



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

City of Homer Agenda

**City Council Regular Meeting
Monday, August 09, 2021 at 6:00 PM
In Person at City Hall Cowles Council Chambers
By Zoom Webinar**

<https://cityofhomer.zoom.us/j/205093973?pwd=UmhJWEZ3ZVdvdDkxZ3Ntbld1NINXQT09>

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

Webinar ID: 205 093 973 Passcode: 610853

CALL TO ORDER, PLEDGE OF ALLEGIANCE

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

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 for July 26, 2021. City Clerk. Recommend adoption.
- b. Memorandum 21-133 from Mayor Castner Re: Reappointment of Joyanna Geisler and Appointment of Vikki Deadrick to the ADA Compliance Committee. Recommend approval.
- c. Memorandum 21-134 from City Clerk Re: Retail Marijuana Store License Renewal for Uncle Herb's. Recommend approval.
- d. Ordinance 21-48, An Ordinance of the City Council of Homer, Alaska, Amending the FY22 Capital Budget by Appropriating Funds in the Amount of \$16,000 from the Port Reserves Fund for the Purpose of Installing Cost Saving Heating Upgrades for the Old Ferry Terminal and City Water Tank Storage Building Located at 4667 Homer Spit Road. City Manager/Port Director. Recommended dates Introduction August 9, 2021, Public Hearing and Second Reading August 23, 2021.

Memorandum 21-135 from Port Director as backup

- e. Ordinance 21-49, An Ordinance of the City Council of Homer, Alaska Amending the FY22 Capital Budget and Authorizing the Expenditure of an Additional \$139,502 for a Total Project Cost of \$392,695 from the Homer Accelerated Water and Sewer Program (HAWSP) to Complete the Alder Lane Water Improvement Project. City Manager/Public Works Director. Recommended dates Introduction August 9, 2021, Public Hearing and Second Reading August 23, 2021

Memorandum 21-136 from Public Works Director as backup

- f. Resolution 21-054, A Resolution of the City Council of Homer, Alaska Expressing Support for a Joint Resolution with the Kenai Peninsula Borough for the Federal Request of \$35 Million to Mitigate the Spruce Bark Beetle Infestation that has Resurged on the Kenai Peninsula. City Manager. Recommend approval.

VISITORS

- a. COVID-19 Agency Update - Derotha Ferraro, South Peninsula Hospital Director of Public Relations & Marketing and Lorne Carroll, State of Alaska Public Health Nurse III
- b. City of Homer Beach Policy & Management Plan Report - Parks Art Recreation & Culture Advisory Commissioner Deb Lowney

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

- a. Worksession Report
- b. Committee of the Whole Report
- c. Mayor's Report
- d. Borough Report
- e. Library Advisory Board
 - i. Library Advisory Board Report
- f. Planning Commission
- g. Port and Harbor Advisory Commission
- h. Public Works Campus Task Force

PUBLIC HEARING(S)

- a. Bunnell Avenue/Charles Way Water and Sewer Special Assessment District
- b. Ordinance 21-41, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.18.020, Central Business District, 21.24.020 General Commercial 1, 21.26.020 General Commercial 2, 21.27.020 East End Mixed Use, 21.62.020 Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities to Include a Consumption

Endorsement as Defined by State Law. Planning Commission. Introduction June 28, 2021 **Postponed to July 26, 2021** *Public Hearing and Second Reading July 26, 2021.*

Memorandum 21-110 from City Planner as backup.

- [c.](#) Ordinance 21-44, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.91 Planning Commission and Board of Adjustment to Remove the Board of Adjustment and 21.93 Administrative Appeals Establishing that Administrative Appeals from certain final City Planning Decisions shall be filed before a Hearing Officer and Supplementing Notice Requirements. City Clerk. Introduction July 26, 2021, Public Hearing and Second Reading August 9, 2021.

Ordinance 21-44(S), An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.91 Planning Commission and Board of Adjustment to Remove the Board of Adjustment and 21.93 Administrative Appeals Establishing that Administrative Appeals from certain final City Planning Decisions shall be filed before a Hearing Officer and Supplementing Notice Requirements. City Clerk.

Memorandum 21-137 from City Clerk as backup
Memorandum 21-131 from City Clerk as backup

- [d.](#) Ordinance 21-45, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a State of Alaska Public Library Assistance Grant for the FY 2022 in the Amount of \$7,000.00 for Books and Library Materials and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Introduction July 26, 2021, Public Hearing and Second Reading August 9, 2021.

Memorandum 21-123 from Library Director as backup.

ORDINANCE(S)

CITY MANAGER'S REPORT

- [a.](#) City Manager's Report

PENDING BUSINESS

- [a.](#) Resolution 21-053, A Resolution of the City Council of Homer, Alaska Amending and Updating the City of Homer Beach Policy and Renaming it the City of Homer Beach Policy and Management Plan. City Clerk/Parks Art Recreation and Culture Advisory Commission.

Memorandum 21-128 from Deputy City Clerk as backup.

NEW BUSINESS

RESOLUTIONS

- a. Resolution 21-055, A Resolution of the City Council of Homer, Alaska Awarding a Term Contract to Bristol Engineering, LLC, for Engineering Services and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager/Public Works Director.

Memorandum 21-138 from Public Works Director as backup

- b. Resolution 21-056, A Resolution of the City Council of Homer, Alaska Acknowledging the Sufficiency of the Bunnell Avenue/Charles Way Water and Sewer Improvement Special Assessment District and Approving the Improvement Plan, Estimated Cost of Improvement and Assessment Methodology. City Clerk.

Memorandum 21-139 from City Clerk as backup

- c. Resolution 21-057, A Resolution of the City Council of Homer, Alaska Adopting the Recommendations of the Public Works Department Related to the Proposed Bunnell Avenue/Charles Way Special Assessment District. City Manager/Public Works Director.

Memorandum 21-140 as backup

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY ATTORNEY

COMMENTS OF THE CITY CLERK

COMMENTS OF THE CITY MANAGER

COMMENTS OF THE MAYOR

COMMENTS OF THE CITY COUNCIL

ADJOURNMENT

Next Regular Meeting is [DAY], [DATE], at [TIME] p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



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 21-133

TO: HOMER CITY COUNCIL
FROM: MAYOR CASTNER
DATE: AUGUST 4, 2021
SUBJECT: REAPPOINTMENT OF JOYANNA GEISLER AND APPOINTMENT OF VIKKI DEADRICK TO THE ADA COMPLIANCE COMMITTEE

Joyanna Geisler is reappointed to the ADA Compliance Committee. The term expires August 31, 2023.

Vikki Deadrick is appointed to the ADA Compliance Committee Commission to fill the seat vacated by Linda Munns. The term expires August 31, 2023.

Recommendation

Confirm the reappointments of Joyanna Geisler and the appointment of Vikki Deadrick to the ADA Compliance Committee.



Advisory Body Application For Reappointment to Committees, Commissions, Board & Task Forces

Office of the City Clerk
491 East Pioneer Avenue
Homer, Alaska 99603
clerk@cityofhomer-ak.gov
Phone: (907) 235-3130
Fax: (907) 235-3143

The Information provided on this form will provide the basic information to the Mayor and City Council on your interest in serving on the selected Advisory Body. It is considered public and will be included in the City Council meeting packet. This information will be published in the City Directory and within city web pages if you are reappointed by the Mayor and your reappointment is confirmed by the City Council.

Applicant Information

Full Name: Joyanna Geisler

Physical Address Where you Claim Residency: 2315 Mt. Augustine Dr.

Mailing Address: Box 1649

City: Homer State: AK Zip: 99603

Phone Number(s): 907-399-1216

Email: director@peninsulaic.org or ic@xyz.net

Advisory Body You Are Requesting Reappointment To

- Advisory Planning Commission
- Parks, Art, Recreation & Culture Advisory Commission
- Port & Harbor Advisory Commission
- Economic Development Advisory Commission
- Library Advisory Board
- Other - Please Indicate ADA Compliance Committee

Please Answer the Following

Do you have a current Public Official Conflict of Interest Disclosure Statement on file with the City Clerk as required by HCC 1.18.043? Yes No ?

What resident type is your current seat? City Resident Non-City Resident

Has your residency changed since your last appointment? Yes No

How long have you served on this advisory body? 3 years (7)

Background Information

Please list any current memberships or organizations that you belong to related to the advisory body you serve on:

ED for ILC, past training in ADA.

Please explain why you wish to be reappointed to the Advisory Body to which you currently serve. This may include information on accomplishments or projects completed, future goals for the body, or any additional information that may assist the Mayor in the decision making process. (You may attach an additional page if needed)

I appreciate the efforts the City and ADA Compliance Committee have taken to meet minimum standards of the ADA ~~for~~ required under Title II of the ADA.

There is still much work to do and I am willing to dedicate some of my time.



Advisory Body Application For Appointment to Committees, Commissions, Board & Task Forces

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Homer, Alaska 99603

clerk@cityofhomer-ak.gov

Phone: (907) 235-3130

Fax: (907) 235-3143

The Information provided on this form will provide the basic information to the Mayor and City Council on your interest in serving on the selected Advisory Body. It is considered public and will be included in the City Council meeting packet. This information will be published in the City Directory and within city web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Applicant Information

Full Name: Vikki M Deadrick

Physical Address Where you Claim Residency: 277 Herndon Dr A1, Homer, AK 99603

Mailing Address: 277 Herndon Dr A1

City: Homer State: AK Zip: 99603

Phone Number(s): 9072990818

Email: pennypittstop@outlook.com

Advisory Body You Are Requesting Appointment To

Planning Commission – Held on the first and third Wednesday of each month at 6:30 p.m. and Worksessions at 5:30 p.m. prior to each meeting. There is no first Regular Meeting in July or second Regular Meetings in November and December

Parks, Art, Recreation & Culture Advisory Commission – Held on the third Thursday February through June and August through November at 5:30 p.m.

Port & Harbor Advisory Commission – Held on the fourth Wednesday of the following months: January, February, March, April, September, October, and December at 5:00 p.m.; and May, June, July, and August at 6:00 p.m.

Economic Development Advisory Commission – Held on the second Tuesday of each month at 6:00 p.m.

Library Advisory Board – Held on the first Tuesday of the following months: February, March, April, May, August, September, October, November, and December at 5:30 p.m.

Other – Please Indicate ADA Commission

Please Answer the Following

Are you a City Resident? Yes No If yes, how long have you been a City resident? 2001

How long have you been a resident of the South Peninsula? 8 2001

Background Information

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

Alaska Center for Blind & Deaf Adults (1/90 - 7/93 'when' ADA became law)

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

**Alaska Registry of Interpreters for the Deaf
Homer Senior Citizens Director**

Please list any special training, education, or background you may have which is related to your selection(s):

I was very involved in proactive conception of applying to my places of employment from 1990 & continue to do so

Why are you interested in serving on the selected Advisory Body? This may include information on future goals or projects you wish to see accomplished or any additional information that may assist the Mayor in the decision making process. You may attach an additional page if needed.

I feel it's near & dear to my heart & that I have had years of experience working with visible & invisible disabilities. I want to continue making a difference.

FOR PLANNING COMMISSION ONLY:

Have you ever developed real property other than a personal residence? If yes, briefly explain:

FOR PORT & HARBOR ADVISORY COMMISSION ONLY:

Do you use the Homer Port and/or Harbor on a regular basis? Yes No

If yes, what is your primary use? Commercial Recreational Other: _____



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Memorandum 21-134

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: AUGUST 4, 2021

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

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

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

RECOMMENDATION

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

Fiscal Note: Revenues



July 26, 2021

City of Homer

Attn: Melissa Jacobsen, City Clerk

VIA Email: clerk@cityofhomer-ak.gov

CC: jblankenship@kpb.us

micheleturner@kpb.us

tshassetz@kpb.us

sness@kpb.us

mjenkins@kpb.us

btaylor@kpb.us

MBerg@kpb.us

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

License Renewal Application

Endorsement Renewal Application

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

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

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

At the May 15, 2017, Marijuana Control Board meeting, the board delegated to me the authority to approve renewal applications with no protests, objections, or notices of violation. However, if a timely

protest or objection is filed for this application, or if any notices of violation have been issued for this license, the board will consider the application. In those situations, a temporary license will be issued pending board consideration.

If you have any questions, please email amco.localgovernmentonly@alaska.gov.

Sincerely,

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

Glen Klinkhart, Director
907-269-0350

Alcohol & Marijuana Control Office

License Number: 12866

License Status: Active-Operating

License Type: Retail Marijuana Store

Doing Business As: UNCLE HERB'S

Business License Number: 1038791

Designated Licensee: Lloyd Stiasny

Email Address: lloyd@edenalaska.com

Local Government: Homer

Local Government 2: Kenai Peninsula Borough

Community Council:

Latitude, Longitude: 59.381894, -151.303569

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

Licensee #1

Type: Entity

Alaska Entity Number: 10039405

Alaska Entity Name: Eden Management Group, LLC

Phone Number: 907-230-6436

Email Address: lloyd@edenalaska.com

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

Entity Official #1

Type: Individual

Name: Lloyd Stiasny

SSN: [REDACTED]

Date of Birth: [REDACTED]

Phone Number: 907-230-6436

Email Address: lloyd@edenalaska.com

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

Entity Official #2

Type: Individual

Name: Aaron Stiasny

SSN: [REDACTED]

Date of Birth: [REDACTED]

Phone Number: 907-830-8139

Email Address: aaron@edenalaska.com

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

Note: No affiliates entered for this license.

COMMERCIAL LEASE AGREEMENT

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

ARTICLE I

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

ARTICLE II

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

ARTICLE III

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

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

ARTICLE IV

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

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

ARTICLE V

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

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

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

ARTICLE VI

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

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


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

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


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

Signed

Alpine Alaska Investments, LLC - Lessor

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

Eden Management Group, LLC - Lessee

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

AMENDMENT TO LEASE

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


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

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

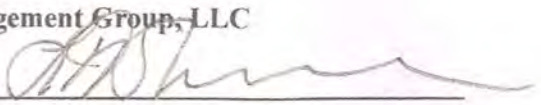
Except to the extent that the terms and conditions of this Lease Amendment are to the contrary, all other terms and conditions of the original Lease Agreement and any amendments thereto remain in full force and effect.

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

LANDLORD:
Alpine Investments, LLC

By: 
Daniel Layland

TENANT:
Eden Management Group, LLC

By: 
Lloyd Stiassny



Alaska Marijuana Control Board

Form MJ-20: Renewal Application Certifications

What is this form?

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

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

Section 1 – Establishment Information

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

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

Section 2 – Individual Information

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

Name:	Aaron Stiasny
Title:	Member

Section 3 – Violations & Charges

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

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

Initials

AYS

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

AYS

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

AYS

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

Initials

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



Form MJ-20: Renewal Application Certifications

Section 4 – Certifications & Waiver

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

Initials

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

AYS

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

AYS

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

AYS

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

AYS

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

AYS

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

AYS

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

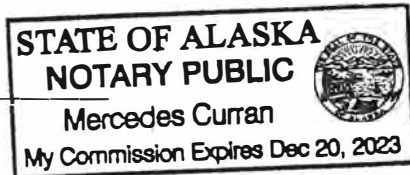
AYS

I, AARON STIASSNY, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

AYS

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

Signature of licensee



Notary Public in and for the State of Alaska

Aaron Stiassny

Printed name of licensee

My commission expires: 12/20/2023

Subscribed and sworn to before me this 23rd day of April, 2021.



Alaska Marijuana Control Board

Form MJ-20: Renewal Application Certifications

Alcohol and Marijuana Control Office

550 W 7th Avenue, Suite 1600

Anchorage, AK 99501

marijuana.licensing@alaska.gov

<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

What is this form?

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

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

Section 1 – Establishment Information

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

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

Section 2 – Individual Information

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

Name:	Lloyd Stiasny
Title:	Manager, Member

Section 3 – Violations & Charges

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

Initials

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

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

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

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

Initials

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



Form MJ-20: Renewal Application Certifications

Section 4 – Certifications & Waiver

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

Initials

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

AS

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

AS

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

AS

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

AS

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

AS

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

AS

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

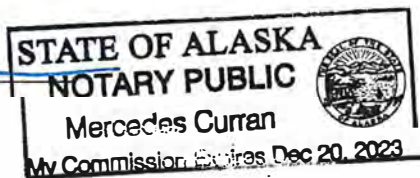
AS

I, Lloyd H. Stiassny hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

AS

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

Lloyd H. Stiassny
Signature of licensee



Mercedes Curran
Notary Public in and for the State of Alaska

Lloyd Stiassny
Printed name of licensee

My commission expires: 12/20/2023

Subscribed and sworn to before me this 2nd day of April, 2021.

