WHEREAS, The subdivision connection fee is substantially equal to the amount of the original assessment; and

WHEREAS, The levying of a subdivision connection fee discourages subdividing and infill where costly water and sewer infrastructure is installed; and

WHEREAS, It is in the best interest of the City to have more customers on the Water and Sewer System to share in the cost of maintaining the system; and

WHEREAS, Encouraging infill is will also help with the City of Homer's Comprehensive Plan Goal 9 under the Economic Vitality Chapter to provide affordable housing by creating smaller, affordable lots with city services; and

WHEREAS, In recognition of the impacts of levying a subdivision connection fee the Homer City Council exempted the Homer Natural Gas Line Special Assessment District from HCC 17.04.100 when it was established; and

WHEREAS, The Homer City Council recognizes there may be other issues that need to addressed in Title 14, Public Services and Title 17, Improvement Districts and directs the City Manager to work with the City Attorney to simplify and improve these sections of code.

NOW, THEREFORE, The City of Homer Ordains:

Section 1. Homer City Code 17.04.100 Subdivision after levy of assessments is hereby repealed:

~~a. Except as provided in subsections (b) and (c) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among~~

43 the resulting lots that benefit from the improvement on the same basis that the assessment
44 originally was allocated.

45
46 ~~b. Except as provided in subsection (c) of this section, upon the subdivision of a~~
47 ~~property assessed as a single parcel in an assessment district where assessments were levied~~
48 ~~in an equal amount per parcel (i.e., without regard to parcel area, dimension or other~~
49 ~~characteristic), then no resulting parcel, other than the parcel that contains the original~~
50 ~~connection to the improvement for which the assessment was levied, may connect to the~~
51 ~~improvement until a subdivided property connection fee is paid for the parcel.~~

52
53 ~~1. The amount of the connection fee shall be equal to the amount of the original~~
54 ~~assessment, adjusted up or down by a percentage equal to the change in the Consumer~~
55 ~~Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska, from the end of the~~
56 ~~calendar year preceding the original assessment date to the end of the calendar year~~
57 ~~preceding the date the parcel is connected to the improvement.~~

58
59 ~~2. If the original assessment was payable in installments the City may enter into a~~
60 ~~written agreement for the payment of the connection fee in installments on terms that~~
61 ~~are substantially the same as those authorized for the payment of the original~~
62 ~~assessment, secured by a deed of trust on the parcel.~~

63
64 ~~3. Upon receiving connection fee payments, the City shall allocate such payments to~~
65 ~~each property assessed in the district in proportion to the amount originally assessed~~
66 ~~against the property, either by adjusting the original assessment amount or disbursing~~
67 ~~a payment to the record owner at the time of disbursement.~~

68
69 ~~c. Upon the subdivision of a property assessed as a single parcel in an assessment~~
70 ~~district for natural gas distribution improvements where assessments were levied in an equal~~
71 ~~amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), the~~
72 ~~assessment levied on the property that is to be subdivided shall be paid in full before the~~
73 ~~recording of the final plat. No parcel that results from the subdivision shall be subject to~~
74 ~~assessment for the improvements, but shall be charged for connecting to the improvements in~~
75 ~~accordance with the tariff of the public utility that provides natural gas service to the parcel.~~
76 ~~{Ord. 15-11 § 1, 2015; Ord. 12-15 § 1, 2012}.~~

77
78 Section 2: This ordinance shall take effect upon its adoption by City Council.

79
80 Section 3: This ordinance is of a permanent and general character and shall be included
81 in the City Code.

82
83 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ___ day of _____, 2018.

84
85

CITY OF HOMER

BRYAN ZAK, MAYOR

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ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and Approved as to form and content:

Katie Koester, City Manager

Holly Wells, City Attorney

Date: _____

Date: _____

MEMORANDUM 19-063

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

FROM: HOLLY C. WELLS

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

CLIENT: CITY OF HOMER

FILE NO.: 506,742.27

DATE: MAY 22, 2019

Introduction

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

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

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

The Reasons Behind the Rewrite

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

Current Title 14

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

The most substantial changes to Title 14 involve:

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

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

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

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

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

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

Current Title 17

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

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

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

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

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

Chapter 9.08 entitled “Enforcement of Local Improvement District Assessments” was codified in the late 1960s. It appears that these provisions properly reflect the

process for collecting delinquent assessments under Alaska Statutes. However, Alaska statutes are ever changing and HCC 9.08 does not ensure that the City's lien enforcement procedure will change with the statutory requirements. Accordingly, HCC 9.08 was repealed and the identification of delinquent assessment payments as liens and the incorporation of the state process for enforcing and foreclosing on such liens using the property tax procedure was incorporated into HCC 17.03. This ensures that all the provisions regarding public assessments are in one title and easy to locate.

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

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

Understanding the Proposed Changes

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

Table 1: Title 14 Comparison

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

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

HCC 14.04.120 "Rulemaking Authority"	Moved to PHCC 14.01.020 "City manager rulemaking authority."
HCC 14.04.130 "Violation"	Moved to PHCC 14.01.040 "Violation Penalty" and PHCC 14.01.045 "Violation right to appeal." Adopts uniform appeal procedures and rights to appeal for all Title 14 violations.
Chapter 14.05 "Sewage-Industrial Pretreatment and Discharge"	Chapter 14.05 repealed. Inserted PHCC 14.04.090 "Industrial waste disposal permit requirements." HCC 14.05 incorporated through a separate policy and procedure manual adopted and/or revised by Council via resolution.
HCC Chapter 14.08 "Water Rules and Regulations"	PHCC Chapter 14.08 renames the chapter "Homer Public Water System." HCC Chapter 13.28 is repealed and its provisions incorporated into PHCC 14.08.
HCC 14.08.010 "Purpose"	PHCC 14.08.010 "Purpose" revises the purpose to include reference to the intent to provide for the financial management of the Water System and to include a formal name for the system, namely "The Homer Public Water System."
HCC 14.08.020 "Definitions"	PHCC 14.08.020 provides a consistent definition of "directly adjacent," defines "surplus water," "water connection line," "water extension," "spaghetti line," "water filling station," "on-site water connection line," "off-site water connection line," and provides a definition of "multiple-family dwelling." It removes the definition for "certified service area" since the service area boundaries and limitations were incorporated into PHCC 14.01.010.
HCC 14.08.030 "Water connections and extensions"	PHCC 14.08.030 "Operation of water valves, fire hydrants, and curb stops" incorporates the basic requirement in HCC 13.28.040 "Operation of water valves, fire hydrants, and curb stops" that only City personnel may operate these things.
HCC 14.08.040 "Private water systems-Connection Permits-Fees."	PHCC 14.08.040 "Water meter installations" incorporates the core components of HCC 13.28.050. The more specific criteria regarding water meter installation are now placed in "Water Meter Installation Instructions" adopted by the Public Works Director and approved by Council.
HCC 14.08.037 "Water meters"	Removed.
HCC 14.08.050 "Water connections and extensions."	PHCC 14.08.050 "Water connections and extension permit."
HCC 14.08.060 "Frozen Pipes-City not liable."	Moved to PHCC 14.08.070 "Frozen Pipes-City not liable." No substantial changes.
HCC 14.08.070 "Discontinuance of supply"	Moved to PHCC 14.08.080 and renamed "discontinuance of water". No substantial changes.

HCC 14.08.072 "Priority use of water."	Moved to PHCC 14.008.090 "Priority use of water." No substantial changes.
HCC 14.08.074 "Surplus water-Sale."	Moved to PHCC 14.08.100 "Surplus water-Sale" simplified but not substantially changed.
HCC 14.08.076 "Water shortage or emergency declaration"	Moved to PHCC 14.08.110 "Water shortage or emergency declaration" simplified the water shortage declaration process and requires a resolution by Council but does not require the hearing and other procedures that may derail a response to a water shortage.
HCC 14.08.077 "Water shortage or emergency- Interruption of sale of surplus water-Other measures."	Moved to HCC 14.08.120 and simplified to provide the City Manager with the flexibility to react swiftly to a water shortage but ensure public awareness and notice.
HCC 14.08.078 "Water Shortage or emergency- Appeal"	Moved to PHCC 14.08.130. No substantial changes.
HCC 14.08.079 "Immunity for discretionary acts."	Moved to PHCC 14.01.030 to apply to all public utility systems.
HCC 14.08.080 "Schedule of rates-Rules and regulations and HCC 14.08.090 "Schedule of Rates Outside of the City Limits"	Moved to PHCC 14.01.090 "Sewer and water rate schedule," which consolidates the rate provisions for sewer and water and provides that rates will be in a schedule adopted by Council.
HCC 14.08.091 "Service deposits."	Moved to PHCC 14.08.150 "Service deposits." No substantial changes but language was simplified to identify clear criteria for refund.
HCC 14.08.100 "Bulk Water Sales"	Moved to PHCC 14.08.160; No substantial changes.
HCC 14.08.105 "Resale of water"	Repealed.
HCC 14.08.110 "Permit for resale of water"	Moved to PHCC 14.08.170 "Water filling station permit." Requires a permit application but moves the technical criteria for the permit into the permit application itself. It does identify some of the types of criteria that will be included in the application to ensure applicants have notice of the nature and scope of the permit criteria.
HCC 14.08.130 "Permit suspension, revocation" HCC 14.08.140 "Board of appeals-Notice of appeal" HCC 14.08.150 "Appeals-procedure" HCC 14.08.160 "Appeal to superior court" HCC 14.08.170 "Violation-penalty."	Moved to PHCC 14.01.040 "Violation"; PHCC 14.01.065 "Permit suspension, revocation"; PHCC 14.01.070 "Utility permits-Appeal procedure"; and PHCC 14.01.080 "Utility permit appeals-Superior Court" and applied to all City\public utility systems.
HCC Chapter 14.12 "Water and Sewer Zone Connection Fee"	Repealed. This fee has not been charged and is not administered. The Code was adopted to reflect longstanding practice.

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

Table 2: Title 17 Comparison

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

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

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

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

What Comes Next?

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

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

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

Conclusion

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

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CURRENT HOMER CITY CODE CHAPTERS 13.24 & 13.28

Chapter 13.24 SANITARY SYSTEMS

Sections:

- 13.24.010 Applicability and definitions.
- 13.24.020 Materials – Gravity line.
- 13.24.030 Materials – Pressurized line.
- 13.24.040 Construction and installation – Gravity line.
- 13.24.050 Construction and installation – Pressurized line.

13.24.010 Applicability and definitions.

- a. This chapter is limited to sewer service installations within public easements and rights-of-way.
- b. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings set forth below:

Directly Adjacent. A sewer main is “directly adjacent” to a lot when the sewer main is located in an easement or right-of-way that is adjacent to the lot, and either (1) the sewer main extends the entire length of the frontage of the lot along the easement or right-of-way; or (2) the sewer main extends at least 10 feet into the easement or right-of-way adjacent to the lot, and the Public Works Director has determined that at no time will the sewer main be extended to serve additional lots.

“Temporary connection” means a line that connects a lot to a sewer main that is not directly adjacent to the lot.

13.24.020 Materials – Gravity line.

This section is limited to utility sewer service connections and does not apply to sewer mains.

- a. Ductile iron sewer pipe (DIP) class 50 conforming to ASTM A-746, AWWA STD. C-151 and AWWA STD. C-104; or
- b. Cast iron soil pipe and fittings conforming to ASTM A-746; or
- c. No-hub cast iron soil pipe and fittings conforming to AA group 022;
- d. U.S. Tyton joints systems (TYSEAL) U.S. Pipe Co. or equal are approved;

- e. All Tyton joints seals must be made with tools specifically designed for that purpose;
- f. No-hub sewer service couplings: size four-inch approved only;
- g. Cast iron flanges and saddles, male or female, with either single stainless steel band or double band clamp are approved.

13.24.030 Materials – Pressurized line.

This section is limited to utility sewer service connections requiring pressurized flow or life and does not apply to sewer mains.

- a. No galvanized pipe shall be used.
- b. Standard size two-inch HDPE socket fused polyethylene plastic pipe and fittings are approved. Qualified as type III, category 5, class C, grade P34 in ASTM D-1248 with a design pressure rating of 100 psi minimum. Pipe shall be SCLAIRCOR series 100 or equal.

13.24.040 Construction and installation – Gravity line.

This section is limited to gravity sewer service installation.

- a. Five-foot minimum bury unless specifically allowed by the Public Works Inspector; except, that in roadway, the minimum bury is seven feet. In cases allowed, rigid board insulation of two-inch thickness minimum by 24 inches wide shall be placed six to 12 inches above the component on top of the bedding/backfill and centered in line with the component.
- b. The service line stubouts shall be placed on the property line or utility line as applicable. No service shall be placed closer than five feet to any property line not parallel to the main line.
- c. The sewer service line must have a minimum horizontal separation of 10 feet from any water service line, fire hydrant, or main line valve.
- d. The contractor shall install the service at 90 degrees to the street main line whenever possible.
- e. The service line may not cross property lines, except where the line comes from the main line in the public rights-of-way to the property being served, except with the written permission of the Public Works Director.
- f. A lot may be connected only to a sewer main that is directly adjacent to the lot.

g. Within the time provided in this subsection, a temporary connection shall be disconnected at the sewer main and replaced with a connection to a sewer main that is directly adjacent to the lot, at the expense of the lot owner. Upon connecting to the directly adjacent sewer main, the lot shall bear a portion of the cost of constructing the directly adjacent sewer main on the same basis as other lots that receive access to sewer service through the construction.