Received by AMCO 5.27.21

Department of Commerce, Community, and Economic Development
**CORPORATIONS, BUSINESS & PROFESSIONAL
 LICENSING**

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ENTITY DETAILS

Name(s)

Type	Name
Legal Name	Eden Management Group, LLC

Entity Type: Limited Liability Company

Entity #: 10039405

Status: Good Standing

AK Formed Date: 6/20/2016

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 1/2/2022

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

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

Registered Agent

Agent Name: Jana Weltzin

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

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

Officials

Show Former

AK Entity #	Name	Titles	Owned
	Aaron Stiasny	Member	5.00
	Lloyd Stiasny	Manager, Member	95.00

Filed Documents

Date Filed	Type	Filing	Certificate
6/20/2016	Creation Filing	Click to View	Click to View
6/20/2016	Initial Report	Click to View	
12/13/2017	Biennial Report	Click to View	
6/04/2019	Agent Change	Click to View	
12/19/2019	Biennial Report	Click to View	
1/08/2020	Amendment	Click to View	Click to View
3/08/2021	Change of Officials	Click to View	

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

Eden Management Group, LLC

Name Of LLC

AN ALASKA LIMITED LIABILITY COMPANY

THIS OPERATING AGREEMENT ("Agreement") is entered into this 20th day of
June _____, 2016, by and between the following person(s):

Lloyd H. Stiassny

First

Middle

Last

First

Middle

Last

First

Middle

Last

First

Middle

Last

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

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

FORMATION OF LIMITED LIABILITY COMPANY

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

Name Of LLC

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

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

State

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

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

Management and Administration of Horticulture Facility

Primary Business of LLC

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

State

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

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

Members named Lloyd H. Stiassny

First

Middle

Last

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

Alaska

State

Secretary of State on 06/20/2016

Date

and thus, creating the LLC.

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

6511 Arctic Spur Road

Street Address

City of Anchorage

City

State of Alaska

State

Zip Code 99518

Zip Code

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

Street Address

City of Anchorage

City

State of Alaska

State

Zip Code 99503

Zip Code

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

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

Jana Weltzin

First

Middle

Last

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

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

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

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

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

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

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

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

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

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

The initial Manager(s) is/are:

Lloyd H. Stiassny

First

Middle

Last

First

Middle

Last

First

Middle

Last

First

Middle

Last

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XXIX. INSURANCE AND IDEMNIFICATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGNATURE OF MEMBERS

MEMBER


Signature

Print Name of Member: Lloyd H. Stiasny

Address: PO Box 90171

City, State, Zip: Anchorage, AK, 99509

Phone: (907) 230-6436

MEMBER

Signature

Print Name of Member: _____

Address: _____

City, State, Zip: _____, _____, _____

Phone: _____

MEMBER

Signature

Print Name of Member: _____

Address: _____

City, State, Zip: _____, _____, _____

Phone: _____

MEMBER

Signature

Print Name of Member: _____

Address: _____

City, State, Zip: _____, _____, _____

Phone: _____

**JOINDER AGREEMENT
EDEN MANAGEMENT GROUP, LLC**

THIS JOINDER AGREEMENT TO THE LIMITED LIABILITY COMPANY AGREEMENT of EDEN MANAGEMENT GROUP, LLC (this "Agreement") is executed and delivered this 30th day of October 2020 by Aaron Stiassny. The purpose of this Agreement is to make clear that Aaron Stiassny, as 5% owner of Eden Management Group, LLC, upon the effectuation date of transfer, is bound and agrees to all terms in the Operating Agreement of Eden Management Group, LLC dated as of June 20, 2016, by and among the Members of the Company as defined therein (the "Operating Agreement").

WHEREAS, in connection with the purchase of the Member's Interest, Aaron Stiassny must, among other things, become a party to the Operating Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Aaron Stiassny, hereby acknowledges and agrees with the Company that he is a signatory and party to the Operating Agreement as of the date first written above and thus subject to all terms and conditions of the Operating Agreement applicable to each Member of the Company.

IN WITNESS WHEREOF, the undersigned has executed this Agreement on the day and year first set forth above.

ACCEPTED:

EDEN MANAGEMENT GROUP, LLC



BY: Aaron Stiassny – Member



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

MEMORANDUM

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: JULY 30, 2021
SUBJECT: UNCLE HERB'S RETAIL MARIJUANA STORE LICENSE
RENEWAL

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



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/ 907-226-3009

Memorandum

TO: RENEE KRAUSE, MMC, DEPUTY CITY CELRK II

CC: LISA LINEGAR, COMMUNICATIONS SUPERVISOR

FROM: RYAN BROWNING, LIEUTENANT

DATE: JULY 30th, 2021

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

Having been notified by the Alcohol and Marijuana Control Office of a renewal application for retail marijuana license in the City of Homer for the following:

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

The Homer Police Department has no objection to this renewal.

ORDINANCE REFERENCE SHEET
2021 ORDINANCE
ORDINANCE 21-48

An Ordinance of the City Council of Homer, Alaska, Amending the FY22 Capital Budget by Appropriating Funds in the Amount of \$16,000 from the Port Reserves Fund for the Purpose of Installing Cost Saving Heating Upgrades for the Old Ferry Terminal Building Located at 4667 Homer Spit Road.

Sponsor: City Manager/Port Director

1. City Council Regular Meeting August 9, 2021 Introduction

Memorandum 21-135 from Port Director as backup

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

3 City Manager/Port Director

4 **ORDINANCE 21-48**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING THE FY22 CAPITAL BUDGET BY APPROPRIATING
8 FUNDS IN THE AMOUNT OF \$16,000 FROM THE PORT RESERVES
9 FUND FOR THE PURPOSE OF INSTALLING COST SAVING HEATING
10 UPGRADES FOR THE OLD FERRY TERMINAL AND CITY WATER
11 TANK STORAGE BUILDING LOCATED AT 4667 HOMER SPIT RD.
12

13 WHEREAS, The old ferry terminal building located at 4667 Homer Spit Rd was built in
14 1999 and is currently fitted with now outdated and inefficient electric heaters in need of
15 replacement; and
16

17 WHEREAS, The second floor of this building and adjacent office is currently leased to
18 resident tenants, while the first floor is used to house city equipment including a large water
19 storage tank pump system that are part of the City's reserve water system; and
20

21 WHEREAS, The proposed natural gas replacements would not only upgrade the
22 building's heating to modern efficiency and safety standards but would provide significant
23 anticipated cost savings over the current electrical usage; and
24

25 WHEREAS, Eayrs Plumbing & Heating has provided a responsive quote for the parts,
26 equipment, and labor needed to install the natural gas heating appliances totaling \$14,723;
27 and
28

29 WHEREAS, Due to current market conditions and unstable price fluctuations in material
30 and shipping costs a contingency has been added to the \$14,723 quote, bringing the total
31 requested allocation to \$16,000.
32

33 NOW, THEREFORE, The City of Homer Ordains:
34

35 Section 1: The FY22 Capital Budget is hereby amended by appropriating funds in the
36 amount of \$16,000 from the Port Reserve Fund for the purpose of installing cost saving heating
37 upgrades for the old ferry terminal and city water tank storage building located at 4667 Homer
38 Spit Rd., as follows:
39

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
40 456-0380	Natural Gas Heating Retrofit	\$16,000

41
42



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road
Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Memorandum 21-135

TO: HOMER CITY COUNCIL

THRU: ROB DUMOUCHEL, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER

DATE: JULY 28, 2021

SUBJECT: ORDINANCE 21-48 HEATING UNIT RETROFIT FOR OLD FERRY TERMINAL/ CITY WATER TANK STORAGE BUILDING

The old ferry terminal building located at 4667 STE #1 and STE #2 Homer Spit Rd. was built in 1999 and is currently fitted with now outdated and inefficient electric heaters in need of replacement.

The second floor of this building and adjacent office is currently leased to resident tenants, while the first floor is used to house city equipment including a large storage tank pump system. As the building is part of the city's water storage reserve system, it has mandatory operation and repair costs, and Public Works and the Port are partnering on these needed heating upgrades and the conversion to natural gas. The proposed natural gas replacements would not only upgrade the building's heat to more reliable units with modern efficiency and safety standards, but would provide significant anticipated cost savings over the current electrical usage costs.

We have received a quote from Eayrs Plumbing for the parts, equipment and labor to install the natural gas heating appliances in the building in the amount of \$14,723.00 (Port portion \$11,162/ Public Works portion \$3,561). I'm requesting that this installation be approved for a sole source contract through Eayrs for the following justification reasons:

- ✓ Eayrs has worked with Public Works on other past city projects, including similar natural gas installation and retrofits of City buildings, most recently the old Police Department building conversion to NG heating. Their service has been excellent.
- ✓ As responsive landlords to our current tenants and to maximize cost savings I would like to have the natural gas retrofit completed by the fall so that winter heating will be uninterrupted. The soonest Enstar will be able to install the main service line to the lot is the second week of August. Eayrs is

intimately familiar with our city processes and what is needed to successfully complete this project before the fall.

- ✓ The quote includes the purchase of and installation of the appliances by a certified plumbing and heating contractor. Based on Public Works Buildings and Grounds department experience these costs are within known expectations.

Due to current market conditions and unstable price fluctuations in materials and shipping, a contingency has been added to the \$14,723 bid to bring the total requested allocation to the \$16,000 listed in Ordinance 21-48. This insures that the project will be completed within the timeline and with the greatest efficiency.

RECOMMENDATION

Approval of a sole source contract with Eayrs Plumbing & Heating for the retrofit of the Port pump house and attached apartment to natural gas and the installation of modern efficient heating devices, and additionally, City Council approval of Ordinance 21-48

Attached Eayrs Plumbing quote for Natural Gas installation at 4667 Ste #1 and Ste #2 Homer Spit Rd

EAYRS PLUMBING & HEATING

1208 LAKESHORE DR. HOMER, AK 99603
PH: 907-235-2333 FAX: 907-235-3866

07/21/21

Bid for the City of Homer old ferry terminal building
Project-**Natural gas heat and hot water retro**

Upper apartment/Sea tow office (provide and install all material and equipment detailed below)

- 1 -AO Smith natural gas on-demand water heater/remove existing electric water heater
 - 2 -Modine unit heater in stairwell
 - 3 -32,000 BTU Rinnai wall heater in living room
 - 4 -install range hood fan
 - 5 -22,000 BTU wall heater in sea tow office
 - 6 -one-year parts and labor warranty on all equipment provided and installed by EPH
 - 7 -route natural gas piping from Enstar meter base to 5 appliances
- | | |
|-------------------------|----------------|
| -range | 65,000 |
| -upper wall heater | 38,000 |
| -on demand water heater | 199,000 |
| -stairwell unit heater | 30,000 |
| -Sea Tow office heater | 22,000 |
| BTU total | 332,000 |

Total upper apt/Sea tow office cost **\$11,162.00**

Pump room (provide and install all material and equipment detailed below)

- 1 -Modine unit heater in pump room
 - 2 -route natural gas piping from Enstar meter base to unit heater
 - 3 -one-year parts and labor warranty on all equipment provided and installed by EPH
- | | |
|-----------------------|---------------|
| -pumproom unit heater | 30,000 |
| BTU total | 30,000 |

Total pump room cost **\$3,561.00**

Natural gas piping will be routed in schedule 40 steel pipe and fittings from meter base to fixtures and will terminate with valves and flexible supply hoses, gas line will be installed on the outside of the building and in the pump room. On-demand water heater will hang from the South wall in the pump room with PVC exhaust and combustion flue venting horizontally through South wall.

Please let us know with any questions or changes to the above bid. Due to unstable market conditions and volatile price changes from our suppliers Eayrs Plumbing will honor bid pricing for 15 days. If your project is projected to be more than 15 days out we can order in parts and equipment at this price level. thanks!!

Nate Ellington
Eayrs Plumbing and Heating
907-235-2333

ORDINANCE REFERENCE SHEET
2021 ORDINANCE
ORDINANCE 21-49

An Ordinance of the City Council of Homer, Alaska Amending the FY22 Capital Budget and Authorizing the Expenditure of an Additional \$139,502 for a Total Project Cost of \$392,695 from the Homer Accelerated Water and Sewer Program (HAWSP) to Complete the Alder Lane Water Improvement Project.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting August 9, 2021 Introduction

Memorandum 21-136 from Port Director as backup

42 WHEREAS, In the event the City Clerk’s office receives sufficient objections to overturn
43 the project by that date, there is still time for this ordinance to be rejected.

44

45 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

46

47 Section 1. The Homer City Council hereby amends the FY22 Capital Budget by
48 appropriating an additional \$139,502 from HAWSP for the construction of the Alder Lane Water
49 Improvements.

50

<u>Account</u>	<u>Description</u>	<u>Amount</u>
215-0007	Alder Lane Water Improvements	\$139,502

53

54 Section 2. The Homer City Council authorizes the City Manager to amend the ADEC
55 Loan Application documentation, as necessary, to reflect the higher project costs and make
56 the project eligible for a Principal Forgiveness Subsidy of \$112,229.

57

58 Section 3. This is a budget amendment ordinance only, is not permanent in nature, and
59 shall not be codified.

60

61 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 23rd day of August, 2021.

62

63 CITY OF HOMER

64

65

66

KEN CASTNER, MAYOR

67

68 ATTEST:

69

70

71 MELISSA JACOBSEN, MMC, CITY CLERK

72

73 YES:

74 NO:

75 ABSTAIN:

76 ABSENT:

77

78 First Reading:

79 Public Reading:

80 Second Reading:

81 Effective Date:



MEMORANDUM 21-136

To: City Council
Through: Rob Dumouchel, City Manager
From: Janette Keiser, PE, Public Works Director
Date: August 3, 2021
Subject: **Additional Appropriation for
Alder Lane Water Main Extension Project**

Issue: The purpose of this memorandum is to seek an additional appropriation for the Alder Lane Water Main Extension Project.

The Construction Bids: On July 12, bids were received for the above referenced project. Competitive bidding was completed in accordance with the City's procurement regulations. The project was advertised the Homer News on June 10 and 17, 2021 and sent to two in-state plan rooms and posted on the City of Homer website.

Three responsive bids were received:

Scott's Heating & Plumbing, Inc.	\$329,300
Qayaq Construction, LLC	\$348,940
DirtWorks, Inc.	\$363,848

We reviewed the experience and qualifications of Scott's Heating & Plumbing, Inc. and find the firm has the experience and resources to satisfactorily complete the work. In particular, we found:

- **Company History:** Scott's Plumbing & Heating, Inc., is a second-generation family company, which has been in business for 22 years, starting with plumbing services and then, expanding to heavy civil construction. Steven Pillans, the founder's son, has been working with his dad's company since he was very young and has been running jobs for the past ten years. Steven has been instrumental in growing the company and expanding its presence in government contracting. The company has successfully completed projects for the City of Cordova, City of Kodiak, and the U.S. Coast Guard as well as a variety of commercial and industrial clients.
- **Capacity for HDPE pipe installation:** Installing HDPE pipe is one of the company's core competencies. It has three of its own HDPE pipe fusion machines and certified HDEP installers on the crew. The company has successfully completed HDPE water pipe projects in Kodiak, Gambell, Cordova, and Unalaska.

Funding Analysis:

The construction bid takes the project at least 30% over the original projected costs. We have sent notice to the property owners about the cost increase and advised them of their right to object. The deadline for objections is August 18. In the event there are sufficient objections to abort the project, the City Council has the opportunity to reject all bids and terminate the project. In the event there are not sufficient objections, the City Council has the opportunity to continue processing the proposed ordinance as well pass a resolution awarding the contract to Scott's Plumbing & Heating at the August 26 regular Council meeting and continue moving the project forward.

Here are how the numbers break down:

Original Council Appropriation ¹		\$253,193	
Less: Design Survey	\$ 2,520		
Design	\$ 8,700		
HDPE Pipe Materials	<u>\$ 46,175</u>		
Total Cash Expended to Date		\$ 57,395	
Current Cash Available		\$195,798	
Projected Cost to Complete:			
Construction Bid	\$329,300		
Inspection	<u>\$ 6,000</u>		
Total Cost to Complete		\$335,300	
Total Adjusted Project Cost		\$392,695	
(\$57,395 + \$335,300)			
Net Increase in Project Cost		\$139,502	(55% increase)
(\$392,695 - \$253,193)			
Additional Cash Required to Finish Project		\$ 139,502	
(\$335,300 - \$195,798)			
Project Cost less Loan Subsidy of \$112,229 ²		\$280,466	
City Share	25% of \$280,466	\$ 70,117	
Property Owner Share	75% of \$280,466	\$210,349	
Authorized ADEC loan amount ³		\$253,193	

Recommendations:

¹ Resolution 20-105 authorizing ADEC Loan and Ordinance 53 authorizing HAWSP funding for SAD

² Principal Forgiveness Subsidy accepted by City Council in Resolution 21-023.

³ ADEC Loan Amount is sufficient to cover Property Owner Share. The City's Share will be paid out of HAWSP.

1. That the City Council introduce the first reading of the proposed ordinance increasing the appropriation by \$139,502, for a total appropriation of \$392,695.

Of this, \$112,229 will be subject to the Loan Subsidy and \$210,349 will be subject to the property owner assessments, leaving the City with a net cash outlay of \$70,117.

2. Authorize the City Manager to amend the ADEC Loan Application so that the Project is eligible for the Loan Subsidy of \$112,229.

ALDER LN BID TABULATION

CONTRACT ITEMS	UNIT	QUANTITY	ENGINEER'S UNIT	ENGINEER'S	QAYAK UNIT		DIRTWORKS UNIT	DIRTWORKS	SCOTT'S UNIT	
			PRICE	ESTIMATE	PRICE	QAYAK BID	PRICE	BID	PRICE	SCOTT'S BID
1 Mobilization and Demobilization	LS	1	\$ 18,881.00	\$ 18,881.00	\$ 12,500.00	\$ 12,500.00	\$ 55,000.00	\$ 55,000.00	\$ 91,200.00	\$ 91,200.00
2 8" HDPE SDR11 Pipe, Furnish and Install	LF	1,216	\$ 70.00	\$ 85,120.00	\$ 140.00	\$ 170,240.00	\$ 103.00	\$ 125,248.00	\$ 75.00	\$ 91,200.00
3 Single Pumper Hydrant	EA	3	\$ 7,000.00	\$ 21,000.00	\$ 11,500.00	\$ 34,500.00	\$ 12,000.00	\$ 36,000.00	\$ 10,000.00	\$ 30,000.00
4 8" Fire Service Stubout	EA	2	\$ 3,000.00	\$ 6,000.00	\$ 4,500.00	\$ 9,000.00	\$ 6,500.00	\$ 13,000.00	\$ 10,000.00	\$ 20,000.00
5 8" Gate Valve	EA	3	\$ 1,000.00	\$ 3,000.00	\$ 3,250.00	\$ 9,750.00	\$ 3,000.00	\$ 9,000.00	\$ 2,000.00	\$ 6,000.00
6 6" Gate Valve	EA	3	\$ 600.00	\$ 1,800.00	\$ 3,250.00	\$ 9,750.00	\$ 2,000.00	\$ 6,000.00	\$ 500.00	\$ 1,500.00
7 1" Water Service Connection	EA	8	\$ 3,500.00	\$ 28,000.00	\$ 5,000.00	\$ 40,000.00	\$ 3,950.00	\$ 31,600.00	\$ 3,000.00	\$ 24,000.00
8 SWPPP Implementation (BMPs and Seeding)	LS	1	\$ 12,000.00	\$ 12,000.00	\$ 16,500.00	\$ 16,500.00	\$ 9,000.00	\$ 9,000.00	\$ 2,000.00	\$ 2,000.00
9 Traffic Control	LS	1	\$ 7,000.00	\$ 7,000.00	\$ 1,500.00	\$ 1,500.00	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00
10 Excavate & Backfill Structural Trench Section	LF	450			\$ 52.00	\$ 23,400.00	\$ 60.00	\$ 27,000.00	\$ 75.00	\$ 33,750.00
11 Excavate & Backfill Non-Structural Trench Section	LF	900			\$ 22.00	\$ 19,800.00	\$ 50.00	\$ 45,000.00	\$ 30.00	\$ 27,000.00
12 Flanged 6"x8" Reducer	EA	1			\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 650.00	\$ 650.00

ENGINEER'S TOTAL ESTIMATE	\$	<u>207,700.00</u>	*
QAYAK'S TOTAL BID	\$	<u>348,940.00</u>	
DIRTWORKS' TOTAL BID	\$	<u>363,848.00</u>	
SCOTT'S TOTAL BID	\$	<u>329,300.00</u>	

The engineer's estimate does not have the same line items as the bid form used. I have only included those line items with the same title and unit as in the bid form in the above comparison. However, the engineer's total estimate shown at the the bottom of the page reflects the entire engineer's estimate.

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

3 City Manager

4 **RESOLUTION 21-054**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
7 EXPRESSING SUPPORT FOR A JOINT RESOLUTION WITH THE
8 KENAI PENINSULA BOROUGH FOR THE FEDERAL FUNDING
9 REQUEST OF \$35 MILLION TO MITIGATE THE SPRUCE BARK
10 BEETLE INFESTATION THAT HAS RESURGED ON THE KENAI
11 PENINSULA.
12

13 WHEREAS, In the 1990's over one million acres of forest were impacted by spruce bark
14 beetle infestation; and

15
16 WHEREAS, A resurgence of Spruce Bark Beetle infestation was confirmed in 2019 with
17 aerial detection surveying showing 150,000 acres of damage; and

18
19 WHEREAS, Since 2005 rampant fires have cost taxpayers more than \$8 million per year
20 in direct suppression costs alone; and

21
22 WHEREAS, Dead spruce has reduced commercial value and creates dire implications for
23 fire rise on the Peninsula as seen most recently in the 2019 Swan Lake fire; and

24
25 WHEREAS, The Western Beetle Mitigation Forest Crisis Response Federal Funding
26 Request for \$35 million to Senator Murkowski from the Kenai Peninsula Borough (KPB)
27 identifies project objectives to mitigate infestation and create defensible space across all
28 municipal lands and provide assistance to residential properties in or along the wildland urban
29 interface.
30

31 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby
32 supports a joint resolution with the Kenai Peninsula Borough for the \$35 million federal
33 funding request for Spruce Bark Beetle mitigation on the Kenai Peninsula.
34

35 BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign a letter of support
36 and/or a future joint resolution supporting the request of the Kenai Peninsula Borough to
37 secure funding from the Alaska U.S. Congressional Delegation for spruce bark beetle
38 mitigation.
39

40 PASSED AND ADOPTED by the Homer City Council this 9th day of August, 2021.
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55

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal Note: N/A



Western Beetle Mitigation – Forest Crisis Response: Trading catastrophic fires for infrastructure investment and jobs in renewable resource industries
Federal Share \$35,000,000 ~ Five Year Program

Kenai Peninsula Borough
Brenda Ahlberg, Community & Fiscal Projects Manager
907-714-2153 (desk) * 907-231-6505 (mobile) * bahlberg@kpb.us

U.S. Senator Murkowski – Project Information

Southcentral Alaska is experiencing a forest crisis, a resurgence of the spruce beetle since the massive outbreak in the 1990s where over one million acres were impacted on the Kenai Peninsula before the infestation was addressed. The bell toll of this resurgence was confirmed in 2019 with an aerial detection survey mapped 150,000 acres of spruce beetle damage signifying the start of another beetle outbreak. While a 2021 aerial detection is needed for the borough, it is visibly apparent that outbreak has spread across all lands. This dead spruce is rapidly losing any commercial value and is becoming a serious hazard. From private industry to homeowners' concerns regularly expressed to borough administration, these dead forests have dire implications for wildland fire risk on the Kenai. Rampant fires have already cost taxpayers more than \$8 million per year, in direct suppression costs alone, since 2005. Through the All Lands All Hands (ALAH) interagency partnership, this project will build upon the historical knowledge and mitigation strategies that will proactively address the forest crisis imposed by the beetle infestation. Program objectives will not only include protecting public infrastructure but also assisting private homeowners with defensible space measures to protect them during wildland fire seasons. Project outcomes include creating hundreds of job opportunities in the forest products industry, protecting regional infrastructure, encouraging the export of Alaskan products to a global utility-wood marketplace, supporting long-term responsible resource development, preventing damage to electrical grids, natural gaslines and road corridors, and most importantly, protecting Alaskan families and their homes from catastrophic fires.

NOTE: Mitigation projects are statutorily established as categorical exclusions due to the 2019 forest management provisions enacted in the 115th Congress that affected the National Environmental Policy Act and the Healthy Forests Restoration Act (reference the Stephen Sepp Wildfire Suppression Funding and Forest Management Activities Act, enacted as Division O of the Consolidated Appropriations Act, 2018 (P.L. 115-141, commonly referred to as the FY2018 omnibus), and the Agricultural Improvement Act of 2018 (P.L. 115-334, Title VIII, commonly referred to as the 2018 farm bill).

Project objectives identified in the ALAH mitigation plan and KPB Community Wildfire Protection Plans will be used. Project timeframe is five years (est). Match requirement waived as authorized due to "emergency and extraordinary situations" (Cooperative Forest Health Protection Act 1978 as amended).

Mitigate insect infestation and create defensible space across all municipal lands as well as provide assistance to residential properties in or along the wildland urban interface. A proactive investment in forest management, protecting Alaskans, deterring costly wildfire operations, and stimulating economic growth within private industries. There are no alternatives to this project.

Funding Information

1. Title: Department of Agriculture; Subcommittee on National Parks, Forest, and Public Lands; Forest Service
2. Appropriation Account: 12-1105-0-1-302
3. Line item or program element title: State and Private Forestry, Forest Service; Federal Account 012-1105
4. Line number, program element and/or SAG: Forest Health Protection; Catalogue of Federal Domestic Assistance No. 10.680
5. FY22 request amount \$35,000,000

Suggested Bill Language:

FOREST SERVICE: *For an additional amount for "Kenai Peninsula Borough", \$35,000,000, to remain available until September 30, 2028, to assist in mitigation strategies to address beetle insect infestation and associated impacts on the Kenai Peninsula Borough, Alaska: Provided, That the match requirement is waived due to the emergency and extraordinary situation: Provided further, That provided that such amount is designated by Congress as being for Forest Health Protection, State and Private Forestry pursuant the Cooperative Forest Assistance Act of 1978 as amended Dec. 20, 2018, P. L. 115-334, 16 U.S.C. 2101 et seq.*

[LETTER HEAD]

[DATE]

The Honorable Lisa Murkowski
U.S. Senate
522 Hart Senate Office Building
Washington, DC 20510

Subject: Kenai Peninsula Borough – Spruce Bark Beetle Mitigation Funding Request

Dear Senator Murkowski:

The [AGENCY NAME] supports the Kenai Peninsula Borough’s federal funding request of \$35 million to mitigation the spruce bark beetle infestation that has resurged upon the Kenai Peninsula. The cost to address the devastating effects of this infestation is likely to surpass the 1990s infestation that impacted over one million acres. The Borough’s intended program encompasses residential and public infrastructure within and adjacent to the wildland urban interface and will largely be done by private industry. The primary objective is to work with partnering agencies represented in the Kenai Peninsula All Lands All Hands interagency group – a highly functioning group that consists of federal, state, local, Tribal agencies as well as nongovernment and residential partnerships since 2004. Through this interagency group, a taskforce will be created to oversee final planning and implementation strategies to be executed by priorities throughout the borough over the next five years.

In closing, the size and cost of this enormous project warrants the need for federal assistance that will benefit all citizens in protecting their homes and the public infrastructures that support life safety and commerce on the Kenai Peninsula.

Sincerely,

[NAME]

[TITLE]

CC: Charlie Pierce, Kenai Peninsula Borough Mayor

Library Advisory Board Report for the August 9th City Council Meeting

We had our Library Advisory Board meeting on Tues July 27th. This was unusual timing, because of Board members scheduling conflicts with our usual date, which would have been Aug. 3rd. We also met for the first time in person, in this newly refurbished council chambers. What a pleasure!

Just a reminder that the Library is now open 6 days a week. For people who are reluctant to come inside the Library, they are still welcome to get items picked up at the back of the library.

The Library has been very busy these last 2 months, since the LAB last met.

The **SUMMER READING PROGRAM** was completed July 30th and had great participation. 250 kids and adults registered almost 1800 hours of reading 828 books! With Claudia Hanes gone, many people really stepped up to the plate to keep the Summer Reading Program running seamlessly— Thank you, Thank you to each one of them!!

To honor and acknowledge all the participants and their families there will be the HPL Ice Cream Celebration for Kids! Please join BOB the Bookmobile outside the library for ice cream sandwiches Saturday, August 7th, from 1-3pm. Awards will be given out at 2pm

The **READING CHALLENGE** is still active until August 15th. Participants need to complete the reading challenge by 15th to have their names entered for the 4 Grand Prize drawings. The winner from each age group (Early Literacy, Kids, Teens, and Adults) will receive a gift certificate from the Homer Bookstore!

Thank you Homer Bookstore!

There has been a creative Zoom version of the Artist in Residence Program this year: It has been "**Artist in Their Residence**". So far there have been 3 Alaska artists participating: 1-Arias Hoyle is Tlingit hiphop artist from Juneau; 2-Kate Boyan an exquisite artist of embroidery beadwork; and 3-Argent Kvasnikoff an artist and cultural projects director for the Ninilchik Tribe. Stay tuned for upcoming Artist-in-Their-Residence programs.

The LAB has an active Endowment Fund with the Homer Foundation, and we are working on a **Donor Recognition Policy**, in collaboration with the Friends of the Library. We are considering many suggestions on how to manifest our gratitude to all donors. Among them, will be increasing the size of the familiar school of fish on the fish wall, currently displayed at the entrance to the Library.

The LAB joined the City Council and PARCAC in voting to welcome placing a **memorial bench for Duffy Murnane on the library grounds**. It will be on the south side of the building facing, the Bay and the mountains. As intended by the planners, this bench, titled "Loved and Lost" by artist Brad Hughes, is a memorial to Duffy Murnane, and also to all missing women and children, in Alaska and around the world. Duffy's family dedicates this bench "to all the lost ones, to all the taken ones, and to all those who loved them, left behind in their grief with so many questions ".

We also had an election of **new LAB officers**: Kate Finn is the new Chair and Marcia Kuszmaul is the Vice-Chair

PLEASE NOTE: **There are still two openings on the LAB**: one for a voting member, who is a current resident inside the City of Homer and one for a high school student representative. This student can be home schooled, a student at Homer High School or attend the Flex School. **Please** encourage people you know, who love the Library to join us on the LAB, in helping to continue HPL as a bright light in this community.

Our **next scheduled meeting** is Tues. September 7th at 5:30 pm here in the Council Chambers. All meetings are open to the public.

Thanks,
Kate Finn, LAB Chair

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

Bunnell Avenue/Charles Way Water & Sewer Improvements Special Assessment District

A **public hearing** is scheduled for **Monday, August 9, 2021** during the Regular City Council Meeting. The meeting begins at 6:00 p.m. via a Zoom webinar at zoom.us or Telephone Dial 1-669-900- 6833 or 1-253-215 8782; (Toll Free) 888-788-0099 or 877- 853-5247; use Webinar ID: 205 093 973 and Password: 610853

The City Council adopted Resolution 21-030 to initiate a district to create the Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District.

OBJECTIONS

Objections to the formation of this district must be in written form and filed at the Office of the City Clerk no later than the day before the date of the scheduled public hearing. Non-responses during the objection period shall be deemed to be non-objections.

**Request forms to submit public comment telephonically are available on the City Clerk’s webpage.

Contact the Clerk’s Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us

Dated this 3rd day of June, 2021



Renee Krause, MMC, Deputy City Clerk

Publish Homer News July 29, 2021 and August 5, 2021



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

CITY OF HOMER

NOTICE OF RIGHT TO OBJECT

BUNNELL AVENUE/CHARLES WAY WATER & SEWER IMPROVEMENT
SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT:

BUNNELL AVENUE/CHARLES WAY WATER & SEWER IMPROVEMENT SPECIAL ASSESSMENT DISTRICT, affecting the property described on the Preliminary Assessment Roll.

On May 10, 2021 the City Council approved Resolution 21-030 initiating the Bunnell Avenue/Charles Way Water and Sewer Improvement Special Assessment District. If the assessment district is approved and project construction is approved, the cost of the improvements will be assessed against and become a lien on the property benefited by the improvements.

On May 27, 2021, a neighborhood meeting were conducted via Zoom webinar and the proposed improvement plan options were presented by City staff.

PUBLIC HEARINGS:

A Public hearing on the assessment, necessity of the improvements, and on the proposed improvement plan are scheduled before the Homer City Council at **6:00 p.m. on August 9, 2021** in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. Any person may testify at the public hearing.

NOTICE OF RIGHT TO OBJECT:

The owner of property to be assessed may file a written objection to the improvement plan no later than **the day before the date of the scheduled public hearing**. Non-responses during the objection period shall be deemed to be non-objections.

If owners of real property that would bear 50 percent or more of the assessed cost of the improvement file timely written objections, the Council may not proceed with the improvement unless it revises the improvement plan to reduce the assessed cost of the improvement that is borne by objecting record owners to less than 50 percent of the assessed cost of the improvement. If the resolution changes the district boundary in the improvement plan, the City Clerk shall notify all record owners of property included in the district under the improvement plan of the change.