1. If there is no sewer main directly adjacent to the lot as of the effective date of the ordinance codified in this subsection, the temporary connection shall be replaced no later than one year after a sewer main directly adjacent to the lot is placed in service; provided, that the replacement shall be made during construction of the directly adjacent sewer main when necessary to maintain sewer service to the lot. The City shall notify a lot owner of the owner's obligations under this subsection before commencing construction of the sewer main.

2. If there is a sewer main directly adjacent to the lot as of the effective date of the ordinance codified in this subsection, the temporary connection shall be replaced no later than one year after the effective date of the ordinance codified in this subsection. The City shall notify a lot owner of the owner's obligations under this subsection within 60 days after the effective date of the ordinance codified in this subsection.

h. All taps into the main line must be made with tools designed specifically for that purpose and must be sized correctly for the specific sewer service connection. Only hole-cutter type tools such as manufactured by Pilot may be used to tap the main. Cutoff saws will not be allowed.

i. The City of Homer will not rent or loan any tools for sewer service installation except in the case of emergency as determined by the Public Works Director or his appointed agent.

j. The tap into the main shall be at approximately 45 degrees above horizontal.

k. A sweep of 22.5 degrees to 45 degrees shall be installed above the main to attain the proper elevation and grade.

l. The pipe shall continue at a continuous grade of one percent to three percent until under the foundation of the structure served. In some cases, 22.5-degree drops may be approved as determined by the Public Works Inspector.

- m. No floor drains, drain tile systems nor other devices may be connected to the sewer system by a service or directly which would allow the entry of rain water or runoff water into the system.
- n. Grease traps and sand traps shall be installed by the most recent State-accepted Uniform Plumbing Codes.
- o. Cleanouts shall be installed at bends greater than 45 degrees. No service line may continue over 100 feet without a cleanout being installed as measured from the main line.
- p. Backflow-prevention devices shall be installed where the potential for backflow exists as the result of flooding or blockage of the sewer system.
- q. Cleanouts shall be covered with the appropriate cap.
- r. The work must be free of leaks and flaws.
- s. The bottom of the excavation and/or bedding must be uniformly graded, and free of dips, bumps and large rocks.
- t. The trench shall be kept free of water at all times by pumping if required.
- u. In the event that ductile iron pipe is used for the service pipe, it shall be carried into position and not dragged. It shall be lowered into the excavation by means of a sling in such a manner that it is not dropped nor the pipe or fitting coating injured. The full length of the pipe shall rest on the bottom of the excavation with a recess allowed for the joint. While work is in progress, the open ends of the pipe shall be kept plugged so no trench water, dirt or foreign matter enters the pipe. Where the pipe coating or lining are damaged, they shall be repaired by the contractor in a satisfactory manner. All pipe joints shall be lubricated with Johns-Manville pipe joint lubricant or an Inspector-approved equal.
- v. The backfilling shall be done in such a manner as to assure that neither large rocks nor frozen lumps fall on the pipe. All sewer lines and components shall be bedded, backfilled and compacted to 95 percent of maximum material density. Only classified material shall be used for bedding and backfill as determined by the Public Works Inspector. In some cases, suitable bedding and/or backfill material may be encountered in the excavation and imported material may not be required as determined by the Public Works Inspector.
- w. No extension of a sewer service line may be made even on private property without the approval of the Public Works Inspector so that appropriate sizing, inspection and as-built records can be made.

- x. The public rights-of-way must be restored to their original condition before a service is accepted.
- y. No service will be accepted without copies of the required as-built plans, records and test data.

13.24.050 Construction and installation – Pressurized line.

This section is limited to utility sewer service connections with pressurized flow from a private service requiring a lift station.

- a. The plans and specifications for the lift station must be reviewed and approved by the Public Works Inspector and the requirement for any specific lift station installation must be approved by the Public Works Director.
- b. Seven-foot minimum bury unless specifically allowed by the Public Works Inspector. In cases allowed, rigid four inches wide shall be placed six to 12 inches above the component on top of the bedding/backfill and centered in line with the component.
- c. The service line shall be placed on the property line or utility easement line as appropriate. No service shall be placed closer than five feet to any property line not parallel to the main line.
- d. The sewer service line must have a minimum horizontal separation of 10 feet from any water service line, fire hydrant or main line valve.
- e. The contractor shall install the service at 90 degrees to the street main line whenever possible.
- f. The service line may not cross property lines, except where the line comes from the main line in the public rights-of-way to the property being served.
- g. Service to property that does not have a main directly adjacent to it will require a design review, a special permit and an installation agreement approved by the Public Works Director. Generally this applies to property where no other main line will be considered to serve the property.
- h. The sewer service line shall be minimum of two-inch diameter polyethylene pipe. Larger sewer service lines shall be required as the Public Works Inspector determines necessary.
- i. All taps into the main line must be made with tools designed specifically for that purpose and must be sized correctly for the specific sewer service connection. Only hole-cutter type tools such as manufactured by Pilot may be used to tap the main. Cutoff saws will not be allowed.

- j. The City of Homer will not rent or loan any tools for sewer service installation except in the case of emergency as determined by the Public Works Director or his appointed agent.
- k. The tap into the main shall be at approximately 45 degrees above horizontal.
- l. Saddles shall be cast iron male for female with either single stainless steel band or double clamp.
- m. Use flanged couplings for terminating polyethylene service line at the sewer main service saddle arrangement.
- n. Grease traps and sand traps shall be installed by the most recent State-accepted Uniform Plumbing Codes.
- o. The work must be free of leaks and flaws.
- p. The bottom of the excavation and/or bedding must be uniformly graded, and free of dips, bumps and large rocks.
- q. The trench shall be kept free of water at all times by pumping if required.
- r. The backfilling shall be done in such a manner as to assure that neither large rocks nor frozen lumps fall on the pipe. All sewer service lines and components shall be bedded, backfilled and compacted to 95 percent of maximum material density. Only classified material shall be used for bedding and backfill as determined by the Public Works Inspector.
- s. No extension of a sewer service line may be made even on private property without the approval of the Public Works Inspector so that appropriate sizing, inspection and as-built records can be made.
- t. The public rights-of-way must be restored to their original condition before a service is accepted.
- u. No service will be accepted without copies of the required as-built plans, records and test data.

Chapter 13.28 WATER SYSTEMS

Sections:

- 13.28.010 Applicability and definitions.

- 13.28.020 Materials.
- 13.28.030 Water service construction and installation.
- 13.28.040 Operation of water valves, fire hydrants and curb stops.
- 13.28.050 Water meter installation.
- 13.28.060 Backflow and cross-connection prevention.

13.28.010 Applicability and definitions.

a. This chapter is limited to:

- 1. Water service installations;
- 2. Water service meter installations; and
- 3. Backflow and cross-connection prevention.

b. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings set forth below:

Directly Adjacent. A water main is “directly adjacent” to a lot when the water main is located in an easement or right-of-way that is adjacent to the lot, and either (1) the water main extends the entire length of the frontage of the lot along the easement or right-of-way; or (2) the water main extends at least 10 feet into the easement or right-of-way adjacent to the lot, and the Public Works Director has determined that at no time will the water main be extended to serve additional lots.

“Temporary connection” means a line that connects a lot to a water main that is not directly adjacent to the lot.

13.28.020 Materials.

a. Water Line. This subsection is limited to utility water service connections and does not apply to water mains.

- 1. No galvanized pipe shall be used.
- 2. Three-fourths-inch to two-inch service lines shall be Schedule K, flexible soft copper, conforming to ASTM B-88.
- 3. Four-inch and larger service lines shall be ductile iron water pipe (DIWP), class 52, conforming to AWWA STD. C-151 and AWWA STD. C-104.

b. Water Service Valves.

1. No galvanized parts shall be used.
2. Corporation stops shall be flare-type brass only; Mueller Co. only are approved.
3. Curb stops shall be flare-type brass only; Mueller Co. only are approved.
4. Curb boxes: Mueller Co. only are approved (must be furnished with stationary operating rods).
5. Valves four inches and larger shall be mechanical joint, 250 pound test pressure rated. Mueller Co. only are approved.

c. Fittings.

1. No galvanized fittings shall be used. Use brass, stainless steel, cast iron or ductile iron only, 250 pound test pressure rated.
2. Three-part unions must be flare-type brass. Mueller Co. only are approved.

d. Thaw Wire. Thaw wire shall be solid or braided, rubber-covered or plastic-covered No. 2 copper cable.

13.28.030 Water service construction and installation.

This section is limited to water service installations.

- a. Seven feet is minimum bury unless specifically allowed by the Public Works Inspector. In cases allowed, rigid board insulation with two-inch thickness minimum by 24 inches wide shall be placed six to 12 inches above the component on top of the bedding/backfill and centered in line with the component.
- b. The service line may not be placed within five feet of any property line not parallel to main line.
- c. The water service line must have a minimum horizontal separation of 10 feet from any sewer service line.
- d. The contractor shall install the service at 90 degrees to the street main line whenever possible.
- e. The service line may not cross property lines, except where the line comes from the main line in the public rights-of-way to the property being served.
- f. A lot may be connected only to a water main that is directly adjacent to the lot.

g. Within the time provided in this subsection, a temporary connection shall be disconnected at the water main and replaced with a connection to a water main that is directly adjacent to the lot, at the expense of the lot owner. Upon connecting to the directly adjacent water main, the lot shall bear a portion of the cost of constructing the directly adjacent water main on the same basis as other lots that receive access to water service through the construction.

1. If there is no water main directly adjacent to the lot as of the effective date of the ordinance codified in this subsection, the temporary connection shall be replaced no later than one year after a water main directly adjacent to the lot is placed in service; provided, that the replacement shall be made during construction of the directly adjacent water main when necessary to maintain water service to the lot. The City shall notify a lot owner of the owner's obligations under this subsection before commencing construction of the water main.

2. If there is a water main directly adjacent to the lot as of the effective date of the ordinance codified in this subsection, the temporary connection shall be replaced no later than one year after the effective date of the ordinance codified in this subsection. The City shall notify a lot owner of the owner's obligations under this subsection within 60 days after the effective date of the ordinance codified in this subsection.

h. The water service line shall be a minimum of three-fourths-inch diameter. Larger water service lines shall be required as the Public Works Inspector determines necessary.

i. No three-part union will be allowed closer than 60-foot intervals either side of the curb box.

j. A curb box shall be installed at the property line adjoining the public rights-of-way or on the utility easement line as appropriate.

k. Curb box shall extend zero to three inches above the finish grade.

l. All taps into the main line must be made with tools designed specifically for that purpose and must be sized correctly for the specific water service connection.

m. The City of Homer will not rent or loan any tools for water service installation except in the case of emergency as determined by the Public Works Director or his appointed agent.

n. The bottom of the excavation and/or bedding must be uniformly graded, and free of dips, bumps and large rocks.

- o. The trench shall be kept free of water at all times by pumping if required.
- p. The service line must be laid in the ditch with slack for expansion if required.
- q. A thaw wire shall be attached to the corporation stop if such stop is designed for this attachment. If the corporation stop is not designed for direct attachment, a brass or copper grounding clamp shall be installed on the copper tubing as close as possible to the corporation stop and the thaw wire attached to the ground clamp.
- r. The thaw wire shall be laid in the ditch with slack for expansion or ground movement and surface at the curb box with enough excess to permit easy location and attachment of an electric thawing device.
- s. There shall be no breaks or splices in the thaw wire.
- t. The work must be free of leaks and flaws.
- u. The water service connections, corporation stops, curb stops and all joints will be pressure tested at static main line pressure for 10 minutes and inspected by the Public Works Inspector before backfilling is allowed.
- v. All water service lines and components shall be bedded, backfilled and compacted 95 percent of maximum material density. Only classified material shall be used for bedding and backfill as determined by the Public Works Inspector. In some cases, suitable bedding or backfill material may be found in the excavation and imported material may not be required as determined by the Public Works Inspector.
- w. Backfilling shall be done in such a manner as to assure that no large rocks or frozen lumps fall on the pipe or components.
- x. No extension of a water service line may be made even on private property without the approval of the Public Works Inspector so that appropriate sizing, inspection and as-built records can be made.
- y. In the event that ductile iron pipe is used for the service, pipe shall be carried into position and not dragged. It shall be lowered into the excavation by means of slings in such a manner that it is not dropped, nor are the pipe or fitting coating injured. The full length of the pipe shall rest firmly along the bottom of the excavation with a recess allowed for the joint. While work is in progress, the open ends of the pipe shall be kept plugged so no trench water, dirt or other foreign substance enters the pipe. Where pipe coating or lining are disturbed, they shall be repaired in a satisfactory manner. A valve shall be located at the property line or utility easement line as applicable to shut off the service in place of a curb box. No thaw wire shall be required. The valve shall be securely tied back to the main, using two runs of three-fourths-inch all thread, coated with a galvanized spray or

bituminous material. The main shall be joined using a cast iron tee and, if necessary, a cast coupling. The tee shall be property thrust block against the undisturbed ditch using only property sized concrete thrust blocks. Wooden blocks shall not be permitted. If a poured-in-place block is used, all fittings shall be wrapped in sheet plastic and care taken to see that all bolts are accessible. The valve box top shall be flush with the finish grade. All pipe and fittings shall be sanitized during installation. After installation, the line is to be flushed in the presence of the Inspector to his satisfaction. All joints shall be lubricated with Johns-Manville pipe joint lubricant or Inspector-approved equal.

z. The public rights-of-way must be restored to their original condition before a service is accepted.

aa. No service will be accepted without copies of the required as-built plans, records, and test data.