At the noticed date and time, the Council shall hold a public hearing on the necessity of the improvement and proposed improvement plan. After the public hearing, the Council shall act upon a resolution determining to proceed with the proposed improvement. The resolution shall find that

the improvement is necessary, of benefit to the properties to be assessed, and if the district is initiated by petition, that the petition is in proper form and bears sufficient signatures. The findings of the Council are conclusive. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

RIGHT TO WAIVE NOTICE, PROTEST PERIOD, AND PUBLIC HEARING:

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

OBJECTIONS MUST BE IN WRITTEN FORM AND FILED AT THE OFFICE OF THE CITY CLERK NO LATER THAN THE DAY BEFORE THE DATE OF THE SCHEDULED PUBLIC HEARING

City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603
Phone: 907-235-3130; Fax: 907-235-3143
Email: clerk@ci.homer.ak.us

Dated this 3rd day of June, 2021



Renee Krause, MMC, Deputy City Clerk

Enc: Notice of Public Hearing
Preliminary Assessment Roll
Statement of Objection
Waiver of Notice Protest Period and Public Hearing

STATEMENT OF ~~OBJECTION~~ NOT AN OBJECTION
TO SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT: **Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District**

I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District
(give legal description):

T 65 R 13W Sec 20 Seward Meridian WR Benson Subamended

LOT 152 (Christina Logan)

LOT 173 (Logan IRA LLC - Christina Logan Manager)

LOT 174 (Logan IRA LLC - Christina Logan Manager)

I/We ^{support} object to the Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District.

Reasons/Comments: I support the project. However

I would like the assessment to be based on ~~equal~~ benefited area rather than equal share. I feel it isn't fair for the small property owners to subsidize the city beach project.

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

Christina Logan [Signature] 7/10/21
(Print Name) (Signature) (Date)

Logan IRA LLC [Signature] Manager 7/10/21
(Print Name) (Signature) (Date)

(Print Name) (Signature) (Date)

NOTE: PLEASE MAKE SURE THAT ALL THE PROPERTY OWNERS OF RECORD PRINT, SIGN, AND DATE THIS DOCUMENT. IF YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT. OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM.

TO FILE AN OBJECTION COMPLETE THIS FORM AND RETURN IT TO THE OFFICE OF THE CITY CLERK NO LATER THAN THE DAY BEFORE THE DATE OF THE SCHEDULED PUBLIC HEARING.



City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603

JUN 14 2021

City of Homer
Alaska

STATEMENT OF OBJECTION

TO SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT: Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District

I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District
(give legal description):

NAME
ADDRESS NANCY C CONNOLLY - 303B TORQVAY CT, RIDGE NY 11961

LEGAL DESCRIPTION
PARCEL NUMBER T 65 R 13W SEC 20 SEWARD MERIDIAN HM 0670365 WR
BENSON SUB AMENDED LOT 150 # 17716414

I/We object to the Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District.

Reasons/Comments: I CAN NOT AFFORD THE COST.

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

NANCY CONNOLLY *Nancy Connolly* June 9, 2021
(Print Name) (Signature) (Date)

(Print Name) (Signature) (Date)

(Print Name) (Signature) (Date)

NOTE: PLEASE MAKE SURE THAT ALL THE PROPERTY OWNERS OF RECORD PRINT, SIGN, AND DATE THIS DOCUMENT. IF YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT. OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM.

TO FILE AN OBJECTION COMPLETE THIS FORM AND RETURN IT TO THE OFFICE OF THE CITY CLERK NO LATER THAN THE DAY BEFORE THE DATE OF THE SCHEDULED PUBLIC HEARING.

City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603

ORDINANCE REFERENCE SHEET
2021 ORDINANCE
ORDINANCE 21-41

An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.18.020, Central Business District, 21.24.020 General Commercial 1, 21.26.020 General Commercial 2, 21.27.020 East End Mixed Use, 21.62.020 Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities to Include a Consumption Endorsement as Defined by State Law.

Sponsor: Planning Commission

1. City Council Regular Meeting June 28, 2021 Postponed Introduction and Referred Back to Planning Commission

Memorandum 21-110 from City Planner as backup

2. City Council Regular Meeting July 26, 2021 Introduction
3. City Council Regular Meeting August 9, 2021 Public Hearing and Second Reading

Written public comments

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

4 Planning Commission

5 **ORDINANCE 21-41**

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AMENDING HOMER CITY CODE 21.18.020, CENTRAL BUSINESS
9 DISTRICT; 21.24.020, GENERAL COMMERCIAL 1; 21.26.020,
10 GENERAL COMMERCIAL 2; 21.27.020, EAST END MIXED USE; AND
11 21.62.020, MARIJUANA CULTIVATION, MANUFACTURING,
12 TESTING, AND RETAIL FACILITIES.
13

14 WHEREAS, It is in the City's best interest to draft comprehensive regulations regarding
15 the use of property within the City to cultivate, manufacturer marijuana or to operate a retail
16 store selling marijuana with or without a consumption endorsement; and
17

18 WHEREAS, The City is dedicated to drafting regulations that prevent the distribution of
19 marijuana to minors; prevents revenue from the sale of marijuana from going to criminal
20 enterprises, gangs, and cartels; prevents the diversion of marijuana from states where it is legal
21 under state law in some form to other states; prevents state-authorized marijuana activity
22 from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal
23 activity; prevents violence and the use of firearms in the cultivation and distribution of
24 marijuana; prevents drugged driving and the exacerbation of other adverse public health
25 consequences associated with marijuana use; prevents the growing of marijuana on public
26 lands and the attendant public safety and environmental dangers posed by marijuana
27 production on public land; and prevents marijuana possession or use on federal property.
28

29 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

30 Section 1. Homer City Code Chapter 21.18 is amended as follows:
31

32 Section 21.18.020 Permitted uses and structures.

33 The following uses are permitted outright in the Central Business District,
34 except when such use requires a conditional use permit by reason of size, traffic
35 volumes, or other reasons set forth in this chapter:

- 36 a. Retail business where the principal activity is the sale of merchandise
37 and incidental services in an enclosed building;

[**Bold and underlined added.** Deleted language stricken through.]

- 38 b. Personal service establishments;
- 39 c. Professional offices and general business offices;
- 40 d. Restaurants, clubs and drinking establishments that provide food or
- 41 drink for consumption on the premises;
- 42 e. Parking lots and parking garages, in accordance with
- 43 Chapter 21.55 HCC;
- 44 f. Hotels and motels;
- 45 g. Mortuaries;
- 46 h. Single-family, duplex, and multiple-family dwellings,
- 47 including townhouses, but not including mobile homes;
- 48 i. Floatplane tie-up facilities and air charter services;
- 49 j. Parks;
- 50 k. Retail and wholesale sales of building supplies and materials, only if
- 51 such use, including storage of materials, is wholly contained within one
- 52 or more enclosed buildings;
- 53 l. Customary accessory uses to any of the permitted uses listed in the
- 54 CBD district; provided, that a separate permit shall not be issued for the
- 55 construction of any detached accessory building prior to that of
- 56 the main building;
- 57 m. Mobile homes, provided they conform to the requirements set forth
- 58 in HCC 21.54.100;
- 59 n. Home occupations, provided they conform to the requirements of
- 60 HCC 21.51.010;
- 61 o. Ministorage;

- 62 p. Apartment units located in buildings primarily devoted to business or
63 commercial uses;
- 64 q. Religious, cultural, and fraternal assembly;
- 65 r. Entertainment establishments;
- 66 s. Public, private and commercial schools;
- 67 t. Museums and libraries;
- 68 u. Studios;
- 69 v. Plumbing, heating and appliance service shops, only if such use,
70 including the storage of materials, is wholly within an
71 enclosed building;
- 72 w. Publishing, printing and bookbinding;
- 73 x. Recreational vehicle parks only if located south of the
74 Sterling Highway (Homer Bypass) from Lake Street west to the
75 boundary of the Central Business District abutting Webber Subdivision,
76 and from Heath Street to the west side of Lakeside Village Subdivision,
77 provided they shall conform to the standards in HCC 21.54.200 and
78 following sections;
- 79 y. Taxi operation limited to a dispatch office and fleet parking of no
80 more than five vehicles; maintenance of taxis must be conducted within
81 an enclosed structure, and requires prior approval by the City Planner
82 of a site, access and parking plan;
- 83 z. Mobile food services;
- 84 aa. Itinerant merchants, provided all activities shall be limited
85 to uses permitted outright under this zoning district;
- 86 bb. Day care homes and facilities; provided, however, that outdoor play
87 areas must be fenced;

- 88 cc. Rooming house, bed and breakfast and hostel;
- 89 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 90 Main Street from Pioneer Avenue to the Sterling Highway,
- 91 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
- 92 subject to the following additional requirements: Vehicles awaiting
- 93 repair or service, inoperable vehicles, vehicles for parts, and vehicles
- 94 awaiting customer pickup shall be parked indoors or inside a fenced
- 95 enclosure so as to be concealed from view, on all sides. The fence shall
- 96 be a minimum height of eight feet and constructed to
- 97 prohibit visibility of anything inside of the enclosure. The portion of any
- 98 vehicle exceeding eight feet in height may be visible outside of the
- 99 fence. Vehicle parts (usable or unusable), vehicle service supplies, and
- 100 any other debris created in the repair or servicing of vehicles shall also
- 101 be stored indoors or inside the fenced enclosure out of view of the
- 102 public;
- 103 ee. Farmers' market;
- 104 ff. Dormitory;
- 105 gg. Financial institutions;
- 106 hh. As an accessory use, one small wind energy system per lot having a
- 107 rated capacity not exceeding 10 kilowatts;
- 108 ii. One detached dwelling unit, excluding mobile homes, as
- 109 an accessory building to a principal single-family dwelling on a lot.
- 110 jj. Marijuana cultivation facilities, manufacturing facilities, retail
- 111 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
- 112 defined by State law;
- 113 kk. Medical Clinics

114 Section 2. Homer City Code Chapter 21.24 is amended as follows:

115 Section 21.24.020 Permitted uses and structures.

116 The following uses are permitted outright in the General Commercial 1
117 District, except when such use requires a conditional use permit by reason of
118 size, traffic volumes, or other reasons set forth in this chapter.

119 a. Air charter operations and floatplane tie-up facilities;

120 b. General business offices and professional offices;

121 c. Dwelling units located in buildings primarily devoted to
122 business uses;

123 d. Auto repair;

124 e. Auto and trailer sales or rental areas;

125 f. Auto fueling stations and drive-in car washes;

126 g. Building supply and equipment sales and rentals;

127 h. Restaurants, including drive-in restaurants, clubs and drinking
128 establishments;

129 i. Garden supplies and greenhouses;

130 j. Heavy equipment and truck sales, rentals, service and repair;

131 k. Hotels and motels;

132 l. Lumberyards;

133 m. Boat and marine equipment sales, rentals, service and repair;

134 n. Mortuaries;

135 o. Open air businesses;

136 p. Parking lots and parking garages, in accordance with
137 Chapter 21.55 HCC;

- 138 q. Manufacturing, fabrication and assembly
- 139 r. Publishing, printing and bookbinding;
- 140 s. Recreation vehicle sales, rental, service and repair;
- 141 t. Retail businesses;
- 142 u. Trade, skilled or industrial schools;
- 143 v. Wholesale businesses, including storage and distribution services
144 incidental to the products to be sold;
- 145 w. Welding and mechanical repair;
- 146 x. Parks and open space;
- 147 y. Appliance sales and service;
- 148 z. Warehousing, commercial storage and mini-storage;
- 149 aa. Banks, savings and loans, credit unions and other financial
150 institutions;
- 151 bb. Customary accessory uses to any of the permitted uses listed in the
152 GC1 district; provided, that no separate permit shall be issued for the
153 construction of any type of accessory building prior to that of the main
154 building;
- 155 cc. Dry cleaning, laundry, and self-service laundries;
- 156 dd. Taxi operation;
- 157 ee. Mobile food services;
- 158 ff. Itinerant merchants, provided all activities shall be limited
159 to uses permitted outright under this zoning district;
- 160 gg. Recreational vehicle parks, provided they shall conform to the
161 standards in Article II of Chapter 21.54 HCC;

- 162 hh. Day care homes; provided, that a conditional use permit was
- 163 obtained for the dwelling, if required by HCC 21.24.030; all outdoor play
- 164 areas must be fenced;
- 165 ii. Rooming house and bed and breakfast;
- 166 jj. Dormitory;
- 167 kk. As an accessory use, one small wind energy system per lot.
- 168 ll. Marijuana cultivation facilities, manufacturing facilities, retail
- 169 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
- 170 defined by state law.

171
172 Section 3. Homer City Code Chapter 21.26 is amended as follows:

173 Section 21.26.020 Permitted uses and structures.

174 The following uses are permitted outright in the General Commercial 2
175 District, except when such use requires a conditional use permit by reason of
176 size, traffic volumes, or other reasons set forth in this chapter:

- 177 a. Production, processing, assembly and packaging of fish, shellfish and
- 178 seafood products;
- 179 b. Construction, assembly and storage of boats and boat equipment;
- 180 c. Manufacture and assembly of pottery and ceramics, musical
- 181 instruments, toys, novelties, small molded products, electronic
- 182 instruments and equipment and electrical devices;
- 183 d. Research and development laboratories;
- 184 e. Trade, skills or industrial schools;
- 185 f. Publishing, printing and bookbinding facilities;

- 186 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
187 rentals, service and repair, excluding storage of vehicles or equipment
188 that is inoperable or in need of repair;
- 189 h. Storage and distribution services and facilities, including truck
190 terminals, warehouses and storage buildings and yards, contractors'
191 establishments, lumberyards and sales, or similar uses;
- 192 i. Airports and air charter operations;
- 193 j. Underground bulk petroleum storage;
- 194 k. Cold storage facilities;
- 195 l. Parking lots and parking garages, in accordance with
196 Chapter 21.55 HCC;
- 197 m. Mobile commercial structures;
- 198 n. Accessory uses to the uses permitted in the GC2 district that are
199 clearly subordinate to the main use of the lot or building, such as
200 wharves, docks, restaurant or cafeteria facilities for employees; or
201 caretaker or dormitory residence if situated on a portion of the
202 principal lot; provided, that separate permits shall not be issued for the
203 construction of any type of accessory building prior to that of the main
204 building;
- 205 o. Taxi operation;
- 206 p. Mobile food services;
- 207 q. Itinerant merchants, provided all activities shall be limited
208 to uses permitted outright under this zoning district;
- 209 r. Recreational vehicle parks, provided they shall conform to the
210 standards in Chapter 21.54 HCC;
- 211 s. Hotels and motels;

- 212 t. Dormitory;
- 213 u. As an accessory use, one small wind energy system per lot;
- 214 v. Open air business.
- 215 w. Marijuana cultivation facilities, manufacturing facilities, retail
- 216 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
- 217 defined by state law.

218 Section 4. Homer City Code Chapter 21.27 is amended to read as follows:

219

220 Section 21.27.020 Permitted uses and structures.

221

222 The following uses are permitted outright in the East End Mixed Use
223 District, except when such use requires a conditional use permit by reason of
224 size, traffic volumes, or other reasons set forth in this chapter:

225

a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,
226 rentals, service and repair;

227

b. Drive-in car washes;

228

c. Building supply and equipment sales and rentals;

229

d. Garden supplies and greenhouses;

230

e. Boat and marine equipment sales, rentals, manufacturing, storage
231 yard, service and repair;

232

f. Welding and mechanical repair;

233

g. Restaurants, including drive-in restaurants, clubs and drinking
234 establishments;

235

h. Religious, cultural, and fraternal assembly;

236

i. Studios;

237

j. Personal services;

238

k. Agricultural activities, including general farming, truck farming,
239 nurseries, tree farms and greenhouses;

240

l. Private stables;

241

m. Storage of heavy equipment, vehicles or boats;

242

n. Plumbing, heating and appliance service shops;

243

o. Home occupations on a lot whose principal permitted use is
244 residential, provided they conform to the requirements of HCC 21.51.010;

245

p. Mortuaries and crematoriums;

246

q. Open air businesses;

247

r. Parking lots and parking garages, in accordance with Chapter 21.55
248 HCC;

249

s. Manufacturing, fabrication and assembly;

250

t. Retail businesses;

- 251 u. Trade, skilled or industrial schools;
- 252 v. Wholesale businesses, including storage and distribution services
- 253 incidental to the products to be sold;
- 254 w. Parks and open space;
- 255 x. Warehousing, commercial storage and mini-storage;
- 256 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b)
- 257 and (c);
- 258 z. Dry cleaning, laundry, and self-service laundries;
- 259 aa. Mobile food services;
- 260 bb. As an accessory use, one small wind energy system per lot;
- 261 cc. Production, processing, assembly and packaging of fish, shellfish and
- 262 seafood products;
- 263 dd. Research and development laboratories;
- 264 ee. Storage and distribution services and facilities, including truck
- 265 terminals, warehouses and storage buildings and yards, contractors'
- 266 establishments, lumberyards and sales, or similar uses;
- 267 ff. Cold storage facilities;
- 268 gg. Mobile commercial structures;
- 269 hh. Single-family and duplex dwellings, only as an accessory use
- 270 incidental to a permitted principal use; provided, that no permit shall be
- 271 issued for the construction of an accessory dwelling prior to the
- 272 establishment of the principal use;
- 273 ii. The repair, replacement, reconstruction or expansion of a single-
- 274 family or duplex dwelling, including a mobile home, that existed lawfully
- 275 before its inclusion in the GC1, GC2 or EEMU zoning districts,
- 276 notwithstanding any provision of Chapter 21.61 HCC to the contrary;
- 277 provided, that a mobile home may not be used to replace or expand such
- 278 a dwelling;
- 279 jj. Customary accessory uses to any of the uses permitted in the EEMU
- 280 district that are clearly subordinate to the main use of the lot or building,
- 281 including without limitation wharves, docks, storage facilities,
- 282 restaurant or cafeteria facilities for employees; or caretaker or employee
- 283 dormitory residence if situated on a portion of the same lot as the
- 284 principal use; provided, that no permit shall be issued for the
- 285 construction of any type of accessory building prior to the establishment
- 286 of the principal use;
- 287 kk. Taxi operation;
- 288 ll. Itinerant merchants, provided all activities shall be limited to uses
- 289 permitted outright under this zoning district;
- 290 mm. More than one building containing a permitted principal use on a
- 291 lot;
- 292 nn. The outdoor harboring or keeping of dogs, small animals and fowl as
- 293 an accessory use to a residential use in a manner consistent with the

294 requirements of all other provisions of the Homer City Code and as long
295 as such animals are pets of the residents of the dwelling and their
296 numbers are such as not to unreasonably annoy or disturb occupants of
297 neighboring property.
298 oo. Marijuana cultivation facilities, manufacturing facilities, retail
299 facilities, ~~and~~ testing facilities, **and consumption endorsement** as
300 defined by state law.
301
302
303

304 Section 5. Homer City Chapter 21.62 is amended as follows:
305

306
307 21.62.010 Scope
308

309 a. This chapter applies to the operation of all marijuana cultivation,
310 manufacturing, retail, ~~and~~ testing facilities, **and consumption**
311 **endorsement as defined by state law** within the city boundaries.
312

313 b. This chapter in no way protects marijuana facilities from enforcement
314 of federal law nor is it intended to sanction conduct or operations
315 prohibited by law. All persons engaged in the marijuana industry within
316 the city operate at their own risk and have no legal recourse against the
317 City in the event that city laws are preempted, negated or otherwise
318 found unenforceable based upon federal law prohibiting the sale,
319 distribution, consumption or possession of marijuana.
320

321 Section 6. This ordinance shall take effect upon its adoption by the Homer City Council.
322

323 Section 7. This ordinance is of a permanent and general character and shall be included
324 in the City code.
325

326 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of
327 _____ 2021.
328

329 CITY OF HOMER
330

331 _____
332 KEN CASTNER, MAYOR
333

334 ATTEST:
335

336 _____
MELISSA JACOBSEN, MMC, CITY CLERK

- 337
- 338 YES:
- 339 NO:
- 340 ABSTAIN:
- 341 ABSENT:
- 342
- 343 First Reading:
- 344 Public Reading:
- 345 Second Reading:
- 346 Effective Date:



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum 21-110

TO: MAYOR CASTNER AND THE HOMER CITY COUNCIL
FROM: RICK ABOUD, AICP, CITY PLANNER
DATE: JUNE 7, 2021
SUBJECT: PROPOSED AMENDMENT TO ALLOW MARIJUANA CONSUMPTION
ENDORSEMENTS

Introduction: The State of Alaska has created an allowance for a Consumption Endorsement that applies to retail marijuana stores. The endorsement is an allowance for on-site consumption of marijuana products. In addition to the myriad of rules and regulation for retail sales, the Alcohol and Marijuana Control Office (AMCO) has a newly adopted set of regulations for the operation of a Consumption Endorsement (regulations are included in backup material). A proposed ordinance was the subject of a public hearing at the June 2, 2021 meeting of the Commission.

Analysis: The Commission reviewed an ordinance that intended to allow a consumption endorsement as prescribed by the State of Alaska to any retail marijuana store, as currently allowed in the city. The Commission has many operational concerns especially about possibility of the smell of marijuana smoke offsite and the proximity of the operation to children and/or families that may frequent the area.

The Commission did ask questions of Chris Logan, a perspective consumption endorsement applicant that currently operates a retail marijuana facility in Old Town. After hearing some rebuttal about their concerns, the Planning Commission voted with two in support and three opposing the addition of a consumption endorsement to retail marijuana facility.

Recommendation: The Homer Planning Commission does not support the proposed ordinance.

Attachments:

Proposed ordinance

Planning Commission minutes



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Staff Report PL 21-35

TO: Homer Planning Commission
FROM: Rick Abboud, AICP, City Planner
DATE: June 2, 2021
SUBJECT: Marijuana consumption endorsements

Introduction

We have a local interest in providing on-site consumption of marijuana, as recently allowed by state law.

Analysis

Local Options

According to Alaska Statutes (AS) 17.38, the city may establish local control over the marijuana industry including prohibitions and operating requirements. Presently, Homer has allowances for marijuana cultivation facilities, product manufacturing, testing, and retail facilities. After a conservative interpretation of prohibited locations based on state and federal criteria, areas located out of prohibited distances in commercial zoning districts (as indicated on the attached map) are allowed to operate under the requirements of the State of Alaska. Homer has chosen to not add an additional layers of regulations on operations, outside of what is already required for local development.

State regulation in general

The consumption endorsement requires the establishment of a retail marijuana store. In addition to local regulations regarding development in general, the state has a host of rules for marijuana businesses. Without going into great detail, operational items addressed by the state outside of the new regulations regarding consumption include; security, inventory, advertising, employee training, waste disposal, delivery/transportation, limit of quantities sold, alarm systems, lock standards, video surveillance, as well as health and safety standards. Retailors are also prohibited from allowing intoxicated or drunken persons to enter or remain on the premises.

State regulations for consumption endorsement

The state has created a body of regulation dealing specifically with consumption operations. The state regulations regarding the consumption endorsement (attached) cover a lot of ground, from rules on products and amounts allowed for on-site consumption to the physical layout of the facility. These rules contain measures to help ensure public safety for patrons,

employees, and the public. The regulations include an examination of surrounding uses, a noticed area for solicitation of comments, security, ventilation, and operating requirements. Areas designated for consumption are not to be visible to those off-site.

Staff input

Since the inception of the marijuana industry a few years ago in Homer, we have not noticed an impact to public safety. As a casual but consistent reviewer of local reported crime, I have seen no significant trends in crimes that might be attributed to the legal marijuana industry. Given that our current legal marijuana industry has not introduced increases in crime, I would expect the same from a consumption endorsement. As the consumption (smoking) of marijuana is illegal in public and it is common for hotels and rentals to ban smoking, visitors may not have legal options for consumption. If it is found to be within the sensibilities of the citizens of Homer to support such a venture, we feel that state regulations regarding the marijuana industry together with our local zoning regulations support the inclusion of the consumption endorsement.

Staff Recommendation

Conduct a public hearing and formulate a recommendation to the City Council concerning the draft ordinance.

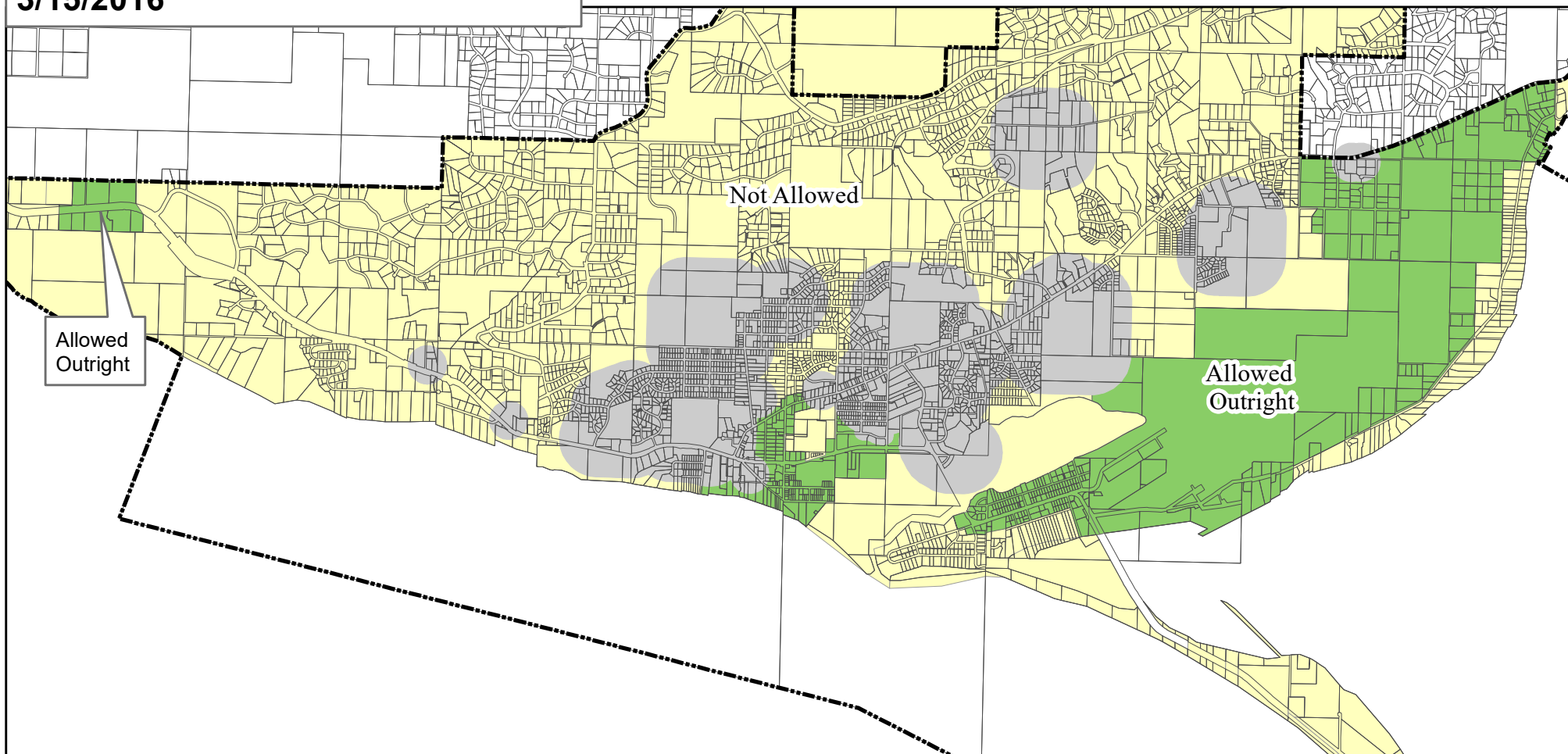
Attachments

Draft ordinance

Marijuana zoning map

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores.

Commercial Marijuana Map
Adopted Ordinance 16-04(A-2)(S-3)
3/15/2016



Legend

- City Limits** Commercial Marijuana Activities
- City Limits
 - Buffers
 - No Commercial Cannabis Businesses
 - Cultivation, Manufacturing Testing and Retail

State regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

the background. (Eff. 7/22/2017, Register 223)

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores

(a) Unless prohibited by local or state law, a freestanding licensed retail marijuana store with an approved onsite consumption endorsement is authorized to

(1) sell marijuana and marijuana products, excluding marijuana concentrates, to patrons for consumption on the licensed premises at the time of purchase only in an area designated as the marijuana consumption area and separated from the remainder of the premises, either by a secure door and having a separate ventilation system, or by being outdoors in compliance with (c)(4) below;

(2) sell for consumption on the premises

(A) marijuana bud or flower in quantities not to exceed one gram to any one person per day;

(B) edible marijuana products in quantities not to exceed 10 mg of THC to any one person per day; and

(C) food or beverages not containing marijuana or alcohol; and

(3) allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with 3 AAC 306.345.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement may not

(1) sell marijuana concentrate for consumption in the marijuana consumption area or allow marijuana concentrate to be consumed in the marijuana consumption area;

(2) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana product, including marijuana concentrate, during the course of a work shift;

(3) allow a person to consume tobacco or tobacco products in the marijuana consumption area;

(4) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that was not purchased at the licensed retail marijuana store;

(5) sell, offer to sell, or deliver marijuana or marijuana product at a price less than the price regularly charged for the marijuana or marijuana product during the same calendar week;

(6) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana product during a set period of time for a fixed price;

(7) sell, offer to sell, or deliver marijuana or marijuana product on any one day at prices less than those charged the general public on that day;

(8) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana product or the awarding of marijuana or marijuana product as prizes; or

(9) advertise or promote in any way, either on or off the premises, a practice prohibited under this section.

(c) A marijuana consumption area shall have the following characteristics:

(1) the consumption area shall be isolated from the other areas of the retail marijuana store, separated by walls and a secure door, and shall have access only from the retail marijuana store;

(2) a smoke-free area for employees to monitor the marijuana consumption area;

(3) a ventilation system that directs air from the marijuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

(4) if outdoors, be found by the board to be compatible with uses in the surrounding area through evaluation of

(A) neighboring uses;

(B) the location of air intake vents on neighboring buildings;

(C) a sight-obscuring wall or fence around the outdoor marijuana consumption area;

(D) objections of property owners, residents, and occupants within 250 linear feet or the notification distance required by the local government, whichever is greater; and

(E) any other information the board finds relevant.

(d) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the documents and endorsement fee set out in this section, which must include

(1) the applicant's operating plan, in a format the board prescribes, describing the retail marijuana store's plan for

(A) security, in addition to what is required for a retail marijuana store, including:

- (i) doors and locks;
- (ii) windows;
- (iii) measures to prevent diversion; and
- (iv) measures to prohibit access to persons under

the age of 21;

(B) ventilation. If consumption by inhalation is to be permitted, ventilation plans must be

- (i) signed and approved by a licensed mechanical engineer;
- (ii) sufficient to remove visible smoke; and
- (iii) consistent with all applicable building codes and ordinances;

(C) monitoring overconsumption;

(D) unconsumed marijuana, by disposal or by packaging in accordance with 3 AAC 306.345; and

(E) preventing introduction into the marijuana consumption area of marijuana or marijuana products not sold by the retail marijuana store, and marijuana or marijuana products not sold specifically for onsite consumption;

(2) the applicant's detailed diagram of the marijuana consumption area which must show the location of

- (A) the licensed premises of the retail marijuana store;
- (B) serving area or areas;
- (C) ventilation exhaust points, if applicable;
- (D) the employee monitoring area;
- (E) doors, windows, or other exits; and
- (F) access control points;

(3) the title, lease, or other documentation showing the applicant's sole right of possession of the proposed marijuana consumption area, if the area is not already part of the approved licensed premises for the retail marijuana store;

(4) an affidavit that notice of an outdoor marijuana consumption area has been mailed to property owners, residents, and occupants of properties within 250 linear feet of the boundaries of the property on which the onsite consumption endorsement is proposed, or the notification distance required by the local government, whichever is greater.

(e) The retail marijuana store holding an onsite consumption endorsement under this chapter shall

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with the operating plan and 3 AAC 306.740;

(2) monitor patrons in the marijuana consumption area at all times, specifically for overconsumption;

(3) display all warning signs required under 3 AAC 306.360 and 3 AAC 306.365 within the marijuana consumption area, visible to all consumers;

(4) provide written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area at no cost to patrons;

(5) package and label all marijuana or marijuana product sold for consumption on the premises as required by 3 AAC 306.345; and

(6) comply with any conditions set by the local government or placed on the endorsement by the board.

(f) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license. (Eff. 4/11/2019, Register 230)

City Planner Abboud finalized his review of the proposed changes to Title 21.91 and 21.93

Commissioner Highland requested clarification on page 49 in the packet, section 21.93.300 regarding items coming before the Commission would not happen and the qualifications of a Hearing officer since they would not necessarily have the experience that the Planning Commission would have.

Chair Smith commented that he reviewed the draft and believed it to be incredibly thorough and very timely.

VENUTI/HIGHLAND MOVE TO RECOMMEND THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.91 TO REMOVE BOARD OF ADJUSTMENT AND HOMER CITY CODE 21.93 ADMINISTRATIVE APPEALS, ESTABLISHING THAT ADMINISTRATIVE APPEALS FROM CERTAIN FINAL CITY PLANNING DECISIONS SHALL BE FILED BEFORE A HEARING OFFICER AND SUPPLEMENTING NOTICE REQUIREMENTS BE MOVED TO PUBLIC HEARING.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

▲ Motion carried.