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

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

13.28.050 Water meter installation.

a. The meter shall be the size and model indicated by the Public Works Inspector.

b. Fittings on the meter shall be screw-type bronze or brass for brass meters and screw-type plastic for plastic meters.

c. The meter shall be installed in a horizontal and upright position.

d. The meter shall be in a warm dry place above groundwater, easily accessible, preferably inside the building structure.

e. The shutoff valve shall be installed immediately before the meter on the incoming service line for customer use.

A pressure regulator provided by the City must also be installed between this valve and the meter on all installations with a distribution system pressure of more than 80 pounds per square inch (P.S.I.) and the pressure must be regulated at 60 pounds per square inch (P.S.I.) or less.

f. An appropriate backflow-prevention device shall be installed immediately after the meter on the outgoing service line.

g. Water meters shall be installed prior to providing any service to a water utility customer.

h. The City of Homer shall have the right to install a meter remote on the building in any location the City deems most appropriate.

i. Water meters remain the property of the City of Homer. The initial fee for the meter is a one-time rental fee. The customer is responsible for normal protection of the meter and/or generator from external damage and freezing. Internal wear and failure of the meter and/or generator due to normal use will be the responsibility of the City. Customers shall provide reasonable access for City personnel and to make necessary repairs.

j. All water sold must be metered.

k. All plumbing parts, processes, and installation and workmanship shall be in accordance with current State-approved Uniform Plumbing Codes (UPC).

13.28.060 Backflow and cross-connection prevention.

a. All connections to the public potable water system shall have an approved backflow-prevention device where required in accordance with the minimum requirements listed below.

b. All devices recommended in this section are minimum standards and thus the requirements for backflow-prevention may be made more stringent should the Public Works Director deem it necessary or appropriate.

c. The location and type of the backflow-prevention devices shall be approved by the Public Works Inspector.

d. All backflow-prevention devices or the installation of the devices, excepting residences (single-family and duplex), shall include test cocks and shutoff valves for testing the device for correct and continuous function. Annual tests shall be made to verify that the device is functioning correctly and continuously. The owner shall be responsible for making these tests and for the maintenance of the device and shall maintain a record of these tests in a form suitable to the City and shall submit the records to City upon request.

e. The City has the right to inspect all installations and structures, and to review plumbing plans to determine compliance with the backflow and cross-connection prevention requirements. The City has the right to reject the devices or installations not in compliance with the requirements and has the right to disapprove the plumbing plans if not in compliance with the requirements.

f. All boiler make up water feed systems must have an approved reduced-pressure type backflow-prevention device.

g. Minimum Requirement for Backflow-Prevention.

Structure of System	Recommended Device
1. Residences	(Single-family and duplex) Single check valve at meter and a reduced-pressure/air break vented device (Watts series 9D or equal), at boiler feed line.
2. Hotels, apartments, public and private buildings	Air-gap separation or reduced-pressure device.
3. Canneries, packing houses and reduction plants	Air-gap separation or reduced-pressure device.
4. Chemical plants	(Same as above)
5. Chemically contaminated water systems	(Same as above)
6. Civil works	Air-gap separation or reduced-pressure device or double check valve, depending on the situation.
7. Dairies and cold storage plants	(Same as above)
8. Film laboratories	Air-gap separation or reduced-pressure device.
9. Fire systems	Air-gap separation or reduced-pressure device or double check valve, depending on the situation.
10. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics	(Same as above)
11. Waterfront facilities and industries	(Same as above)
12. Oil and gas production storage or transmission properties	Air-gap separation or reduced-pressure device.
13. Plating plants	(Same as above)
14. Power plants	(Same as above)
15. Radioactive materials or substances plants or facilities handling	(Same as above)
16. Restricted, classified or other closed facilities	(Same as above)
17. Schools and colleges	(Same as above)

Structure of System

Recommended Device

18. Sewage and storm drain facilities

(Same as above)

h. All devices must be approved by the State and the Public Works Department.

i. All installations shall be done to conform to all applicable City and State building and plumbing codes.

**CURRENT HOMER CITY CODE CHAPTER 9.08
"ENFORCEMENT OF LOCAL IMPROVEMENT DISTRICT ASSESSMENTS"**

Ordinance 19-23 repeals HCC Chapter 9.08 and instead incorporates the assessment enforcement lien authority and the state mandated procedure that must be followed for enforcement into proposed Title 17, namely proposed Chapter 17.03 "Enforcement of Public Assessments." For purposes of consideration, the current and complete content of Chapter 9.08 is included below.

Chapter 9.08 Enforcement of local Improvement District Assessments

Sections:

- 9.08.010 Validity.
- 9.08.020 Assessments to be liens.
- 9.08.030 Assessment collection.
- 9.08.040 Foreclosure list.
- 9.08.050 Clearing delinquencies.
- 9.08.060 Notice to lien holders.
- 9.08.065 Costs of notice to be lien.
- 9.08.070 Answer and objection.
- 9.08.080 Judgment.
- 9.08.090 Transfer and appeal.
- 9.08.100 Redemption period.
- 9.08.110 Effect.
- 9.08.120 Additional liens.
- 9.08.130 Possession during redemption period.
- 9.08.140 Expiration.
- 9.08.150 Deed to City.
- 9.08.152 Release of priority liens.
- 9.08.155 City disposition of foreclosed properties.

9.08.010 Validity.

Certified assessment rolls are valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

9.08.020 Assessments to be liens.

Assessments, together with penalty and interest, are liens upon the property assessed and are prior and paramount to all other liens or encumbrances against the property except municipal tax liens.

9.08.030 Assessment collection.

The City shall enforce delinquent assessment liens by foreclosure.

9.08.040 Foreclosure list.

a. The City shall:

1. Annually, present a petition for judgment and a certified copy of the foreclosure list for delinquent assessments in the Superior Court. Improvement districts may be foreclosed individually, or more than one district may be combined in a single petition.
2. Publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed within the City or, if there is no newspaper of general circulation distributed within the City, post the list at three public places for at least 30 days.
3. Within 10 days after the first publication or posting, mail to the last known owner of each property as his name and address appear on the list a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

b. The list shall be arranged in alphabetical order as to the name and shall include:

1. The last known owner;
2. The property description as stated on the assessment roll;
3. Years and amounts of delinquency;
4. Penalty and interest due;
5. A statement that the list is available for public inspection at the Clerk's office;
6. A statement that the list has been presented to the Superior Court with a petition for judgment and decree.

c. Completion of the requirements of subsection (a) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list.

9.08.050 Clearing delinquencies.

During the publication or posting of the foreclosure list and up to the time of transfer to the City a person may pay the assessment, together with the penalty, interest and costs. The Collector shall note payment on the foreclosure list.

9.08.060 Notice to lien holders.

In addition to the notice to the last known owner pursuant to HCC 9.08.040(a)(3), the same notice shall be sent:

- a. By mail to a holder of a mortgage or other lien of record on the real property; and
- b. By certified mail to a holder of a mortgage or other lien on the real property who requests the Clerk in writing to provide notice of a foreclosure list which includes such real property.

9.08.065 Costs of notice to be lien.

Costs incurred in the determination of owners of record and holders of mortgages and other liens of record and costs of publication and other notice incurred by the City under this chapter are a lien on the property and shall be recovered by the City.

9.08.070 Answer and objection.

A person having an interest in a tract on the foreclosure list may file an answer within 30 days of the date of last publication, specifying his objection. The Court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the assessment are valid and that the assessment is unpaid.

9.08.080 Judgment.

The court shall in a proper case give judgment and decree that the assessment liens be foreclosed. It is a several judgment against and a lien on each parcel.

9.08.090 Transfer and appeal.

a. Foreclosed properties are transferred to the City for the lien amounts. When answers are filed the court may enter judgment against and order the transfer to the City of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

b. The Court Clerk shall deliver a certified copy of the judgment and decree to the City Clerk. The certified judgment and decree constitutes a transfer to the City.

c. The judgment and decree stops objections to it which could have been presented before judgment and decree.

d. Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be made in the manner provided for appeals in civil actions.

9.08.100 Redemption period.

Properties transferred to the City shall be held by the City for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs, including all costs incurred under this chapter and recoverable pursuant to HCC 9.08.065. Property redeemed is subject to all taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

9.08.110 Effect.

Receipt of redemption money by the Clerk releases the judgment obtained through foreclosure (AS 29.45.410). The Clerk shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The Clerk shall file the certificate with the Recorder and collect the recording fee from the person redeeming at the time of redemption. The Court Clerk shall file the certificate as part of the judgment roll.

9.08.120 Additional liens.

If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien.

9.08.130 Possession during redemption period.

Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under his permission or control, the City may declare an immediate forfeiture of the right to possession.

9.08.140 Expiration.

At least 30 days before the expiration of the redemption period the Clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the City immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the City. The notice is published once a week for four consecutive weeks in a newspaper of general circulation within the City. If there is no newspaper of general circulation within the City, the notice is posted in three public places for at least four consecutive weeks. The Clerk shall send a copy of the published notice by certified mail to each record owner of the property against which a judgment of foreclosure has been taken and to all holders of mortgages or other liens of record on the property (AS 29.45.440(a)). The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

9.08.150 Deed to City.

a. Upon expiration of the redemption period, the Borough Clerk or the Clerk of the Superior Court shall deed unredeemed properties to the City subject to the payment by the City of unpaid taxes of the Kenai Peninsula Borough. The deed shall be recorded in the Homer Recording District.

b. Conveyance gives the City clear title except for prior recorded tax liens of the United States, the State of Alaska and the Kenai Peninsula Borough.

c. No deed is invalid for irregularities, omissions or defects unless the former owner has been misled so as to be injured. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner or other person having an interest in the property is forever barred.

9.08.152 Release of priority liens.

In order to protect the title of the City, the City Council may by motion authorize the City Manager to secure the release of any priority lien on property deeded to the City.

9.08.155 City disposition of foreclosed properties.

Foreclosed properties deeded to the City shall be classified pursuant to HCC 18.06.042 and may be retained by the City or offered for sale pursuant to the applicable provisions of HCC Title 18.

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ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-24

An Ordinance of the City Council of Homer, Alaska, Amending the 2019 Operating Budget by Authorizing the Expenditure of an Additional \$16,100 from the Police Fleet Reserves for the Outfitting of Two New Police Vehicles and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Police Chief

1. City Council Regular Meeting May 28, 2019 Introduction

Memorandum 19-061 from Chief Robl as backup

CITY OF HOMER
HOMER, ALASKA

City Manager/Police Chief

ORDINANCE 19-24

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE 2019 CAPITAL BUDGET BY AUTHORIZING THE EXPENDITURE OF AN ADDITIONAL \$16,100 FROM THE POLICE FLEET RESERVES FOR THE OUTFITTING OF TWO NEW POLICE VEHICLES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The City Council approved the expenditure of \$88,000 to purchase and outfit two new police vehicles in the 2019 budget process; and

WHEREAS, A computation error was discovered and the cost of properly equipping only one vehicle was included in the total included in the 2019 budget; and

WHEREAS, The purchase price for two new police vehicles was slightly higher than anticipated; and

WHEREAS, In order to purchase and fully equip the two new police vehicles the additional funding is required.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2019 Capital Budget to appropriate \$16,100 from the Police Fleet Reserves for the outfitting of two new police vehicles.

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
152-0382	Police Fleet Reserves	\$16,100

Section 2. This is a budget amendment ordinance, is temporary in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 28th day of May, 2019.

CITY OF HOMER

KEN CASTNER, MAYOR

45 ATTEST:

46

47 _____

48 MELISSA JACOBSEN, MMC, CITY CLERK

49

50

51 YES:

52 NO:

53 ABSTAIN:

54 ABSENT:

55

56 Introduction:

57 Public Hearing:

58 Second Reading:

59 Effective Date:

60

61

62 Reviewed and approved as to form:

63

64 _____

65 Katie Koester, City Manager

66

67 Date: _____

68

Holly Wells, Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

Police Department

4060 Heath Street
Homer, Alaska 99603

police@cityofhomer-ak.gov

(p) 907-235-3150

(f) 907-235-3151

Memorandum 19-061

TO: KATIE KOESTER, CITY MANAGER
FROM: MARK ROBL, CHIEF OF POLICE
DATE: MAY 16, 2019
SUBJECT: NEW VEHICLE OUTFITTING

\$88,000 was approved in the 2019 budget process for the purchase and equipping two new four wheel drive police vehicles. I made a mistake while preparing this budget request and added in the cost of equipping one of the vehicles instead of both of them. The cost for the two new vehicles also came in slightly higher than last year at approximately \$77,000. The cost for outfitting each unit through Alaska Safety is \$13,550.

I request an appropriation from our fleet reserve account in the amount of \$16,100 and purchase approval to Alaska Safety for \$27,100 to complete the outfitting of these new vehicles so they can be put in service. Alaska Safety is the only firm in Alaska currently outfitting police special service vehicles.

Fiscal Note: Expenditure; 152-0382-5902, \$16,100

ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-25

An Ordinance of the City Council of Homer, Alaska, Approving the Sale of the Homer Public Library Lot Located at 3713 Main Street and Authorizing the City Manager to Execute the Appropriate Documents to Dispose of the Lot.

Sponsor: Aderhold

1. City Council Regular Meeting May 28, 2019 Introduction

CITY OF HOMER
HOMER, ALASKA

Aderhold

ORDINANCE 19-25

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
APPROVING THE SALE OF THE HOMER PUBLIC LIBRARY LOT
LOCATED AT 3713 MAIN STREET AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS TO
DISPOSE OF THE LOT.

WHEREAS, HCC 18.12.020 provides that real property that is no longer required for public purpose may be sold; and

WHEREAS, no public purpose exists for T 6S R 13W SEC 19 Seward Meridian HM 2008016 HOMER PUBLIC LIBRARY NO 2 LOT 2, also known as 3713 Main Street and Kenai Peninsula Borough Parcel Number 17514416, and it is in the best interest of the City of Homer to sell the property and put it back on the tax rolls; and

WHEREAS, HCC 18.12.030 requires an appraisal of property valued at more than \$50,000 by the Kenai Peninsula Borough's most recent assessment; and

WHEREAS, The 2019 City of Homer Land Allocation Plan designated the Homer Public Library Lot located at 3713 Main Street as available for sale; and

WHEREAS, In 2016 the City of Homer listed the lot for sale with Homer Real Estate for \$225,000; and

WHEREAS, In 2018 the City of Homer decided not to relist the property due to a lack of interest; and

WHEREAS, Since the property was removed from the market there has been recent interest expressed by a local business for purchasing the property.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby appropriates \$2,500 from the Land Reserves account for the purposes of obtaining a commercial appraisal.

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
150-0392-4901	Land Reserves Surplus Properties	\$2,500 net proceeds

CHAPTER 18.12
DISPOSAL OF REAL PROPERTY

Sections:

- 18.12.010 Powers.
- 18.12.020 Real property disposal procedure.
- 18.12.030 Appraisal.
- 18.12.040 Disposal for fair market value.
- 18.12.050 Exempted disposals of real property.
- 18.12.060 Easements, rights-of-way and other public areas.
- 18.12.070 Proceeds of sale of foreclosed properties.
- 18.12.010 Powers.

The City has the power to sell, donate, exchange or make other dispositions of real property or interests in real property, subject to the requirements in this chapter. [Ord. 15-28(A) § 1, 2015].

18.12.020 Real property disposal procedure.

a. A proposal to dispose of real property owned by the City may be initiated by the City Manager or the Council, or in response to a request received from any person.

b. The disposal of real property shall be authorized by ordinance. The ordinance shall include a finding that the property is no longer required for a public use, and shall include such terms and conditions of the disposal as the Council shall determine. For property that the City acquired through foreclosure, the ordinance shall include the information and be adopted under the procedure required by HCC 18.06.042.

c. Notice of any proposed disposal of real property shall be posted on the City's website for at least two consecutive weeks before the ordinance authorizing the transaction is considered by the City Council in final reading, in addition to any other notice required by the Alaska Statutes.

d. Real property shall be sold at public auction or by an invitation for competitive sealed bids or proposals, except when the Council finds it is advantageous to the City to sell real property by another method, including without limitation lotteries, over-the-counter sales or sole source negotiations.

e. The City Manager shall conduct and close the disposal in accordance with the terms of the authorizing ordinance, including executing all necessary documents. The City Manager may execute a deed for real property sold by the City only upon receipt of full payment, or a satisfactory financing agreement, and compliance with all terms and conditions of the conveyance. Conveyance shall be quitclaim deed. [Ord. 15-28(A) § 1, 2015].

18.12.030 Appraisal.

Before disposing of any real property whose most recent assessment by the Kenai Peninsula Borough is greater than \$50,000, the City shall obtain an appraisal of the fair market value or the property from a competent independent appraiser, performed not more than 12 months before the date of the disposal; provided, that no appraisal is required in any of the following situations:

- a. The property is being sold at public auction, by competitive sealed bid, or some other form of competitive bid or proposal process open to the public;
- b. The property is being conveyed in a transaction authorized by HCC 18.12.050;
- c. The Council has authorized the disposal of the property for less than fair market value in accordance with HCC 18.12.040; or
- d. The Council has determined that the fair market value of the property can be reasonably determined through other means. [Ord. 15-28(A) § 1, 2015].

18.12.040 Disposal for fair market value.

The sale price for a disposal of real property shall not be less than fair market value unless the Council finds in the ordinance authorizing the transaction that a lower price would be in the best interest of the City. [Ord. 15-28(A) § 1, 2015].

18.12.050 Exempted disposals of real property.

The City may dispose of real property without complying with the provisions of HCC 18.12.020(c) and (d), and HCC 18.12.040, to any of the following:

- a. The United States, the State of Alaska, a political subdivision of the State, or an agency of any of these entities.
- b. A public utility for use in providing a public utility service.
- c. An organization that the United States Internal Revenue Service recognizes as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, to be used solely for the organization's exempt purpose.
- d. The owner or owners of contiguous property, of a parcel that contains an area less than the minimum required for improvement under applicable zoning or that cannot reasonably be improved without violating setback or yard requirements because of its shape or topography. [Ord. 15-28(A) § 1, 2015].

18.12.060 Easements, rights-of-way and other public areas.

- a. The City may reserve from any conveyance of real property any easement or right-of-way that the Council finds to be required for existing or future public purposes. The effect of any such reservation shall be considered in determining the fair market value of the property.
- b. The vacation of streets, alleys or other public areas, and the disposition of title to the vacated area, is governed by Chapter 20.70 KPBC. [Ord. 15-28(A) § 1, 2015].

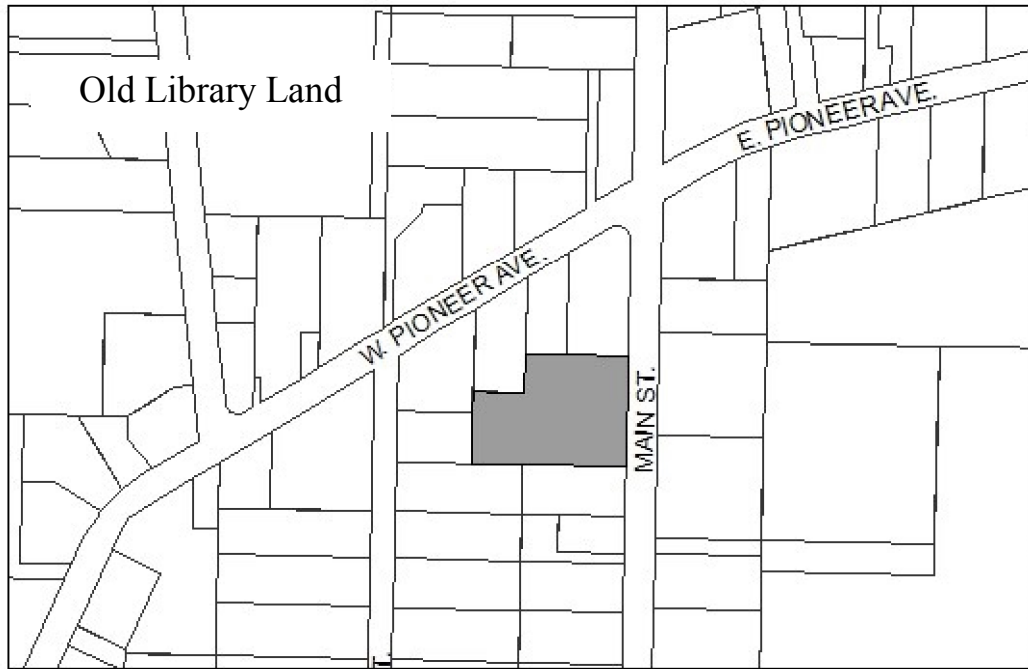
18.12.070 Proceeds of sale of foreclosed properties.

a. Subject to subsection (b) of this section, the proceeds of a sale of foreclosed real property shall be applied first to the cost of collection with the remainder divided between the Kenai Peninsula Borough and the City in proportion to the respective municipal taxes and assessments against the property at the time of foreclosure.

b. The former record owner is entitled to the proceeds of a sale of foreclosed real property that has been held by the City for less than 10 years after the close of the redemption period and never designated to be retained for a public purpose pursuant to HCC 18.06.042, in excess of the sum of the following:

1. The amount of unpaid taxes and assessments.
2. The amount equal to taxes and assessments that would have been levied after foreclosure if the property had continued in private ownership.
3. Penalty, interest, and costs to the Kenai Peninsula Borough and City of foreclosing and selling the property.
4. Costs to the Borough and City of maintaining and managing the property that exceed amounts received by the Borough and City for use of the property.

c. If the former record owner is entitled to a portion of the proceeds of sale under subsection (b) of this section, the City shall provide the former record owner with written notice of the amount of the excess and the manner in which to submit a claim therefor. The notice is sufficient if mailed to the former record owner at the owner's last address of record. The City shall remit the excess to the former record owner on presentation of a proper claim, provided that a claim that is not filed until after six months from the date of sale is forever barred. [Ord. 15-28(A) § 1, 2015].



Designated Use: Sell.
Acquisition History: Deed: Jewel July 1982 (back lot portion) Deed: Watson 1978 (library/Pioneer area)

Area: 1.31 acres	Parcel Number: 17514416
-------------------------	--------------------------------

2017 Assessed Value: \$69,400

Legal Description: T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2008016 HOMER PUBLIC LIBRARY NO 2 LOT 2

Zoning: Central Business District	Wetlands: Drainage and wetlands may be present
--	---

Infrastructure: Paved road, water, sewer, natural gas

Notes: This land was formerly part of the old library site. The library building was subdivided onto its own lot, and sold. Intent is to sell the lot and pay down debt on the library loan. The City has been attempting to sell the land since 2007.

The land has a nice bay view, but would require stumping. Driveway access off of Main Street is very steep. It is likely significant dirt work would be needed to make this lot viable for commercial or multifamily development.

Finance Dept. Code:

ORDINANCE REFERENCE SHEET
2019 ORDINANCE
ORDINANCE 19-19

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 14.08, "Water Rules and Regulations" to add HCC 14.08.015, "Water Service Area" and Prohibiting the City from Providing Water Service Outside the City of Homer Unless Authorized by Ordinance or Required by Law and Requiring the Adoption of Extraterritorial Public Utility Agreements by Resolution.

Sponsor: Aderhold

1. City Council Regular Meeting April 22, 2019 Introduction and Postponement
2. City Council Worksession May 28, 2019

1 CITY OF HOMER
2 HOMER, ALASKA

Aderhold

3
4 ORDINANCE 19-19

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE TITLE 14.08, "WATER RULES
8 AND REGULATIONS" TO ADD HCC 14.08.015, "WATER SERVICE
9 AREA" AND PROHIBITING THE CITY FROM PROVIDING WATER
10 SERVICE OUTSIDE THE CITY OF HOMER UNLESS AUTHORIZED
11 BY ORDINANCE OR REQUIRED BY LAW AND REQUIRING THE
12 ADOPTION OF EXTRATERRITORIAL PUBLIC UTILITY
13 AGREEMENTS BY RESOLUTION.

14
15 WHEREAS, It is in the interest of the City of Homer ("City") to prioritize providing City-
16 owned utilities to City residents and taxpayers; and

17
18 WHEREAS, The City has no authority to regulate the development or zoning of real
19 property outside the City's boundaries; and

20
21 WHEREAS, Properties outside City limits do not contribute to the costs of maintaining
22 and providing City-owned public utilities through property tax, public utility assessments or, in
23 the case of businesses, sales tax; and

24
25 WHEREAS, For these reasons the water service area of the City should not be expanded
26 outside City limits without careful and deliberate consideration by City Council via ordinance or
27 as otherwise required by law.