B. Staff Report 21-36, Extending the No Wake Zone in City Tidelands, Closing Areas to Motorized Vessels & Funds for Regulation Changes.

Chair Smith introduced the item by reading of the title and noted that they received public comment and confirmed with the Commission that they had a chance to review the comments received

The Commissioners present did not indicate that they needed additional time for review of public comment.

City Planner Abboud reviewed Staff Report 21-36 for the Commission and noted that Port Director Hawkins was present to answer any questions.

Port Director Hawkins facilitated discussion and responded to the following topics:

- This was before the Port & Harbor Advisory Commission and they supported it as written
- The previous action taken by the Parks, Art, recreation & Culture Advisory Commission to prohibit personal watercraft from being launched from city beaches and in fact widen it to encompass any motorized watercraft to launch from city beaches without the harbormaster's approval.
- Limited the launching of watercraft to the Load and Launch Ramp in the Harbor

- City Council is directing this change to Title 10.08.210 regarding the vessel speed and no wake zones
- There has only been one recent incident of some horseplay that was immediately handled by Harbor staff.
- Contact with the Harbormasters in Seward, Whittier, Valdez regarding personal watercraft use since they have always been allowed there and they have rental companies in their communities. Seward reported having an issue with one private operator and he put a boot on the trailer and dealt with the issue.
- Clarifying the areas, using the map provided in the packet where vessels could be operated. It was noted that the map was for discussion purposes only.

City Planner Abboud responded that the purpose and intent was preemptive in nature and the issue was new for him.

Commissioner Conley questioned whether they were solving a problem or not.

VENUTI/HIGHLAND MOVED THAT THE PLANNING COMMISSION RECOMMENDS APPROVAL OF ORDINANCE 21-26 AS WRITTEN.

Discussion ensued on the nature of the ordinance addressing the issue of prohibiting motorized watercraft in these sensitive areas are a good idea; addressing the amendments proposed at the Council level; safety issues do promulgate regulations; will not negatively affect anyone to promote lower speed limits in city waters; and this is a form of zoning and planning and makes sense.

HIGHLAND/BARNWELL MOVED TO AMEND THE MOTION TO RECOMMEND CITY COUNCIL INCLUDE IN ORDINANCE CLOSING THE SLOUGH BEHIND MARINER PARK, THE AREA OF MUD BAY CLOSEST TO SHORE, AND THE NICK DUDIACK FISHING LAGOON TO MOTORIZED VESSELS.

There was a brief discussion on the verbiage in the motion as this was a recommendation to City Council and including the map for reference; and review of the amendments that were proposed by Councilmember Aderhold and Evensen.

Deputy City Clerk Krause read the proposed amendment on the floor.

Chair Smith called for further questions.

Port Director Hawkins responded to Commissioner Conley that in comparison to other harbors Homer is different in that Kachemak Bay is a critical habitat area and the other harbors do not have anything specific as far as wake speed to his knowledge. He then addressed enforcement and acknowledged that their limits are ¼ mile outside the harbor entrance and it will be difficult to have harbor employees enforce wake speed; age limits of vessel operators. He stated that he was supportive of the ordinance.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL MATERIALS

A. City Manager's Report for May 24, 2021 City Council Meeting

Chair Smith commented in support of having the inbound EMS Patient Loading at ramp 7 stating that he has had several incidents over the last 10 years with people overboard and expressing that this was a great asset.

B. Planning Commission Calendar

City Planner Abboud commented on getting Public Works Director Keiser on the agenda to talk to them about the storm water planning and to get information from Port Director Hawkins on the Spit Parking Study.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Krause commented that it was an interesting meeting with a variety of topics and opined that it may be time for the City to start thinking about funding for a harbor patrol or HPD in boats similar to other communities. Homer is growing and with the popularity of the beaches and such it gets more crowded each year.

COMMENTS OF THE COMMISSION

Commissioner Highland commented interesting topics and thoughtful comments.

Commissioner Venuti expressed his appreciation also for the topics and addressing the appeals process.

Commissioner Conley commented it was an interesting meeting.

Commissioner Barnwell commented that he was not a fan of PWCs and great discussions.

Chair Smith commented that he appreciated the discussions tonight, the efforts of staff and related an incident he experienced with the Coast Guard and Troopers being able to board his boat to check out his licenses.

ADJOURN

There being no further business before the Commission the meeting was adjourned at 9:00 p.m. Next Regular Meeting is Wednesday, June 16, 2021 at 6:30 p.m. A worksession is scheduled for

From: [Jay Marley](#)
To: [Department Clerk](#)
Subject: onsite consumption comments *revised*
Date: Tuesday, August 3, 2021 4:46:55 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Council and Planning/zoning members,

The recent discussion regarding onsite marijuana consumption at point of purchase is a bad idea. Quite simply, it promotes impaired driving. If an individual consumes onsite they (or someone they are with) will be driving. Contact highs are possible for even those who are not actively consuming but are present. The effects of marijuana are intoxicating and can be unpredictable depending on the individuals frequency of usage. It is a different drug than alcohol and therefore should be handled differently. We don't allow people to consume liquor at the liquor store.

Tourists that come to Homer are all staying somewhere in town and certainly can take the opportunity to consume at their destination. When operating a motor vehicle becomes a necessity after consumption a layer of danger has been added to public safety.

The possibility of onsite consumption does not promote the health, safety and wellness of our community.

I am opposed to onsite consumption.

Sincerely,

W. Jay Marley, Jr., DDS

City of Homer resident



This email has been checked for viruses by AVG antivirus software.

www.avg.com

ORDINANCE REFERENCE SHEET
2021 ORDINANCE
ORDINANCE 21-44

An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.91 Planning Commission and Board of Adjustment to Remove the Board of Adjustment and 21.93 Administrative Appeals Establishing that Administrative Appeals from certain final City Planning Decisions shall be filed before a Hearing Officer and Supplementing Notice Requirements.

Sponsor: City Clerk

1. City Council Regular Meeting July 26, 2021 Introduction

Memorandum 21-131 from City Clerk as backup

2. City Council Regular Meeting August 9, 2021

Memorandum 21-137 from City Clerk as backup

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

City Clerk

3
4 **ORDINANCE 21-44**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 AMENDING HOMER CITY CODE 21.91 PLANNING COMMISSION
8 AND BOARD OF ADJUSTMENT TO REMOVE THE BOARD OF
9 ADJUSTMENT AND 21.93 ADMINISTRATIVE APPEALS
10 ESTABLISHING THAT ADMINISTRATIVE APPEALS FROM CERTAIN
11 FINAL CITY PLANNING DECISIONS SHALL BE FILED BEFORE A
12 HEARING OFFICER AND SUPPLEMENTING NOTICE
13 REQUIREMENTS.

14
15 WHEREAS, City Planning Commission quasi-judicial administrative appeals will be
16 most efficiently adjudicated by establishing jurisdiction for such matters before a hearing
17 officer with experience in administrative law.

18
19 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

20
21 Section 1. Homer City Code Chapter 21.91 shall be amended as follows:

22
23 Chapter 21.91

24 PLANNING COMMISSION AND ~~BOARD OF ADJUSTMENT~~ **HEARING OFFICER**

25
26 Sections:

27 Article I. Planning Commission

28 21.91.010 Planning Commission established.

29 21.91.020 Powers and functions.

30 Article II. ~~Board of Adjustment~~ **Hearing officer.**

31 21.91.100 ~~Board of Adjustment~~ established. **Hearing officer appointment.**

32 21.91.110 Powers and functions.

33 21.91.120 Procedures.

34 21.91.130 Appeals to Superior Court.

35
36 Article I. Planning Commission

37
38 21.91.010 Planning Commission established.

39
40 There shall be a Planning Commission established and functioning pursuant to Chapter 2.72

41 HCC. [Ord. 08-29, 2008].

43 21.91.020 Powers and functions.

44 In addition to the powers and functions assigned to the Planning Commission in Chapter 2.72
45 HCC, the Commission has all the powers and functions assigned to it in this title. [Ord. 08-29,
46 2008].

47

48 Article II. Board of Adjustment **Hearing officer.**

49

50 21.91.100 Board of Adjustment established. **Hearing officer appointment.**

51

52 There is established a Board of Adjustment comprised of the members of the Homer City
53 Council and the Mayor. The Mayor shall preside over the Board of Adjustment and participate
54 in the deliberations. The Mayor shall not vote except in the case of a tie. [Ord. 08-29, 2008].

55

56 **A hearing officer shall be appointed by the City Manager to hear and decide appeals**
57 **authorized by Chapter 21.93 HCC. A hearing officer appointed by the City Manager must**
58 **have at least five years' experience acting as an administrative law judge or**
59 **administrative hearing officer and must be licensed to practice law in the State of Alaska**
60 **and in good standing.**

61

62 21.91.110 Powers and functions.

63 a. ~~Either the Board of Adjustment or a hearing officer appointed by the City Manager shall~~
64 ~~hear and decide appeals authorized by Chapter 21.93 HCC. A decision appealed under~~
65 ~~Chapter 21.93 HCC shall be heard by a hearing officer unless the individual or entity~~
66 ~~appealing the decision selects the Board of Adjustment to hear the appeal in their notice of~~
67 ~~appeal. A **The** hearing officer appointed by the City Manager shall hear and decide appeals~~
68 ~~pursuant to the provisions of the zoning code.~~

69

70 b. A **The** hearing officer appointed by the City Manager to **shall** act as the decision maker in
71 appeals of decisions made by the **City Manager, City Planner, City Planner's designee, or**
72 **the** Planning Commission ~~must have at least five years' experience acting as an~~
73 ~~administrative law judge or administrative hearing officer and must be licensed to practice~~
74 ~~law in the State of Alaska and in good standing.~~

75

76 c. ~~The City Manager, the City Planner or the City Planner's designee, or any City of Homer~~
77 ~~official, agency, or unit shall appeal to a hearing officer and may not select to appeal to the~~
78 ~~Board of Adjustment. [Ord. 17-07(S-3)(A) § 2, 2017; Ord. 08-29, 2008].~~

79

80 21.91.120 Procedures.

81

82 Appeals heard by ~~the Board of Adjustment or a hearing officer shall be conducted according~~
83 ~~to applicable procedures specified in Chapter 21.93 HCC. [Ord. 17-07(S-3)(A) § 3, 2017; Ord.~~
84 ~~08-29, 2008].~~

85 21.91.130 Appeals to Superior Court.

86

87 a. An appeal from a final decision of ~~the Board of Adjustment or~~ a hearing officer may be
88 taken directly to the Superior Court by a party who actively and substantively participated in
89 the proceedings before the Board of Adjustment or the hearing officer or by the City Manager
90 or City Planner or any governmental official, agency, or unit.

91

92 b. An appeal to the Superior Court shall be filed within 30 days of the date of distribution of
93 the final decision to the parties appearing before the ~~Board of Adjustment or~~ hearing officer.

94

95 c. An appeal from a final decision of the ~~Board of Adjustment or~~ hearing officer to the
96 Superior Court is governed by court rules. [Ord. 17-07(S-3)(A) § 4, 2017; Ord. 08-29, 2008].

97

98 Section 2. Homer City Code Chapter 21.93 shall be amended as follows:

99

100 Chapter 21.93

101 ADMINISTRATIVE APPEALS

102

103 Sections:

104 Article I. General Provisions

105 21.93.010 Appeals, general.

106 21.93.020 Decisions subject to appeal to Planning Commission **by a person with standing.**

107 ~~21.93.030 Decisions subject to appeal to the Board of Adjustment or a hearing officer.~~

108 21.93.040 Decisions not subject to appeal.

109 21.93.050 Standing — Appeal to Planning Commission.

110 ~~21.93.060 Standing — Appeal to hearing officer.~~

111 21.93.070 Time for appeal.

112 21.93.080 Notice of appeal.

113 21.93.090 ~~Authorized representative~~ **Representation.**

114 21.93.100 General appeals procedure.

115 21.93.110 Appeal decisions.

116 ~~Article II. Planning Commission Appeal Procedures~~

117 ~~21.93.300 Appeals to the Planning Commission.~~

118 ~~21.93.310 Other procedures.~~

119 ~~Article III. Board of Adjustment Appeal Procedures~~

120 ~~21.93.500 Parties eligible to appeal Planning Commission decision to the Board of~~

121 ~~Adjustment or a hearing officer — Notice of appearance.~~

122 21.93.510 New evidence or changed circumstances.

123 21.93.520 Preparation of record.

124 21.93.530 ~~Written briefs.~~ **Prehearing conference.**

125 21.93.540 Appeal hearing.

126 21.93.550 ~~Board of Adjustment or h~~**H**earing officer decision.

127 21.93.560 Remand.

128 21.93.570 Other procedures.

129 ~~Article IV. Conflicts of Interest and Ex Parte Contacts~~

130 21.93.700 ~~Appeals~~— Conflicts of interest.

131 21.93.710 ~~Appeals~~— Ex parte communication prohibited.

132

133 ~~Article I. General Provisions~~

134

135 21.93.010 Appeals, general.

136 This chapter governs administrative appeals to the Planning Commission and the Board of
137 Adjustment **a hearing officer** from actions and determinations taken under the Homer
138 Zoning Code. [Ord. 08-29, 2008].

139

140 21.93.020 Decisions subject to appeal to Planning Commission.

141 a. The following acts or determinations **final decisions** made under this title by the City
142 Manager, City Planner, or **City Planner's designee** may, when final, be appealed to the
143 ~~Commission~~ by a person with standing:

- 144 1. Approval or denial of a zoning permit.
- 145 2. Approval or denial of a sign permit.
- 146 3. Approval or denial of any other permit that is within the authority of the City Planner
147 to approve or deny.
- 148 4. An enforcement order issued under HCC 21.90.060.
- 149 5. Any other decision that is expressly made appealable to the Commission by other
150 provisions of the Homer Zoning Code. [Ord. 08-29, 2008].

151

152 ~~21.93.030 — Decisions subject to appeal to the Board of Adjustment or a hearing officer.~~

153

154 **b.** The following acts or determinations **final decisions** of the Commission, when final, may
155 be appealed to the Board of Adjustment or a hearing officer appointed by the City Manager
156 by a person with standing:

- 157 1. Grant or denial of a conditional use permit.
- 158 2. Grant or denial of a variance.
- 159 3. Grant or denial of formal recognition of a nonconforming use or structure, or a
160 decision terminating a nonconforming use or structure.
- 161 4. Grant or denial of a conditional fence permit.
- 162 5. A decision by the Commission in a matter appealed to the Commission under HCC
163 21.93.020.
- 164 6. Any other final decision that is expressly made appealable to the Board of Adjustment
165 or a hearing officer by other provisions of the code. [Ord. 17-07(S-3)(A) § 5, 2017; Ord.
166 08-29, 2008].

167

168 21.93.040 Decisions not subject to appeal.

- 169 The following acts or determinations may not be appealed:
170 a. A decision to cite or not cite a person for a violation of the code under HCC 21.90.090 or any
171 other provision of the code.
172 b. A decision to not issue an enforcement order under HCC 21.90.060, 21.40.150, or any other
173 provision of the code.
174 c. An order of abatement issued under HCC 21.90.070 after all appeals have been exhausted
175 or the time for appeal has expired.
176 d. Any legislative act or determination, including any recommendations, to approve or reject
177 any proposal or ordinance for the adoption, revision, or amendment of the zoning code, the
178 zoning map, a comprehensive plan or any component thereof, any other plan, a rezoning, or
179 any other legislative matter.
180 e. Any matter not expressly made appealable by this section or another provision of the
181 Homer Zoning Code. [Ord. 08-29, 2008].

182
183 ~~21.93.050 Standing—Appeal to Planning Commission.~~

184
185 **a.** Only the following have standing to appeal an appealable action or determination of the
186 **City Manager**, City Planner, or **City Planner’s designee** to the Commission **a hearing**
187 **officer**:

- 188
189 1. The applicant for the action or determination, or the owner of the property that is the
190 subject of the action or determination.
191 2. The City Manager or City Planner or any governmental official, agency, or unit.
192 3. Any person aggrieved **adversely affected** by the action or determination. [Ord. 08-29,
193 2008].

194
195 ~~21.93.060 Standing—Appeal to hearing officer.~~

196
197 **b.** Only the following have standing to appeal an appealable action or determination of the
198 Planning Commission to the Board of Adjustment or a hearing officer:

- 199
200 1. Applicant for the action or determination, or the owner of the property that is the
201 subject of the action or determination under appeal.
202 2. The City Manager, the City Planner or the City Planner’s designee, or any
203 governmental official, agency, or unit.
204 3. Any person who actively and substantively participated in the proceedings before the
205 Commission and is aggrieved by the action or determination.
206 4. Any person who actively and substantively participated in the proceedings before the
207 Commission and would be aggrieved **adversely affected** if the action or
208 determination being appealed were to be reversed on appeal. [Ord. 17-07(S-3)(A) § 6,
209 2017; Ord. 14-45 § 1, 2014; Ord. 08-29, 2008].