28
29 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

30
31 Section 1. The Homer City Council hereby amends Homer City Code 14.08, "Water
32 Rules and Regulations" by adding a new section HCC 14.08.015 entitled "Water Service Area":

33
34 14.08.015 Water Service Area

- 35
36 a. Except as otherwise required by law, the extension of water service outside City
37 boundaries is prohibited unless the extension is requested by the governing body of the
38 outside jurisdiction via ordinance. Water may not be extended outside City boundaries
39 unless approved by Council via ordinance or otherwise required by law.
40

- 41 b. All agreements for water service outside City boundaries must be approved by Council
42 via resolution. The resolution must:
- 43 1. Identify the property to be serviced and its location;
 - 44 2. Identify the essential terms and conditions of the agreement between the
45 property owner and the City;
 - 46 3. Specify the cost of extending water service to the identified property; and
 - 47 4. Affirm the extension of water services under this section is lawful, in the City's
48 best interest, and in furtherance of public health and welfare within the City.
- 49
- 50 c. Water may not be extended outside City limits until the City amends its certificate of
51 public convenience and necessity to include the extended service area if required by
52 state law.
- 53
- 54 d. Except as provided in this title or upon approval granted by Council via ordinance,
55 persons outside City limits will be treated the same as persons inside City limits with
56 regard to permitting fees and water rates.

57
58 Section 2. This ordinance shall take effect upon its adoption by the Homer City Council.

59
60 Section 3. This ordinance is of a permanent and general character and shall be included
61 in Homer City Code.

62
63 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ___ day of _____,
64 2019.

65
66
67 CITY OF HOMER

68
69
70 _____
71 KEN CASTNER, MAYOR

72
73 ATTEST:

74
75
76 _____
77 MELISSA JACOBSEN, MMC, CITY CLERK

78
79 Introduction:
80 Public Hearing:
81 Second Reading:
82 Effective Date:
83

84 YES:

85 NO:

86 ABSTAIN:

87 ABSENT:

88

89 Reviewed and approved as to form:

90

91 _____

92 Katie Koester, City Manager

93

94 Date: _____

Holly Wells, City Attorney

Date: _____

From: [Deborah Cox](#)
To: [Mayor Email](#); [Caroline Venuti](#); [Rachel Lord](#); [Tom Stroozas](#); [Donna Aderhold](#); [Shelly Erickson](#); [Heath Smith](#)
Cc: [Department Clerk](#); [Department City Manager](#)
Subject: Ordinance 19-19
Date: Monday, April 22, 2019 9:13:56 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Mayor, City Council Members, City Manager, and City Clerk,

First, I want to personally thank each of you for your dedicated service to the City of Homer.

I have followed the live broadcasts of the April 8 (Ordinance 19-09(s)) and April 22, 2019 City Council meetings, and would like to comment on the “Water Rules and Regulations” that are being discussed by the council and community members.

I support an open discussion (including community members) regarding Amending Homer City Code and it’s decisions to provide water service outside the City of Homer. I support Ordinance 19-19.

I want to thank Council Members who brought this matter to our attention, and continue to speak to the necessity of creating a fair ordinance, rather than make a “back-door one-time deal” with entities such as Kachemak City. I believe the City of Homer needs to make a consistent law regarding water rights. There are many residential and business owners who would like water, but have been told they need to be annexed into the city in order to get it.

I own *three* properties in the city of Homer. The first property that my husband and I purchased, had been recently annexed into the City of Homer (2003). We have paid taxes for City services (ie: water and sewer) for these 16 years **without having the services themselves**. I would like to propose that *we get the water we have paid 16 years for*, before Kachemak City gets it.

In addition, we paid Natural Gas assessments for our properties. Before we knew it, Kachemak City had natural gas too.

Before the City decides to give city water to folks in Kachemak City, or anywhere outside the city, the rules need to be clear. Water availability (capacity of the reservoir), as well as infrastructure are just a few of the things to be considered. **Therefore I support Ordinance 19-19.**

I feel it is high time that Kachemak City, as well as ALL those living outside of the city limits, start to pay their fair share for these services. If Kachemak City, or anyone outside city limits, wants water, sewer, natural gas, or other city services, let them be ANNEXED into the city, and pay the taxes that my family pays.

It is time for those outside city limits to start to pay their share for city services.

In closing, I again thank the Mayor and Council members for having a difficult conversation. I thank you for bringing this discussion to the table, and appreciate keeping the public informed.

Thank you,

Deb Curtis
PO Box 244
Homer, Alaska 99603
(907)299-1516
debdcox@mac.com



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 19-060

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: MAY 16, 2019

SUBJECT: CORRECTION TO TERM OF APPOINTMENT TO ECONOMIC DEVELOPMENT
ADVISORY COMMISSION IN MEMORANDUM 19-049

At their May 13, 2019 regular meeting Council approved Memorandum 19-049 appointing Deborah Brown to the Economic Development Advisory Commission. When preparing the memo on behalf of the Mayor, the term of office was incorrectly stated.

Commissioner Brown's term is for three years, to expire April 1, 2022.

RECOMMENDATION: Approve the corrected Commission term for Deborah Brown as three years, expiring April 1, 2022.

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Finance Director

5 RESOLUTION 19-036

6
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AMENDING THE CITY OF HOMER WATER AND SEWER RATES
9 AND UPDATING THE HOMER FEE SCHEDULE ACCORDINGLY.

10
11 WHEREAS, Water and sewer utility services shall be reviewed annually and shall take
12 effect as of the first billing cycle in January; and

13
14 WHEREAS, Based on a the water sewer rate model prepared by the Water Sewer Rate
15 Task Force and adopted by the Homer City Council in Resolution 13-048(S-2)(A-3) adjustments
16 to the rates are recommended and warranted to reflect the true cost of water and sewer
17 services; and

18
19 WHEREAS, City Council adopted Ordinance 19-09(S) authorizing the enactment of a
20 4.85% of total charges charged to every water customer outside of City limits in lieu of City of
21 Homer Sales Tax.

22
23 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, that the
24 water and sewer fees be amended and the Homer Fee Schedule be updated as follows:

25 WATER AND SEWER FEES:

26 Public Works - 235-3170

27 City Hall - 235-8121

28 Billing - 235-8121 x 2240

29
30
31 (The following fees have been set by the following legislative enactment HCC Title 14, new
32 fees set forth in Ordinance 19-09(S), 16-063(S-2), Resolution 14-060, Ordinance 13-30(A),
33 Resolution 15-074A-2), 13-048 (S-2)(A-3), Ordinance 11-43, Resolution 11-094(S), Resolution
34 11-062(A), Resolution 09-47(S)(A), Resolution 09-48(S)(A), Resolution 07-119 (A), Resolution
35 07-120(A), Ordinance 06-62(A), Resolution 06-04, Resolution 05-125, Resolution 05-122,
36 Resolution 05-121(A), Resolution 05-09, Resolution 04-95, Resolution 04-94(S)(A), Resolution
37 03-159, Resolution 02-80, Resolution 01-80(A), Resolution 00-123, Resolution 00-34, Ordinance
38 00-02, Ordinance 97-17(A), amending the rates set forth in Ordinance 97-5(S)(A), with
39 amendments by Ordinance 97-7, Ordinance 97-13 and Ordinance 97-14).

40
41 A 15% admin. fee will be assessed for replacement parts for water/sewer services, functions,
42 pressure reducing valves, sewer saddles, any Public Works Department stock item for resale to
43 public.

45 Establishing service includes a one-time disconnect - \$75
46 Service calls, inspections, repairs not to exceed one hour - \$25 per employee plus equipment
47 and materials.

48
49 Service calls, inspections and repairs during normal operating hours in excess of one hour
50 labor: actual labor costs by City plus equipment and materials.

51
52 Service calls, inspections and repairs after normal operating hours or on weekends/holidays:
53 \$50 minimum plus equipment and materials or actual cost incurred by City, whichever is
54 greater.

55
56 WATER FEES:

57
58 **A 4.85% of total charges charged to every customer outside of city limits in lieu of city**
59 **sales tax will be applied to those water accounts outside city limits.**

60
61 Water Connection Fee
62 Single Family \$300
63 Multi-Family/Commercial \$375

64
65 Customer classification definitions for determining water connection and extension permit
66 fees:

67
68 Single Family Residential – A unit providing housing for one household; with less than 25% of
69 the building area used for business or commercial purposes.

70
71 Multi-Family Residential- A building or lot occupied by more than one household: contained
72 within one building or several building within one complex. Examples of multi-family units
73 includes duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and
74 multiple structures on one lot (where units are normally rented or occupied for longer than one
75 month at a time). Examples of units not considered as multi-family include hotels, motels,
76 B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one
77 month at a time.)

78
79 Commercial - Any user not defined as Residential.

80
81 Water Rate Schedule.
82 All water utility services shall be billed according to the following schedule. This schedule is for
83 monthly water service and is in addition to any charges for connecting or disconnecting the
84 service, installation of the service or any assessment of the improvements.

Rates

Water

Table III

Customer Classification	Monthly Service	Usage Charge/Gallon
Lift-Station Customer	\$ 13.00	\$0.0132 <u>\$0.0142</u>
Non-Lift-Station Customer	\$ 13.00	\$0.0132 <u>\$0.0142</u>
Multi-units (additional per unit)	\$ 5.00	
Bulk Water	\$ 13.00	\$0.0172 <u>\$0.0182</u>

85

86 Customer classification definitions for determining water rates:

87

88 Bulk Water Customers: The bulk water customers are the resellers of water or water users who
 89 purchase water from the water plant directly and are not in the metered water distribution
 90 system.

91

92 Non-Bulk Customers: All customers who receive water from the metered water distribution
 93 system.

94

95 Multi-Units: An additional \$5 monthly charge shall apply to each of the units of a building or lot
 96 occupied by more than one household or commercial entity contained within one building or
 97 several buildings within one complex. Examples of multi-family units include duplexes, four-
 98 plexes and up, apartments, condominiums, co-housing projects, and multiple structures on
 99 one lot (where units are normally rented or occupied for longer than one month at a time).
 100 Examples of units not considered as multi-family include hotels, motels, and B&B's seasonal
 101 rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

102

103 This fee applies to all multi-unit structures defined in the sewer section of this for apartments,
 104 rental units or multi-unit buildings where each unit would have one or more restrooms and are
 105 intended to be rented on a monthly basis where there is only one meter installed, excluding a
 106 rental building restroom used for shared or public use.

107

108 Meter Size Deposits.

109

<u>Size (inches)</u>	<u>Residential Users</u>	<u>Nonresidential Users</u>
5/8	\$75.00	\$220.00
3/4	\$80.00	\$230.00
1	\$90.00	\$250.00
1-1/2	\$115.00	\$310.00
2	\$150.00	\$370.00
3	\$220.00	\$525.00
4	\$310.00	\$730.00
6	\$520.00	\$1,225.00

110

111 \$750 meter deposit shall apply to metered fire hydrant connections. The deposit will be
112 returned when the meter is returned undamaged. This deposit may be waived upon the
113 recommendation of the Public Works Superintendent.

114
115 If a bulk water customer purchases a meter from the City for measuring the quantity of water
116 purchased, it shall be exempt from the monthly meter service charge. It is the responsibility of
117 the bulk water customer to maintain that meter so the City can accurately determine the
118 amount of water being purchased. In the event the meter fails, it is the bulk water customer's
119 responsibility, at its expense, to repair it or purchase a replacement meter from the City. The
120 City may at any time test the meter for accuracy.

121
122 SEWER FEES:

123
124 Sewer Connection and Extension Permit Fee

125 Single Family \$255
126 Multi-Family/Commercial \$330

127
128 Customer classification definitions for determining sewer connection and extension permit
129 fees:

130
131 Single Family Residential – A unit providing housing for one household; with less than 25% of
132 the building area used for business or commercial purposes.

133
134 Multi-Family Residential- A building or lot occupied by more than one household: contained
135 within one building or several building within one complex. Examples of multi-family units
136 includes duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and
137 multiple structures on one lot (where units are normally rented or occupied for longer than one
138 month at a time). Examples of units not considered as multi-family include hotels, motels,
139 B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one
140 month at a time.)

141
142 Commercial - Any user not defined as Residential.

143
144 Sewer Rate Schedule.

145
146 All sewer utility services shall be billed according to the following schedule (Table I, II). This
147 schedule is for monthly sewer services and is in addition to any charges for connecting or
148 disconnecting the service, installation of the service or any assessment of the improvements.

Rates

Table I

	Sewer
--	--------------

Customer Classification	Monthly Service	Usage Charge/Gallon
Lift-Station Customer		\$0.0224 <u>\$0.0244</u>
Non-Lift-Station Customer		\$0.0145 <u>\$0.0166</u>
Multi-units (additional per unit)	\$5.00	N/A

149

Rates

Table II

Sewer ONLY Customers	Sewer	
	Fees/Rate/Usage	Per Customer Per Month
Lift-Station Customer	<u>\$0.0244</u> \$0.0224 /Gal	\$67.20 <u>\$73.20</u>
Non-Lift-Station Customer	<u>\$0.0166</u> \$0.0145 /Gal	\$43.50 <u>\$49.80</u>
Monthly Service	\$5.00/customer/mo.	\$5.00 (Kachemak City customers will be exempt from \$5 monthly service fee. Kachemak City will be billed a \$5 monthly service fee to cover all Kachemak City sewer customers.)
Pumping Fee (<i>If Applicable</i>)	<u>\$6.25</u> \$6.75 /customer/mo.	\$6.75 <u>\$6.25</u>
Assumption: Avg. Sewer Usage	3000 Gal/Mo.	

150

151 Customer classification definitions for determining sewer rates:

152

153 Lift Station Zone Customer: There are eleven sewage lift/pump stations that are used for
 154 pumping wastewater or sewage from areas with lower elevation than the treatment plant.
 155 Customers who are located in these areas shall be charged additional fees for the cost added
 156 to the services (see Table I & II).

157

158 Non-Lift Station Zone Customer: Customers who are located in the zone that do not need
 159 lift/pump station services.

160
161 Sewer System Dischargers (Sewer ONLY customers): Customers who use sewer service only
162 shall be charged a monthly fee of \$5 plus sewer usage fee based on assessed volume of 3,000
163 gallons per month multiplied by the applicable sewage rate (see Table II). Kachemak City Local
164 Improvement District (LID) members have contributed to the initial cost of the sewer
165 treatment plant and the collection system. For Kachemak City LID dischargers connected
166 within the LID, the City of Homer shall bill Kachemak City in one single bill at the Lift-Station
167 Zone Rate of ~~\$73.95 (\$67.20 + \$6.75)~~ **\$79.45 (\$73.20 + \$6.25)** per month per customer.
168 Kachemak City shall be billed a \$5 monthly service charge to cover all Kachemak City sewer
169 customers and shall be responsible for payment to the City of Homer.

170
171 Domestic sewer service customers who use large quantities of City water in addition to their
172 domestic use shall be allowed, with the Public Works Director's approval, to install an
173 additional water meter on the domestic water use line for the purpose of metering and
174 charging for domestic sewer system use. Sewer system use will be billed monthly.

175
176 The City will allow, upon approval by Public Works and a permit from the Public Works
177 Department, a second water usage meter – called a seasonal sewer meter – for each customer
178 that desires to measure the flow of City water that is not discharged to the sewer system
179 during the summer growing season, June 15 through September 15. Rates noted above do not
180 apply.

181
182 Seasonal Sewer Meter Fee is \$251.75.

183
184 PASSED AND ADOPTED by the Homer City Council on this 10th day of June, 2019.

185
186 CITY OF HOMER

187

188

189

190

191

192

193

194 ATTEST:

195

196

197 _____
MELISSA JACOBSEN, MMC, CITY CLERK

198

199 Fiscal Note: Revenue amounts defined in FY2020 budget.

1 CITY OF HOMER
2 HOMER, ALASKA

Erickson

3
4 RESOLUTION 19-037
5

6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 AUTHORIZING THE CITY MANAGER TO REISSUE A REQUEST
8 FOR PROPOSALS (RFP) FOR REAL ESTATE BROKER SERVICES.
9

10 WHEREAS, HCC 18.12.010 grants the City of Homer with the power to sell, donate,
11 exchange or make other dispositions of real property or interests in real property; and
12

13 WHEREAS, It is in the City's best interest to contract with a successful firm or broker for
14 professional real estate services including the facilitation and disposal of real property, and
15 consultation on matters related to the management of public property; and
16

17 WHEREAS, In 2016 Homer City Council issued an RFP seeking a firm or broker to enter
18 into a contract for professional real estate services; and
19

20 WHEREAS, Homer Real Estate of Homer, Alaska was awarded a three year contract
21 with a renewal option for real estate services, compensating the broker with a 10% commission
22 fee of each property sold; and
23

24 WHEREAS, Homer Real Estate was successful in representing the City as its real estate
25 firm since 2016; and
26

27 WHEREAS, In order to ensure a fair, competitive process in awarding a contract for City
28 real estate services, the City will reissue the Request for Proposals for real estate broker
29 services; and
30

31 WHEREAS, A successful firm or broker will develop strategies for sale of designated
32 City-owned properties (such as conducting a study of comparable properties); develop
33 marketing materials (electronic and/or hard copy) to advertise sites for sale; distribute the
34 materials to potential buyers via the appropriate form(s) of media and report results to the City
35 of Homer on an agreed upon frequency; advise the City related to strategies to promote and
36 sell the designated sites; Public presentations may be potentially required; participate in site
37 tours of City of Homer-owned property that is for sale for potential buyers; analyze offers from
38 potential buyers and advise the City of Homer with respect to negotiations; represent the City
39 of Homer in negotiations with a prospective buyer from the time of offer until closing;
40 coordinate real estate transaction closings; and handle all other customary activities and
41 services associated with real estate transactions.
42

43 NOW, THEREFORE, BE IT RESOLVED that the city Council of Homer, Alaska, hereby
44 authorizes the City Manager to issue a Request for Proposals for Real Estate Broker Services.
45

46 PASSED AND ADOPTED by the Homer City Council this 28th day of May, 2019.

47

48

CITY OF HOMER

49

50

51

KEN CASTNER, MAYOR

52

53 ATTEST:

54

55

MELISSA JACOBSEN, MMC, CITY CLERK

57

58 Fiscal information: Advertising

59



Designated Use: Resolution 15-030(A): Sell
Acquisition History: Lot 1: Ordinance 97-06(S) KPB

Area: Harry Feyer Subdivision Lot 1: 0.39 acres	Parcel Number: 17911005
---	--------------------------------

2015 Assessed Value: \$30,900 (lot 1)

Legal Description: Harry Feyer Subdivision Lot 1

Zoning: Rural Residential	Wetlands: none known
----------------------------------	-----------------------------

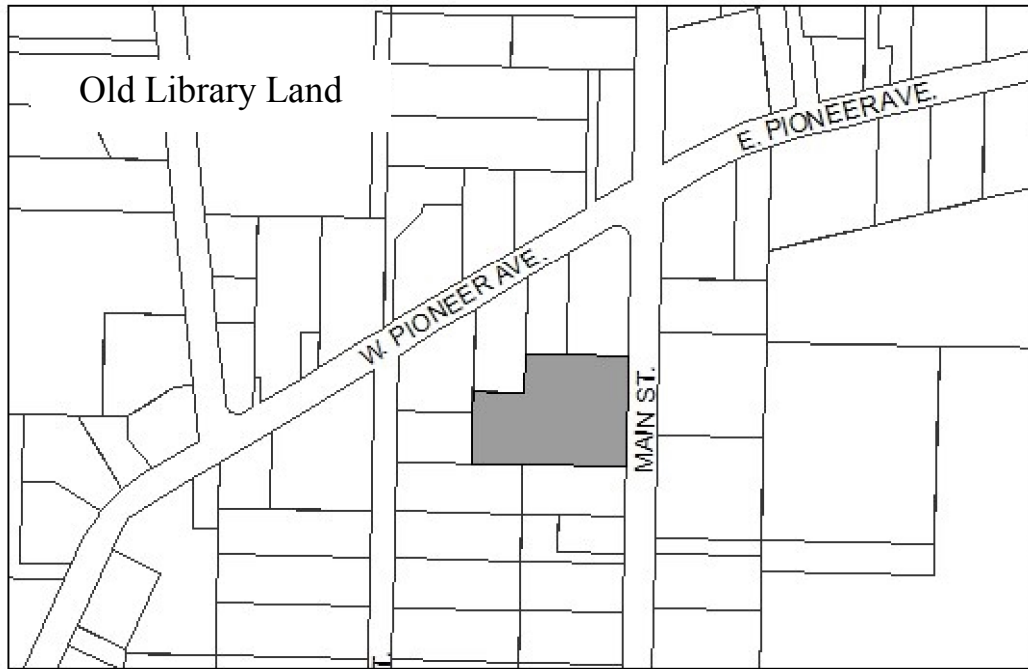
Infrastructure: Paved Road access, power.

Notes:

Has water and sewer assessments.

Resolution 15-030(A): For sale. Lot 1 has not yet sold.

Finance Dept. Code:



Designated Use: Sell.
Acquisition History: Deed: Jewel July 1982 (back lot portion) Deed: Watson 1978 (library/Pioneer area)

Area: 1.31 acres	Parcel Number: 17514416
-------------------------	--------------------------------

2017 Assessed Value: \$69,400

Legal Description: T 6S R 13W SEC 19 SEWARD MERIDIAN HM 2008016 HOMER PUBLIC LIBRARY NO 2 LOT 2

Zoning: Central Business District	Wetlands: Drainage and wetlands may be present
--	---

Infrastructure: Paved road, water, sewer, natural gas

Notes: This land was formerly part of the old library site. The library building was subdivided onto its own lot, and sold. Intent is to sell the lot and pay down debt on the library loan. The City has been attempting to sell the land since 2007.

The land has a nice bay view, but would require stumping. Driveway access off of Main Street is very steep. It is likely significant dirt work would be needed to make this lot viable for commercial or multifamily development.

Finance Dept. Code:

CITY OF HOMER
HOMER, ALASKA

Mayor

RESOLUTION 19-038

A RESOLUTION OF THE HOMER CITY COUNCIL REQUESTING
THE CITY MANAGER ISSUE A REQUEST FOR PROPOSALS FOR
GENERAL COUNSEL LEGAL SERVICES FOR THE CITY OF
HOMER.

WHEREAS, The contract with Birch Horton Bittner and Cherot (BHBC) for general
counsel legal services for the City of Homer ends on July 31, 2020; and

WHEREAS, In May of 2016 Homer City Council authorized the City Manager to
negotiate a three (3) year new City Attorney Contract with BHBC; and

WHEREAS, The last time the City issued a request for proposal for general counsel legal
services was 2008 when BHBC was selected; and

WHEREAS, It is in the best interest of the City to routinely re-issue the request for
proposal for professional services to ensure the City is getting the best quality, value and fit for
the City.

NOW, THEREFORE, BE IT RESOLVED that the City Manager is directed to issue a
request for proposal for general counsel legal services for the City of Homer.

PASSED AND ADOPTED by the Homer City Council on this 28th day of May, 2019.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal note: Staff time and advertising costs to be determined.

CONTRACT FOR GENERAL COUNSEL LEGAL SERVICES

Agreement dated as of August 1, 2016 between the CITY OF HOMER, an Alaska municipal corporation ("City"), and BIRCH, HORTON, BITTNER, INC., an Alaska professional corporation, d/b/a Birch, Horton, Bittner and Cherot ("Firm").

Section 1. Definitions. In addition to the terms defined above, in this contract:

- A. "Council" means the City Council of the City.
- B. "Manager" means the City Manager of the City.

Section 2. Scope of Services.

A. The Firm shall act as general counsel to the City, to include without limitation the following:

- Serve as the legal advisor of and be responsible to the Council; advise the Manager and City Clerk concerning matters affecting the City Administration and perform other duties prescribed by the Council.
- Prepare legal documents, including but not limited to ordinances, resolutions, contracts, conveyances, leases, easements and legal opinions as needed.
- Be readily available for consultation by the Council, Manager and City Clerk.
- Provide limited representation in court and manage the activities of other attorneys who may represent the City in court.
- Assist the Manager in negotiations on the City's behalf and handle other legal matters that may arise.
- Draft opinion letters regarding, among other things, the interpretation of the City Code, state and federal laws, and policies.
- Perform other such duties as may be prescribed for the City Attorney by ordinance or by direction of the Council and/or Manager.
- Work effectively with the Council, Manager, City Clerk and with all other public agencies and other entities with which the City has a legal relationship.
- Attend at least one Council meeting per month and others telephonically as requested.

B. All representation of the City shall continue until the matters or cases assigned are either closed out by mutual consent or are recalled by the Council.

C. The Firm shall not engage any consultant, expert, or other third-party service without the prior approval of the Manager or Council.

D. Provide toll-free telephone access to the City.

Section 3. Access to City Personnel. The Manager shall secure the cooperation of City personnel as necessary to assist the Firm's performance hereunder.

Section 4. Contract Administrator. The Manager shall administer this contract on behalf of the City.

Section 5. Term.

A. Initial Term. This contract becomes effective when signed on behalf of both parties and shall continue in effect for four years.

B. Option to Extend. Council shall have the option to extend this Agreement for a one (1) year term commencing on the expiration of the Initial Term. The City must give Firm written notice of its election to extend. All the terms and conditions of this Agreement shall apply during any extended term. No additional options to extend shall be created by City's election to extend this Agreement.

Section 6. Attorney Assignment. Holly C. Wells is the Firm attorney who will be principally responsible for performing or supervising the work to be done by the Firm on the City's behalf and who will be the City's principal contact with respect to contract administration and billing. The responsible attorney will not be changed without the consent of the City. The responsible attorney may, in his or her discretion, assign additional Firm attorneys, paralegals, and law clerks to perform legal services under his or her supervision.