210

211 21.93.070 Time for appeal.

212

213 a. An appeal to the Planning Commission must be filed within ~~30~~ **15** days after the date of:

214 **1.** Distribution of the final action or determination **decision of the City Manager, City**
215 **Planner, or planning staff members** to the applicant or other person whose
216 property is the subject of the matter being appealed; or

217

218 b. ~~2.~~ An appeal to the Board of Adjustment or a hearing officer must be filed within ~~30~~ **15**
219 ~~days after the date of d~~ Distribution of the final action or determination **decision of the**
220 **Planning Commission** to the applicant and other parties, if any.

221

222 21.93.080 Notice of appeal.

223

224 a. A notice of appeal from an action or determination of the City Planner or the Planning
225 Commission shall be filed with the City Clerk **and shall be accompanied by the planning**
226 **appeal fee as established in the City of Homer Fee Schedule.**

227

228 b. A notice of appeal shall be in writing, be signed by the appellant, and shall contain, ~~but is~~
229 ~~not limited to~~, the following information:

230

231 1. The name and address of the appellant.

232 2. A description of the action or determination from which the appeal is sought and the
233 date upon which the action or determination became final.

234 3. The street address and legal description of the property that is the subject of the
235 action or determination being appealed, and the name and address of the owner(s) of
236 that property.

237 4. Detailed and specific allegations of error, including reference to applicable provisions
238 of the zoning code or other law.

239 5. A statement of whether the action or determination should be reversed, modified, or
240 remanded for further proceedings, or any other desired relief.

241 6. Proof showing that the appellant is an aggrieved person with standing to appeal
242 under HCC 21.93.050 or 21.93.060, whichever is applicable.

243 ~~7. The appellant's choice of decision maker, which may be either the Board of~~
244 ~~Adjustment or a hearing officer appointed by the City Manager.~~

245

246 c. The City Clerk shall reject any notice of appeal that does not comply with HCC 21.93.070
247 and this section and notify the appellant of the reasons for the rejection. If a notice of appeal
248 is rejected for reasons other than timeliness, a corrected notice of appeal that complies with
249 this section will be accepted as timely if filed within seven days of the date on which the City
250 Clerk mails the notice of rejection.

251

252 **d. Within seven days of the date on which the City Clerk determines the notice of appeal**
253 **complies with HCC 21.93.070,** The City Clerk shall mail copies of the notice of appeal **shall**
254 **be mailed** to all parties of record **the appellant, appellee, owner of the property that is**
255 **the subject of the action or determination, and to neighboring property owners** in the
256 proceeding appealed **as set forth in HCC 21.94.030.** from within seven days of the date on
257 which the City Clerk determines the notice of appeal complies with HCC 21.93.070 and this
258 section.

259
260 e. Any person with standing under HCC 21.93.050 or 21.93.060, whichever is applicable, may,
261 within seven days after the date the City Clerk mailed copies of an accepted notice of appeal,
262 file notice of cross appeal. Any notice of cross appeal shall, to the extent practical, comply
263 with subsection (b) of this section.

264
265 f. The City Clerk shall promptly give notice of the cross appeal to the appellant and all other
266 parties who have filed a notice of appearance. [Ord. 17-07(S-3)(A) § 8, 2017; Ord. 08-29, 2008].

267
268 21.93.090 Authorized representative **Representation.**

269
270 No person may represent a party to an appeal without filing with the City Clerk written
271 authorization, which shall be signed by the party so represented and provide the name and
272 address of the party's representative. If the person representing another is a lawyer licensed
273 to practice law in Alaska, an entry of appearance signed by the attorney is acceptable in lieu
274 of authorization signed by the person so represented. [Ord. 08-29, 2008].

275
276 **a. A party to an appeal may be represented by an attorney or may be self-represented.**
277 **An agency or entity is self-represented when acting through an authorized employee or**
278 **officer.**

279
280 **b. A party represented by an attorney in the appeal shall file, or cause the attorney to**
281 **file, and serve on the other parties a document that:**

- 282
283 **1. identifies the attorney; and**
284 **2. provides the address, telephone number, facsimile number, and electronic mail**
285 **address for the attorney.**

286
287 21.93.100 General appeals procedure.

288
289 **a. A hearing officer shall be appointed in accordance with HCC 21.91.100.**

290
291 **ab.** All appeals must be heard **and a decision rendered** within ~~60~~ **90** days after the appeal
292 record has been prepared. The body or officer hearing the appeal **hearing officer** may, for

293 good cause shown, extend the time for hearing. ~~The decision on appeal must be rendered~~
294 ~~within 60 days after the appeal hearing.~~

295
296 ~~b.c.~~ The appellant, ~~the applicant for the action or determination that is the subject of the~~
297 ~~appeal~~ **appellee**, owner of the property that is the subject of the action or determination,
298 ~~and all parties who have entered an appearance~~ **their representatives** shall be provided not
299 less than 15 days' written notice of the time and place of the appeal hearing. Neighboring
300 property owners shall be notified as set forth in HCC 21.94.030.

301
302 ~~e.d.~~ When an appellant chooses to appeal to a hearing officer, ~~t~~ **The** City Clerk shall identify
303 the hearing officer in the notice of hearing. All parties shall have ~~10~~ **5** days from the date of
304 the notice to object to the hearing officer based upon conflicts of interest, personal bias or ex
305 parte contacts. Failure to file an objection to the hearing officer within the ~~10~~ **5** days shall
306 waive any objection to the hearing officer.

307
308 **e. A notice of hearing shall be published at least once during the calendar week prior to**
309 **the appeal hearing date and the notice shall contain:**

- 310 **1. A brief description of the proposal on which the public body is to act;**
311 **2. A legal or common description of the property involved and a street address;**
312 **3. Date, time and place of the public hearing;**
313 **4. A statement that the complete proposal is available for review, specifying the**
314 **particular City office where the proposal may be examined.**

315
316 ~~d.f.~~ An electronic recording shall be kept of the entire proceeding. ~~Written minutes shall be~~
317 ~~prepared.~~ The electronic recording shall be preserved for one year unless required for further
318 appeals. No recording or minutes shall be kept of deliberations that are not open to the
319 public. [Ord. 17-07(S-3)(A) § 9, 2017; Ord. 10-41(A) § 1, 2010; Ord. 08-29, 2008].

320
321 21.93.110 Appeal decisions.

322
323 a. All final decisions on appeals shall be in writing, ~~and shall state the names and number of~~
324 ~~members of the body who participated in the appeal, the names and number voting in favor~~
325 ~~of the decision, and the names and number voting in opposition to the decision. All final~~
326 ~~decisions issued by a hearing officer must state the name of the officer.~~

327
328 b. A decision shall include an official written statement of findings and reasons **conclusions**
329 supporting the decision. This statement shall refer to specific evidence in the record and to
330 the controlling sections of the zoning code. ~~Upon express vote, the body~~ **The** hearing officer
331 may adopt, as their statement of findings and reasons, those findings and reasons officially
332 adopted by the body or officer below from which the appeal was taken.

333

334 c. Copies of the written decision shall be promptly mailed to the appellant, ~~the applicant for~~
335 ~~the action or determination that is the subject of the appeal~~ **appellee**, the owner of the
336 property that is the subject of the action or determination, and ~~all parties who entered a~~
337 ~~written notice of appearance in the appeal proceeding~~ **their representatives**. [Ord. 17-07(S-
338 3)(A) § 10, 2017; Ord. 10-41(A) § 2, 2010; Ord. 08-29, 2008].
339

340 ~~Article II. Planning Commission Appeal Procedures~~

341

342 ~~21.93.300 — Appeals to the Planning Commission.~~

343

344 a. ~~Within 30 days after receipt of a timely notice of appeal to the Planning Commission, the~~
345 ~~City Planner will prepare an appeal record consisting of all relevant documents submitted to~~
346 ~~or used by the Planning Department in making the decision under appeal, including any staff~~
347 ~~reports, correspondence, applications, or other documents. The appeal record shall be~~
348 ~~paginated. The appellant shall be notified by mail when the appeal record is complete. Any~~
349 ~~person may obtain a copy of the appeal record from the Planning Department upon payment~~
350 ~~of the costs of reproduction.~~

351

352 b. ~~An appeal hearing shall be scheduled within the time specified in HCC 21.93.100. The~~
353 ~~hearing will be open to the public.~~

354

355 c. ~~The Commission may prescribe rules of procedure for additional public notification in~~
356 ~~cases where the Commission determines its decision would have a substantial effect on the~~
357 ~~surrounding neighborhood.~~

358

359 d. ~~The Commission may accept new testimony and other evidence, including public~~
360 ~~testimony, and hear oral arguments as necessary to develop a full record upon which to~~
361 ~~decide an appeal from an act or determination of the City Planner. Any person may file a~~
362 ~~written brief or testimony in an appeal before the Commission.~~

363

364 e. ~~The Commission may undertake deliberations immediately upon the conclusion of the~~
365 ~~hearing on appeal or may take the matter under advisement and meet at such other time as~~
366 ~~is convenient for deliberations until a decision is rendered. Deliberations need not be public~~
367 ~~and may be in consultation with an attorney acting as legal counsel to the Commission.~~

368

369 f. ~~The Commission may affirm or reverse the decision of the City Planner in whole or in part. A~~
370 ~~majority vote of the fully constituted Commission is required to reverse or modify the action~~
371 ~~or determination appealed from. For the purpose of this section the fully constituted~~
372 ~~Commission shall not include those members who do not participate in the proceedings due~~
373 ~~to a conflict of interest or disqualifying ex parte contacts, disqualifying partiality, or other~~
374 ~~disqualification for cause. A decision affirming, reversing, or modifying the decision appealed~~

375 from shall be in a form that finally disposes of the case on appeal, except where the case is
376 remanded for further proceedings.

377
378 g. The Commission may seek the assistance of legal counsel, City staff, or parties in the
379 preparation of a decision or proposed findings of fact. [~~Ord. 10-41(A) § 3, 2010; Ord. 08-29,~~
380 ~~2008~~].

381
382 ~~21.93.310~~ — Other procedures.
383 If no specific procedure is prescribed by the code, the Planning Commission may proceed in
384 an administrative appeal in any lawful manner not inconsistent with this title, statutes, and
385 the Constitution. [~~Ord. 08-29, 2008~~].

386
387 Article III. Board of Adjustment Appeal Procedures

388
389 ~~21.93.500~~ — Parties eligible to appeal Planning Commission decision to the Board of
390 Adjustment or a hearing officer — Notice of appearance.

391
392 a. Only persons who actively and substantively participated in the matter before the
393 Commission and who would be qualified to appeal under HCC 21.93.060 may participate as
394 parties in an appeal from the Commission to the Board of Adjustment or a hearing officer.

395
396 b. Any person so qualified who desires to participate in the appeal as a party, other than the
397 appellant, the City Planner or the City Planner's designee, the applicant for the action or
398 determination that is the subject of the appeal and the owner of the property that is the
399 subject of the action or determination, must, not less than 14 days before the date set for the
400 appeal hearing, file with the City Clerk a written and signed notice of appearance containing
401 that party's name and address, and proof that the person would be qualified under HCC
402 21.93.060 to have filed an appeal. [~~Ord. 17-07(S-3)(A) § 11, 2017; Ord. 14-45 § 2, 2014; Ord. 10-~~
403 ~~41(A) § 4, 2010; Ord. 08-29, 2008~~].

404
405 21.93.510 New evidence or changed circumstances.

406
407 a. Except as provided in subsections (b) and (c) of this section, the Board of Adjustment or
408 hearing officer shall not consider allegations of new evidence or changed circumstances and
409 shall make their decision based solely on the record. If new evidence or changed
410 circumstances are alleged, the Board of Adjustment or hearing officer may, in their discretion,
411 either hear the appeal without considering the allegations or may remand the matter to the
412 appropriate lower administrative body or official to rehear the matter, if necessary.

413
414 b. When the standing of a person is in issue, the Board of Adjustment or hearing officer may
415 take additional evidence for the limited purpose of making findings on the question of the

416 person's standing. No evidence received under this subsection shall be considered for
417 purposes other than determining standing.

418
419 ~~c. When the disqualification of a member of the Board of Adjustment for conflict of interest,~~
420 ~~ex parte contact, partiality or other cause is in issue, the Board of Adjustment may take~~
421 ~~additional evidence for the limited purpose of making findings on the question of~~
422 ~~disqualification. No evidence received under this subsection shall be considered for purposes~~
423 ~~other than determining disqualification. [Ord. 17-07(S-3)(A) § 12, 2017; Ord. 10-41(A) § 5, 2010;~~
424 ~~Ord. 08-29, 2008].~~

425
426 21.93.520 Preparation of record.

427
428 a. The appeal record shall be completed within ~~30~~ **15** days after receipt of a timely and
429 complete notice of appeal to the Board of Adjustment or hearing officer, and **The appeal**
430 **record** shall consist of the items, and shall be prepared in the manner, described in this
431 subsection.

- 432
- 433 1. The Clerk will assemble and paginate all relevant documents involved in the original
434 decision, including any staff reports, minutes, exhibits, notices, and other documents
435 considered in making the original decision.
 - 436 2. A party may elect to include a verbatim transcript of the testimony before the
437 Planning Commission in the appeal record by making a written request to the City
438 Clerk for a recording of the testimony within 14 days after the Clerk mails copies of the
439 notice of appeal to the parties pursuant to HCC 21.93.080(d). The requesting party
440 shall arrange and pay for the preparation of the transcript. Only a transcript prepared
441 and certified as accurate by a qualified court reporter shall be accepted. The original
442 transcript must be filed with the City Clerk to be provided to the hearing officer with
443 the record on appeal.

444
445 b. ~~The appellant, the applicant for the action or determination that is the subject of the~~
446 ~~appeal **appellee**, the owner of the property that is the subject of the action or determination,~~
447 ~~**or** other parties who have entered an appearance shall be notified by mail when the record~~
448 ~~and transcript, if ordered, are complete. A any person may obtain a copy **of the record** upon~~
449 payment of the costs of reproduction and any applicable mailing costs.

450
451 21.93.530 ~~Written briefs.~~ **Prehearing conference.**

452
453 a. ~~Each party to the appeal (each appellant, cross appellant, and respondent) may file with~~
454 ~~the City Clerk one opening brief not later than 20 days after the date of mailing the notice of~~
455 ~~the completion of the record on appeal. The brief shall be typed on eight and one half by 11-~~
456 ~~inch paper and shall include a statement of relevant facts contained in the record on appeal,~~
457 ~~with citations to the page numbers in the record, a clear statement of the party's position~~

458 regarding the allegations of error specified in the notice of appeal, and arguments citing
459 points and legal authorities in support of such position.

460

461 b. Each party (each appellant, cross-appellant, and respondent) may submit one reply brief
462 within 14 days after the date opening briefs are due. A reply brief shall be limited to a
463 response to matters specifically raised in the opening brief(s) being responded to.

464

465 c. Upon request, any person may obtain a copy of any brief upon payment of reproduction
466 charges and any applicable cost of mailing.

467

468 d. Upon written request, and for good cause shown and when it appears to the City Clerk that
469 other parties will not be unduly prejudiced by the delay, the City Clerk may grant an
470 extension of time not to exceed five days for the filing of any brief. [Ord. 10-41(A) § 7, 2010;
471 Ord. 08-29, 2008].

472

473 **The hearing officer will hold a preconference hearing to develop a briefing schedule, set**
474 **a hearing date, and address other matters as needed related to the appeal hearing.**

475

476 21.93.540 Appeal hearing.

477

478 a. The meeting at which the Board of Adjustment hears an appeal shall be open to the public.
479 An appeal before the hearing officer shall also be open to the public. The City Attorney or
480 another attorney acting as legal counsel to the Board shall be present at appeals before the
481 Board of Adjustment.

482

483 b. Each party (each appellant, cross-appellant, and respondent) may present oral argument
484 at the appeal hearing, subject to the order of presentation and time limitations that the
485 Board of Adjustment or hearing officer adopts at the commencement of the hearing. The
486 taking of testimony or other evidence is limited by HCC 21.93.510.

487

488 c. The Board of Adjustment or hearing officer may undertake deliberations immediately upon
489 the conclusion of the hearing on appeal or may take the matter under advisement and meet
490 at such other time as is convenient for deliberations until a decision is rendered.
491 Deliberations need not be public.

492

493 d. The Board of Adjustment or hearing officer may exercise his or her independent judgment
494 on legal issues raised by the parties. "Legal issues" as used in this section are those matters
495 that relate to the interpretation or construction of the zoning code, ordinances or other
496 provisions of law.