Section 7. Compensation. The Firm shall be compensated for services performed during the first two years of the term of this contract as follows:

A. A monthly fixed fee of \$11,500 to provide 65 hours of general counsel service per month plus travel to Homer for 12 Council meetings per year. This fee includes all travel time and travel-related expenses for attendance at the 12 Council meetings.

B. The following hourly rates for work above and beyond 65 hours per month or for specialized services (i.e., litigation): Shareholders and members: \$215; associates: \$189; paralegals: \$105.

C. For travel time between Homer and Anchorage above the contracted 12 trips, one-half the applicable hourly rate, plus actual out-of-pocket expenses.

D. Except for travel expenses described in subsection A of this section, the City shall reimburse the Firm for in-house expenses and third-party expenses incurred on the City's behalf. Such expenses may include applicable filing fees, recording fees, facsimile services, courier services, photocopying at \$0.20 per page, long distance telephone charges, postage, expedited mail or delivery services, travel expenses, service of process fees, deposition transcripts, stenographer fees, computer-assisted legal research fees, title insurance premiums, and other similar charges.

E. The Firm shall receive written consent from the City Manager or her designee for any and all costs estimated to exceed \$1,500 in one transaction for a single timekeeper.

Commencing August 1, 2018, and for the remainder of the term of this contract, the monthly retainer amount in A of this section and the hourly rates in B of this section shall increase by the cost of living increase as stated in the Consumer Price Index, All Urban Consumers, Anchorage, Alaska Area, All Items 2000 – present = 100 ("CPI-U"), as published by the United States Department of Labor, Bureau of Labor Statistics but shall not exceed 5%.

Section 8. Statements and Payment.

A. The Firm shall submit itemized monthly statements to the City for all fees and costs incurred during the preceding calendar month. Monthly statements shall identify the subject of the work performed and the time, to the nearest one-tenth of an hour, spent on each subject. Costs shall be itemized and described separately on each monthly statement.

B. Payment of monthly statements will be remitted to the Firm within 30 days. A late charge on amounts past due for 30 days or more will be assessed at the rate of .88% per month, or at the highest rate allowed by applicable law.

Section 9. Insurance. The Firm shall maintain in good standing the following insurance during the term of this contract, and shall furnish the City Manager with proof of the required insurance coverage before rendering any services under this contract:

A. Worker's compensation insurance as required by AS 23.30.045, including employer's liability protection not less than \$100,000 per person, \$100,000 per occurrence.

B. Comprehensive automobile liability insurance, covering all owned, hired and non-owned vehicles with coverage limits not less than \$300,000 per person/\$300,000 per occurrence.

C. Professional liability coverage for claims up to a minimum amount of \$1,000,000 per claim for the term of this contract, plus a three-year extended reporting period endorsement after the end of the contract.

Section 10. Records. Subject to the transfer of a file to another attorney at the City's request, the Firm shall retain and maintain all significant components of the files concerning each matter in which the Firm provides services to the City for a period of six years following the conclusion of representation of the City in the matter. During such time the Firm will afford City representatives reasonable access to each such file. At any time after the end of this six-year retention period, the Firm, in its discretion, may destroy the file and its contents without further notice to the City. The Firm will deliver to the City the originals of any documents in a file at the time the file is closed.

Section 11. Termination of Services. The Firm's services under Section 2 may be terminated:

A. For convenience by the City.

B. By mutual consent of the parties.

C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notify the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party's failure to cure the default within 15 days after receiving the notice.

Section 12. Notices. Any notice pertaining to this contract shall be either personally delivered, faxed or mailed by prepaid first class registered or certified mail, return receipt requested as follows:

City: City of Homer
Attention: City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
FAX: (907) 235-3140

Firm: Birch, Horton, Bittner and Cherot
Attn: Thomas F. Klinkner

1127 West 7th Avenue
Anchorage, Alaska 99501
FAX: (907) 276-3680

Section 13. Amendment. This contract may be amended only by a writing executed by each party.

Section 14. Integration. This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

IN WITNESS WHEREOF, the parties have executed this contract as of the date first written above.

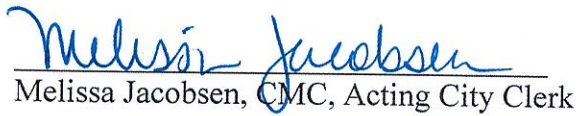
CITY OF HOMER

BIRCH, HORTON, BITTNER and CHEROT


Mary E. Wythe, Mayor


Holly C. Wells

ATTEST:


Melissa Jacobsen, CMC, Acting City Clerk



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 16-076

TO: Mayor Wythe and Homer City Council
FROM: Katie Koester, City Manager
DATE: May 4, 2016
SUBJECT: Contract with Birch Horton Bittner & Cherot

The City Attorney is hired by and serves at the pleasure of the Council. Birch Horton Bittner & Cherot (BHB) has been Homer's municipal attorney for the past 8 years. Their contract was renewed in 2012 for 4 years. They charge the city a flat fee for an unlimited amount of consulting services (drafting ordinances, negotiations, advice, legal opinions, lease reviews, etc.). Though their contract limits their retainer services to 50 hours a month, they have not applied that cap for some time. This includes travel to one Council meeting a month, and as of recently telephonic attendance at department head staff meetings. Any litigation is charged an hourly rate.

Per the contract signed in June of 2012, BHB monthly retainer amount for 2016 is \$12,000. The City spends a tremendous amount on legal fees - consistently over \$250,000 a year. However, much of that is due to the litigious nature of our community. Though Attorney Tom Klinkner has served as lead counsel for the City of Homer since 2008, last month he handed over the reins to Holly Wells. As you know, BHB also has a number of attorneys on staff ranging from specialists in human resources to construction law that we lean on frequently.

I gave notice in November in my City Manager's report the intention to re-RFP the attorney contract, though it is a Council decision. Like any human, there have been mistakes made by the attorneys representing the City of Homer and hindsight is 20/20. However, there have also been successes - and the times the attorney's advice and assistance keeps the City of Homer out of court are the ones you are less likely to hear about. There are benefits to advertising an RFP, even if BHB is the best respondent. However, I believe that the risk of bringing someone on who is not familiar with city code and the unique character of Homer would be detrimental. If I had 12 years of experience with Homer City Code and could provide the historical knowledge, it would be a different story. However, I am one year into this job and often lean on the attorneys to remember how it was done before and help to not repeat past mistakes. I communicate with BHB multiple times a day, and that is just me - they are working on projects with many of the department heads from re-writing agreements, providing human resources advice, to helping the Cannabis Advisory Commission negotiate the complex world of marijuana.

What about an in-house attorney? I have given thought about the cost/benefit of hiring a City Attorney in house as a City employee. It would be great for the community to provide that

position and I would appreciate having someone to bounce issues off of. However, I think it would be very expensive and difficult to find an employee with the breadth of knowledge in municipal law that is necessary. The City would likely still have to hire outside counsel with specific knowledge (whereas with a large firm we can use the expertise of many different lawyers). At times, one staff person may have a difficult time keeping up with the work load, at any given time we have multiple attorneys working under deadline on City of Homer issues. There would also be the concern of creating a new class of employees that would then be subject to PERS termination fees and fines if we ever changed our mind and went back to not having a designated employee as the City Attorney. It would be expensive – the City of Kenai is the only municipality on the Peninsula of comparable size with a City Attorney. Their legal department, an attorney and legal assistant, comes in at \$375,807 for 2015 budget. Just over 70% of that is salaries and benefits. The Professional and special services line, which I presume is used to hire outside counsel, since 2013 varies from \$32,500- \$83,000.¹

BHB has done a good job representing the City of Homer. As their firm grows and evolves with new attorneys and Attorney Wells taking on the reins as lead attorney for Homer, I think they will continue to be able to serve us well. If the Council authorizes a new contract with BHB, I would use the existing contract as a starting place for negotiations, which BHB is agreeable to.

¹ City of Kenai 2015 Adopted Budget, p. 42-43

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 16-049

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
AUTHORIZING THE CITY MANAGER TO NEGOTIATE A NEW CITY
ATTORNEY CONTRACT WITH BIRCH HORTON BITTNER & CHEROT
FOR THE PERIOD OF AUGUST 1, 2016 THROUGH JULY 31, 2019.

WHEREAS, Birch Horton Bittner & Cherot (BHBC) has been the City's Attorney since August 1, 2008, selected and hired by the City Council; and

WHEREAS, BHBC has the expertise and experience of a national firm combined with the knowledge and understanding of Alaska's unique legal issues; and

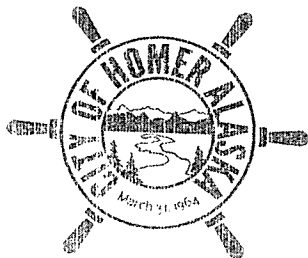
WHEREAS, BHBC has a number of attorneys on staff ranging from specialists in human resources to construction law that the City uses frequently; and

WHEREAS, It is the recommendation of administration that a new contract be negotiated for a three-year period from August 1, 2016 to July 31, 2019; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, authorizes the City Manager to negotiate a new City Attorney Contract with Birch Horton Bittner & Cherot for a three-year period from August 1, 2016 to July 31, 2019.

PASSED AND ADOPTED by the Homer City Council this 9th day of May, 2016.

CITY OF HOMER



Mary E. Wythe
MARY E. WYTHE, MAYOR

ATTEST:

Jo Johnson
JO JOHNSON, MMC, CITY CLERK

Fiscal information: Budgeted, Mayor and Council, Professional Services, 100.100.5210.

*Failed
5/09/16*

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 16-050

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR
PROPOSALS (RFP) FOR GENERAL COUNSEL LEGAL SERVICES.

WHEREAS, The City of Homer has maintained a contract with the firm of Birch Horton Bittner & Cherot for legal services since 2008 and has been serviced by Attorney Thomas F. Klinkner for that period of time; and

WHEREAS, An RFP for legal services would seek to identify specific legal/substantive expertise to service the City of Homer and would provide routine due diligence on quality and cost of legal services; and

WHEREAS, City Council has determined it is in the best interests of the City to solicit proposals for general counsel legal services to serve the Homer City Council, City Manager and City Commissions as appropriate.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council authorizes the City Manager to issue a Request for Proposals for General Counsel Legal Services.

PASSED AND ADOPTED by the Homer City Council this 9th day of May, 2016.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Costs associated with legal services to be determined.

REQUEST FOR PROPOSALS
for
General Counsel Legal Services

City of Homer, Alaska

Proposals to provide general counsel legal services for the City of Homer will be received at the Office of the City Clerk, City Hall, City of Homer, 491 E. Pioneer Avenue, Homer, Alaska until Friday, June 20, 2008 at 4:00 p.m. The time of receipt will be determined by the City Clerk's time stamp. Proposals received after the time fixed for the receipt of the bids shall not be considered.

It is the intention of the City of Homer to enter into a contract with a general counsel that will serve the Homer City Council, the City Manager and City Commissions as appropriate. The City Attorney is hired by and serves at the pleasure of the City Council. Proposals are invited from any qualified State of Alaska licensed attorney at law or law firm. Attorney/Firms (proposers) must be qualified to represent the City in all State of Alaska Courts and the U.S. District Court for the District of Alaska.

For proposal specifications and evaluation criteria contact:

City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603
907-235-3130

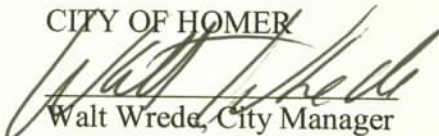
Please direct all questions regarding this project to:

Walt Wrede, City Manager
City of Homer
907-235-8121, extension 2222

The City of Homer reserves the right to accept or reject any or all proposals, to waive irregularities or informalities in the proposals, and to award the contract to the respondent that best meets the selection criteria. All firms submitting proposals must be listed on the "**Plan Holder's List**" kept by the City Clerk. Respondents not on the plan holder's list shall be deemed unresponsive and shall not be considered. The City shall not accept faxed proposals.

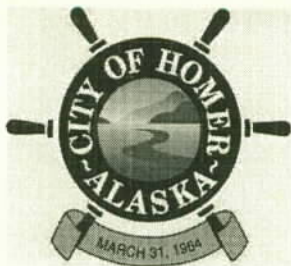
Dated this 28th day of May, 2008.

CITY OF HOMER



Walt Wrede, City Manager

Advertise:	Anchorage Daily News	June 1 and 8, 2008
	Homer News	June 5 and 12, 2008



City of Homer
City Manager
491 East Pioneer Avenue
Homer, Alaska 99603
907-235-8121, X-2222

Fax: (907) 235-3148 E-mail: wwrede@ci.homer.ak.us Web Site: www.ci.homer.ak.us

CITY OF HOMER

REQUEST FOR PROPOSALS

The City of Homer is soliciting proposals
For
General Counsel Legal Services

Release Date
May 27, 2008

DEADLINE FOR SUBMISSION

June 20, 4 PM

Use this page as the first page of the proposal

Response By:

Attorney/Firm Name: _____ Contact Person: _____

Address _____

Telephone (____) _____ Fax (____) _____

E-mail Address _____

I have read, understand, and agree to all terms and conditions herein:

Signed _____ Date: _____

Printed Name and Title _____

TABLE OF CONTENTS

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I. Overview of Project	
II. Scope of Services and Minimum Qualifications	
III. Response to RFP	
IV. Proposal Evaluation and Award Process	
V. Submittal Instructions	
VI. General Terms, Conditions and Exceptions	
I. <u>OVERVIEW OF REQUESTED SERVICES</u>	

The City of Homer is a first class municipality located within the Kenai Peninsula Borough with a population of approximately 5,500. The greater Homer area contains approximately 10,000 residents. The City is soliciting proposals for general counsel legal services. It is the intention of the City through this solicitation to enter into a contract with a general counsel that will serve the Homer City Council, the City Manager, and City Commissions as appropriate. The City attorney is hired by and serves at the pleasure of the City Council. The City reserves the right to enter into contracts with attorneys other than the general counsel for specialized legal services should the Council so choose. Proposals are invited from any qualified State of Alaska licensed attorney at law or law firm. Attorney/Firms (**proposers**) must be qualified to represent the City in all State of Alaska Courts and the U.S. District Court for the District of Alaska.

II. SCOPE OF SERVICES, TERM, AND QUALIFICATIONS

The City prefers to enter into an agreement under which a qualified proposer will provide general counsel legal services on behalf of the City on a flat, fixed monthly fee basis. The fixed fee shall include all general counsel work and attendance at one Council meeting per month. The anticipated workload (excluding Council meetings) is approximately 50 hours per month. Court cases and legal proceedings shall be billed at an hourly rate and separate from the monthly fee for general counsel services. Other proposed agreements that address the scope of services outlined below will be considered.

- A. **SCOPE OF SERVICES.** The Proposer is expected to provide the City with general counsel legal services, to include the following:
1. Serve as the legal advisor of and be responsible to the City Council; advise the City Manager and City Clerk concerning matters affecting the City Administration and perform other duties prescribed by the City Council.
 2. Prepare legal documents including, but not limited to ordinances, resolutions, contracts, conveyances, leases, easements, and legal opinions as needed.
 3. Be readily available for consultation by the City Council, City Manager, and City Clerk
 4. Provide limited representation in court and manage the activities of other attorneys who may represent the City in Court.
 5. Assist the City Manager in negotiations on the City's behalf and handle other legal matters as they may arise.
 6. Draft opinion letters regarding, among other things, the interpretation of the City Code, state and federal laws, and policies.
 7. Perform other such duties as may be prescribed for the City Attorney by ordinance or by direction of the City Council and/or City manager

8. Work effectively with the City Council, City Manager, City Clerk and with all other public agencies and other entities with which the City has a legal relationship.
 9. Attend at least one meeting per month in person and others telephonically as requested.
- B. TERM. The term of the professional services agreement shall be one year initially. A longer term may be negotiated by the parties after the initial year. The agreement may be terminated at the convenience of the City at any time with or without cause.
- C. QUALIFICATIONS.
1. The proposer (or primary/lead attorney for the City in a firm) must be a member in good standing of the State of Alaska Bar Association and be qualified to represent the City on all State of Alaska Courts and the U.S. District Court for the District of Alaska.
 2. The proposer (or primary/lead attorney) should have at least five years of professional experience as legal counsel for an entity such as an Alaska city, municipality, or borough.
 3. The proposer (or primary attorney) should be experienced and proficient in legal matters affecting the City, to include without limitation, Alaska municipal law including Title 29, the Homer Municipal Code, the Kenai Peninsula Borough Code, and other applicable State of Alaska and Federal laws.

III. RESPONSE TO RFP

To achieve a uniform review process and obtain a reasonable degree of comparability, a proposer should submit a response to the request for proposals that is consistent with and follows the format presented below. The proposal should not exceed fifteen (15) pages in length, double spaced, including page 1 of this RFP and the Letter of Transmittal. In page 1 of this RFP, provide the name, address, phone number, fax number, e-mail address, together with the name of the person who the City Manager may contact in regard to the proposal. Provide detail in the proposal for each of the following points:

- A. Letter of Transmittal (limited to one page)
 1. Briefly state the proposer's understanding of the services to be performed and make a positive commitment to provide the services as specified.
 2. State the long term availability of the proposer to the City of Homer
 3. Give the name(s) of the person(s) who are authorized to make representations for the proposer, their titles and telephone numbers.
 4. **The letter must be signed by an individual who has the authority to bind the proposer.**
- B. Statement of Qualifications
 1. Provide a statement of qualifications of the attorney who will be the primary or lead attorney providing general counsel and who will attend Council meetings.
 2. Provide a statement of qualifications of other attorneys, if any, who will support the primary attorney. These attorneys may be in the same firm or available under some other arrangement approved by the City Council.
 3. Provide a statement of qualifications of other attorneys (if any) in the firm who may have specialized experience and expertise that may be of value to the City.
 4. Describe the municipal experience, other applicable legal experience, and education of the attorney's listed in B1 through B3 above.

5. List municipal law cases handled by the primary attorney and supporting attorneys whether the attorney's clients were the prevailing party or not.
 6. Identify and describe the experience over the past five years and the level of expertise in the following areas:
 - a. Attendance at Council/Assembly meetings
 - b. Ordinance and resolution drafting
 - c. Ordinance enforcement
 - d. Zoning and land use regulation
 - e. Public employee labor law
 - f. Municipal sales and property tax law
 - g. Municipal Procurement and contract law.
 - h. Laws related to Police, Fire, Emergency Medical operations
 - i. Acquisition and disposition of public property, land management
 - j. Other municipal issues.
- C. Conflicts. List all matters and/or cases where the proposer currently represents an individual or entity with interests potentially adverse to the City. Describe the scope of the representation and the nature of the conflict.
- D. Availability. Specify how available the primary attorney will be to the City. State whether the City will be the primary attorney's main client or one of several or many. State the current workload of the primary attorney and how that attorney intends to accommodate the City's legal work requirements. State the location of the office from which the primary attorney will serve the City.
- E. Disclosure. Disclose any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or Bar association investigation which involve the proposer as a party or in which the proposer has been judged guilty or liable or sanctioned. This is a mandatory disclosure.
- F. Cost. Proposals must state the following cost information:
 1. A monthly fixed fee to provide 50 hours of general counsel per month plus travel to Homer for 12 Council meetings per year.
 2. The hourly rate for the lead attorney, supporting attorneys, and other attorneys for hours worked above and beyond 50 hours per month or for specialized services (ie. litigation) outside the contract for general services.
 3. Cost per hour of travel (above the contracted 12 trips)
- G. Municipal Experience. List all municipalities for which the proposer has performed legal services in the past five years. Provide a short description of the services, the date performed, and the municipal contact person.
- H. References. Provide a minimum of five (5) references from similar clients, to include local government, state, and/or private clients, for whom the proposer has performed legal services within the last three years. The City may contact any and all references for validation of information submitted and other information relative to the proposal.
- I. A Suggested Legal Services Agreement

IV. PROPOSAL EVALUATION AND AWARD PROCESS

A. Proposals will be evaluated and scored by the Homer City Council on a 100/125 point scale based upon the following criteria.

B.

Qualifications of primary attorney	35, Criteria III B, better qualifications-higher score
Qualifications of other attorneys	10, Criteria III B, better qualifications-higher score
Conflicts (may exclude proposer)	10, Criteria III C, greater conflicts – lower score
Availability	10, Criteria III D, more available- higher score
Disclosure (may exclude proposer)	10, Criteria III E, negative disclosures- lower score
Cost / Proposed contract	25 Criteria III F, I., lower cost, higher score
Subtotal for initial selection	100
Council Interview	25 In person presentation of qualification and services
Total	125

Proposals will be kept confidential until a contract is awarded, subject to law.

- C. The City may contact the references provided by the proposer, contact any proposer to clarify a response; contact current and/or prior clients; solicit information from any available source concerning any aspect of a proposal; and see and review any other information deemed pertinent to the evaluation process.
- D. After the proposals are received, the full City Council will evaluate and score the proposals. The Council may ask the City Manager, current City Attorney, and City Clerk to participate and/or provide support as needed. The Council will, after initial scoring, invite the three highest scoring attorney's/firms to interview.
- E. At the conclusion of the interview process, the City Council will determine its choice of the highest rated proposer. Any award is contingent upon the successful negotiation of final contract terms and upon approval of the contract by the Council. Negotiations shall be confidential and not subject to disclosure to competing proposers unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City upon written notice to all selected proposers may negotiate a contract with the next highest scoring proposer or proposers or withdraw the RFP.

V. SUBMITTAL INSTRUCTIONS

A. PROJECTED RFP TIMELINE

<u>TASK</u>	<u>DATE/TIME</u>
Deadline for submission of proposals	6/20/08 4PM
Initial evaluation period	6/20/08 to 6/27/08
Selection / invitation for interviews	6/27/08

Interviews	6/27 to 7/11
Selection of Highest Scoring Attorney (by resolution)	7/14/08
Contract Approval by Council	Next Available Meeting

NOTE: These dates represent a tentative schedule of events. The City reserves the right to modify these dates at any time, with appropriate notice to applicable proposers on the Plan Holders List.

- B. All interest proposers who obtain a copy of the RFP must be listed on the Plan Holders list maintained by the Homer City Clerk's Office.
- C. Proposers shall submit one (1) original proposal marked "MASTER" and ten (10) identical copies to: Jo Johnson, City Clerk, City of Homer, 491 E. Pioneer Ave., Homer Alaska, 99603.
- D. Proposals shall be clearly labeled in a sealed envelope or box as follows:

REQUEST FOR PROPOSALS: Legal Counsel Services
- E. Proposals must be received at the above referenced address no later than 4 PM on June 20, 2008. Proposals that do not arrive by that time and date WILL NOT BE ACCEPTED. Proposers may submit their proposal at any time prior to the above stated deadline. Facsimile, e-mail, or telephone proposals will NOT be accepted.
- F. For ease of evaluation, the proposal should be presented in a format that corresponds to and references sections outlined in this RFP, and should be presented in the same order. Responses to each section and subsection should be labeled so as to indicate which term is being addressed.
- G. Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Emphasis should concentrate on conformance to the RFP instructions, responsiveness to the RFP requirements, and on complete and clear content.
- H. The proposal must be signed by the individual legally authorized to bind the proposer.

VII. GENERAL TERMS, CONDITIONS AND EXCEPTIONS

- A. Performance of the proposer may be rated by the City Council semi-annually for the first year following contract award and then annually for the term of the contract.
- B. The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
- C. The City reserves the right to waive informalities and minor irregularities in proposals received.
- D. The City reserves the right to reject any or all proposals received prior to contract award.

- E. The City shall not be obligated to accept the lowest priced proposal, but may make an award in the overall best interest of the City after all factors have been evaluated.
- F. Alterations, modification or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
- G. Proposals may be withdrawn by written or facsimile notice received prior to the deadline for proposal submittal. Withdrawals received after the proposal submittal deadline will not be considered. Proposers who transmit withdrawals by fax do so at their own risk. The City will not be responsible for any error or failure in fax transmission or receipt.
- H. Prices offered by proposers in their proposals are an irrevocable offer for the term of the contract. The awarded proposer agrees to provide the services at the costs, rates, and fees as set forth in the proposal. No other costs, rates, or fees shall be payable to the awarded proposer for the implementation of their proposal.
- I. The City will not be liable for any costs incurred by a proposer to prepare its proposal. Costs to develop the proposals and any other such expenses incurred by the proposer in responding to the RFP are entirely the responsibility of the proposer and shall not be reimbursed in any manner by the City.
- J. All proposals submitted become the property of the City and will be returned only at the City's option and at the proposer's request and expense. The master copy of each proposal shall be retained for official files and will become public record after the award of the contract.
- K. The City will not be liable for federal, state, or local excise taxes.
- L. Proposer's response to the RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, except such terms and conditions that the proposer expressly excludes, which must be written in ***bold, italicized and underscored font***. Exceptions will be taken into consideration as part of the evaluation process.
- M. The City reserves the right to negotiate final contract terms with the proposer selected. The RFP and the awarded proposer's proposal shall be incorporated therein.
- N. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any proposer misrepresentation may be treated as fraudulent concealment from the City of the true facts relating to the proposal.
- O. The City reserves the right to conduct a background inquiry of each proposer that may include collection of appropriate criminal history information, contractual and business associations and practices, Bar sanctions and reprimands, employment histories, and reputation in the legal and business communities. By submitting a proposal to the City, the proposer consents to such an inquiry.
- P. The City is an equal opportunity employer and complies with Title I of the American with Disabilities Act. Proposers who need accommodation to respond to the RFP may call the City Clerk at 907-235-8121.

END OF RFP