497

498 e. The Board of Adjustment or hearing officer shall defer to the findings of the lower
499 administrative body regarding disputed issues of fact. Findings of fact adopted expressly or

500 ~~by necessary implication by the lower body shall be considered as true if they are supported~~
501 ~~by substantial evidence. But findings of fact adopted by less than a majority of the lower~~
502 ~~administrative body shall not be given deference, and when reviewing such findings of fact~~
503 ~~the Board of Adjustment or hearing officer shall exercise independent judgment and may~~
504 ~~make their own findings of fact. If the lower administrative body fails to make a necessary~~
505 ~~finding of fact and substantial evidence exists in the record to enable the Board of~~
506 ~~Adjustment or hearing officer to make the finding of fact, they may do so in the exercise of~~
507 ~~their independent judgment, or, in the alternative, the Board of Adjustment or hearing officer~~
508 ~~may remand the matter for further proceedings. “Substantial evidence,” as used in this~~
509 ~~section, means such relevant evidence as a reasonable mind might accept as adequate to~~
510 ~~support a conclusion. [Ord. 17-07(S-3)(A) § 14, 2017; Ord. 10-41(A) § 8, 2010; Ord. 08-29, 2008].~~

511

512 **Unless otherwise established in the prehearing conference an appeal to a hearing**
513 **officer will be conducted as follows:**

514

515 **1. Preliminary Matters**

516 **2. Oral arguments – 20 minutes each for appellant and appellee. The appellant may**
517 **reserve a portion of their time for rebuttal or closing comments.**

518 **3. The hearing officer may question each of the parties**

519 **4. Adjourn for deliberative purposes.**

520

521 21.93.550 Board of Adjustment or ~~h~~ **H**earing officer decision.

522

523 ~~a. The Board of Adjustment or hearing officer may affirm or reverse the decision of the lower~~
524 ~~administrative body in whole or in part. If the appeal is heard by the Board of Adjustment, a~~
525 ~~majority vote of the fully constituted Board is required to reverse or modify the action or~~
526 ~~determination appealed from. For the purpose of this section, the fully constituted Board~~
527 ~~shall not include those members who do not participate in the proceedings due to a conflict~~
528 ~~of interest or disqualifying ex parte contacts, disqualifying partiality, or other disqualification~~
529 ~~for cause. A decision affirming, reversing, or modifying the decision appealed from shall be in~~
530 ~~a form that finally disposes of the case on appeal, except where the case is remanded for~~
531 ~~further proceedings.~~

532

533 ~~b. The Board may seek the assistance of legal counsel, City staff, or parties in the preparation~~
534 ~~of a decision or proposed findings of fact. [Ord. 17-07(S-3)(A) § 15, 2017; Ord. 08-29, 2008].~~

535

536 21.93.560 Remand.

537

538 ~~a. The Board of Adjustment or hearing officer may remand the appeal to the lower~~
539 ~~administrative body when the Board or hearing officer determines that:~~

540

541 1. There is insufficient evidence in the record on an issue material to the decision of the case;

542 2. There has been a substantial procedural error that requires further consideration by the
543 lower administrative body; or

544 3. There is other cause requiring further proceedings by the lower administrative body.
545

546 b. A decision remanding a case shall describe any issue upon which further evidence should
547 be taken, and shall set forth any further directions the Board or hearing officer deems
548 appropriate for the guidance of the lower administrative body.
549

550 c. The lower administrative body shall promptly act on the case upon remand in accordance
551 with the decision of the Board of Adjustment or hearing officer. A case on remand has priority
552 on the agenda of the lower administrative body, except cases remanded under HCC
553 21.93.510(a) are not entitled to priority. The applicant or owner of the property in question
554 may waive the priority given by this subsection. [Ord. 17-07(S-3)(A) § 16, 2017; Ord. 08-29,
555 2008].
556

557 21.93.570 Other procedures.
558

559 If no specific procedure is prescribed by the code, the Board of Adjustment or hearing officer
560 may proceed in an administrative appeal in any lawful manner not inconsistent with this title,
561 statutes, and the Constitution. [Ord. 17-07(S-3)(A) § 17, 2017; Ord. 08-29, 2008].
562

563 Article IV. Conflicts of Interest and Ex Parte Contacts 564

565 21.93.700 Appeals—Conflict of interest.
566

567 a. A member of the Planning Commission, Board of Adjustment or a hearing officer appointed
568 to hear an appeal from a Planning Commission decision may not participate in the
569 deliberation or voting process of an appeal if, following the procedures set forth in this
570 chapter, the Commission, or Board member or hearing officer is determined to have a
571 substantial financial interest in the official action, as defined in Chapter 1.18 HCC. In the
572 absence thereof, all Commission or Board members or a hearing officer shall participate in
573 the deliberation and voting process unless excused pursuant to other provisions of this
574 chapter.
575

576 b. When a financial interest of a member of the Planning Commission or Board of Adjustment
577 is disclosed on the record, the remainder of the Commission or Board, respectively, shall
578 determine whether the member should participate in the matter. If it is determined the
579 member should participate, any action taken thereafter by the body shall be valid
580 notwithstanding a later determination by a court, an appellate tribunal, or a hearing officer
581 that the member should have been disqualified from participation because of a substantial
582 financial interest in the matter; except the action shall be invalidated when the disqualified
583 member's vote was necessary to establish the required majority to approve the decision of

584 the body. When a Commission or Board decision is invalidated because such vote was
585 necessary to establish the required majority, the body shall commence new consideration of
586 the matter beginning at the point where the Commission or Board, respectively, determines
587 it is necessary to do so to eliminate the effect of the member's improper participation.
588

589 e. A hearing officer shall disclose any substantial financial interest, personal bias or ex parte
590 contact immediately upon being appointed by the City Manager and shall refrain from
591 accepting the appointment if a substantial financial interest, personal bias or ex parte
592 contact exists. If the substantial financial interest, personal bias or ex parte contact arises
593 after the hearing officer's appointment, he or she shall disclose his or her interest and shall
594 be disqualified from serving as the hearing officer unless all parties waive any objection to
595 the hearing officer.
596

597 d. For purposes of hearing an appeal, a quorum of the Commission is four members. If it is
598 not possible to obtain a quorum of the Planning Commission to hear an appeal without the
599 participation of members disqualified by reason of a substantial financial interest, then all
600 members who would be so disqualified shall nevertheless participate in the appeal, including
601 deliberations and voting, and the decision rendered in such a case shall be valid
602 notwithstanding the participation of such members. This subsection shall not apply if the
603 matter can be postponed to a later date (not later than 75 days after the appeal record is
604 prepared) when the body can obtain a quorum of members who are not disqualified by a
605 substantial financial interest.
606

607 e. For purposes of hearing an appeal, a quorum of the Board is four members. If it is not
608 possible to obtain a quorum of the Board to hear an appeal without the participation of
609 members who have chosen to abstain or been disqualified by the Board due to substantial
610 financial interest, bias or partiality, then the hearing shall be postponed and a hearing officer
611 shall be appointed. A hearing officer appointed under this subsection shall conduct the
612 rescheduled hearing no more than 60 days after the original hearing date except that the
613 hearing officer may extend the hearing date for good cause shown. [Ord. 17-07(S-3)(A) § 18,
614 2017; Ord. 08-29, 2008].
615

616 A hearing officer or administrative law judge shall refrain from hearing or otherwise deciding
617 a case presenting a conflict of interest. A conflict of interest may arise from a financial or
618 other personal interest of the hearing officer or administrative law judge, or of an immediate
619 family member. A conflict of interest exists if:
620

- 621 a. The financial or other personal interest reasonably could be perceived to influence the
622 official action of the hearing officer; or
- 623 b. A hearing officer previously represented or provided legal advice to a party on a
624 specific subject before the hearing officer or administrative law judge.
625

626 21.93.710 Appeals— Ex parte communication prohibited.

627

628 a. ~~No member of the Commission or Board of Adjustment or any~~ **The** hearing officer
629 appointed by the City Manager to review a decision issued by the Commission shall **not** have
630 ex parte communication with any person. “Ex parte communication” means to
631 communicate, directly or indirectly, with the appellant, other parties or persons affected by
632 the appeal, or members of the public concerning an appeal or issues specifically presented in
633 the notice of appeal, either before the appeal hearing or during any period of time the matter
634 is under consideration or subject to reconsideration, without notice and opportunity for all
635 parties to participate in the communication.

636

637 b. This section does not prohibit:

638 ~~1. Members from discussing matters relating to the appeal among themselves.~~

639 1. Communications between municipal staff and Commission or Board members or the
640 hearing officer where:

641 a. Such staff members are not themselves parties to the appeal; and

642 b. Such communications do not furnish, augment, diminish, or modify the
643 evidence in the record on appeal.

644 2. Communications between the Commission or Board and its legal counsel.

645

646 ~~c. If, before an appeal commences, a member of the Commission or Board receives an ex~~
647 ~~parte communication of a type that could not properly be received while an appeal is~~
648 ~~pending, the member shall disclose the communication in the manner prescribed in~~
649 ~~subsection (d) of this section at the first meeting of the Commission or Board at which the~~
650 ~~appeal is addressed.~~

651

652 ~~d. A member of the Commission or Board who receives an ex parte communication at any~~
653 ~~time shall, at the first opportunity after the communication, place on the record of the~~
654 ~~pending matter all written communications received, all written responses to the~~
655 ~~communications, and a memorandum stating the substance of all oral communications~~
656 ~~received, all responses made, and the identity of each person from whom the member~~
657 ~~received an ex parte communication. Any party to the appeal desiring to rebut the ex parte~~
658 ~~communication must be granted a reasonable opportunity to do so if a request is promptly~~
659 ~~made.~~

660

661 ~~e. If the Commission or Board determines in its discretion it is necessary to eliminate the~~
662 ~~harmful effect of an ex parte communication received in violation of this section, the~~
663 ~~Commission or Board may disqualify the member who received the communication from~~
664 ~~participation in the appeal. In addition, the Commission may impose appropriate sanctions,~~
665 ~~including default, against a party to the appeal for any violation of this section.~~

666

667 f. It is a violation, subject to penalties and other enforcement remedies under this title:

- 668 1. For any person to knowingly have or attempt to have ex parte communication with a
669 Commission or Board or hearing officer in violation of subsection (a) of this section.
670 2. For any Commission or Board member or hearing officer to knowingly receive an ex parte
671 communication in violation of subsection (a) of this section.
672 3. For any Commission or Board member to knowingly fail to place on the record any matter
673 when and as required under subsections (c) and (d) of this section. [Ord. 17-07(S-3)(A) § 19,
674 2017; Ord. 08-29, 2008].

675
676 Section 3. This Ordinance is of a permanent and general character and shall be included
677 in the City Code.

678
679 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this __ day of _____, 2021.

680
681 CITY OF HOMER

682
683 _____
684 KEN CASTNER, MAYOR

685 ATTEST:
686
687 _____
688 MELISSA JACOBSEN, MMC, CITY CLERK

689
690 YES:
691 NO:
692 ABSTAIN:
693 ABSENT:
694
695 First Reading:
696 Public Hearing:
697 Second Reading:
698 Effective Date:

43 21.91.020 Powers and functions.

44 In addition to the powers and functions assigned to the Planning Commission in Chapter 2.72
45 HCC, the Commission has all the powers and functions assigned to it in this title. [Ord. 08-29,
46 2008].

47

48 Article II. Board of Adjustment **Hearing officer.**

49

50 21.91.100 Board of Adjustment established. **Hearing officer appointment.**

51

52 There is established a Board of Adjustment comprised of the members of the Homer City
53 Council and the Mayor. The Mayor shall preside over the Board of Adjustment and participate
54 in the deliberations. The Mayor shall not vote except in the case of a tie. [Ord. 08-29, 2008].

55

56 **A hearing officer shall be appointed by the City Manager to hear and decide appeals**
57 **authorized by Chapter HCC 21.93. A hearing officer appointed by the City Manager must**
58 **have at least five years' experience acting as an administrative law judge or**
59 **administrative hearing officer and must be licensed to practice law in the State of Alaska**
60 **and in good standing.**

61

62 21.91.110 Powers and functions.

63 a. ~~Either the Board of Adjustment or a hearing officer appointed by the City Manager shall~~
64 ~~hear and decide appeals authorized by Chapter 21.93 HCC. A decision appealed under~~
65 ~~Chapter 21.93 HCC shall be heard by a hearing officer unless the individual or entity~~
66 ~~appealing the decision selects the Board of Adjustment to hear the appeal in their notice of~~
67 ~~appeal. A **The** hearing officer appointed by the City Manager shall hear and decide appeals~~
68 ~~pursuant to the provisions of the zoning code.~~

69

70 b. A ~~The~~ hearing officer appointed by the City Manager to **shall** act as the decision maker in
71 appeals of decisions made by the **City Manager, City Planner, City Planner's designee, or**
72 **the** Planning Commission ~~must have at least five years' experience acting as an~~
73 ~~administrative law judge or administrative hearing officer and must be licensed to practice~~
74 ~~law in the State of Alaska and in good standing.~~

75

76 c. ~~The City Manager, the City Planner or the City Planner's designee, or any City of Homer~~
77 ~~official, agency, or unit shall appeal to a hearing officer and may not select to appeal to the~~
78 ~~Board of Adjustment. [Ord. 17-07(S-3)(A) § 2, 2017; Ord. 08-29, 2008].~~

79

80 21.91.120 Procedures.

81

82 Appeals heard by ~~the Board of Adjustment or a hearing officer~~ shall be conducted according
83 to applicable procedures specified in Chapter HCC 21.93. [Ord. 17-07(S-3)(A) § 3, 2017; Ord.
84 08-29, 2008].

85 21.91.130 Appeals to Superior Court.

86

87 a. An appeal from a final decision of ~~the Board of Adjustment or~~ a hearing officer may be
88 taken directly to the Superior Court by a party who actively and substantively participated in
89 the proceedings before the Board of Adjustment or the hearing officer or by the City Manager
90 or City Planner or any governmental official, agency, or unit.

91

92 b. An appeal to the Superior Court shall be filed within 30 days of the date of distribution of
93 the final decision to the parties appearing before the ~~Board of Adjustment or~~ hearing officer.

94

95 c. An appeal from a final decision of the ~~Board of Adjustment or~~ hearing officer to the
96 Superior Court is governed by court rules. [Ord. 17-07(S-3)(A) § 4, 2017; Ord. 08-29, 2008].

97

98 Section 2. Homer City Code Chapter 21.93 shall be amended as follows:

99

100 Chapter 21.93

101 ADMINISTRATIVE APPEALS

102

103 Sections:

104 Article I. General Provisions

105 21.93.010 Appeals, general.

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122 21.93.510 New evidence or changed circumstances.

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125 21.93.540 Appeal hearing.

126 21.93.550 ~~Board of Adjustment or h~~**H**earing officer decision.

127 21.93.560 Remand.

128 21.93.570 Other procedures.

129 ~~Article IV. Conflicts of Interest and Ex Parte Contacts~~

130 21.93.700 ~~Appeals~~— Conflicts of interest.

131 21.93.710 ~~Appeals~~— Ex parte communication prohibited.

132

133 ~~Article I. General Provisions~~

134

135 21.93.010 Appeals, general.

136 This chapter governs administrative appeals to the Planning Commission and the Board of
137 Adjustment **a hearing officer** from actions and determinations taken under the Homer
138 Zoning Code. [Ord. 08-29, 2008].

139

140 21.93.020 Decisions subject to appeal to Planning Commission.

141 a. The following acts or determinations **final decisions** made under this title by the City
142 Manager, City Planner, or **City Planner's designee** may, when final, be appealed to the
143 ~~Commission~~ by a person with standing:

- 144 1. Approval or denial of a zoning permit.
- 145 2. Approval or denial of a sign permit.
- 146 3. Approval or denial of any other permit that is within the authority of the City Planner
147 to approve or deny.
- 148 4. An enforcement order issued under HCC 21.90.060.
- 149 5. Any other decision that is expressly made appealable to the Commission by other
150 provisions of the Homer Zoning Code. [Ord. 08-29, 2008].

151

152 ~~21.93.030—Decisions subject to appeal to the Board of Adjustment or a hearing officer.~~

153

154 **b.** The following acts or determinations **final decisions** of the Commission, when final, may
155 be appealed to the Board of Adjustment or a hearing officer appointed by the City Manager
156 by a person with standing:

- 157 1. Grant or denial of a conditional use permit.
- 158 2. Grant or denial of a variance.
- 159 3. Grant or denial of formal recognition of a nonconforming use or structure, or a
160 decision terminating a nonconforming use or structure.
- 161 4. Grant or denial of a conditional fence permit.
- 162 5. A decision by the Commission in a matter appealed to the Commission under HCC
163 21.93.020.
- 164 6. Any other final decision that is expressly made appealable to the Board of Adjustment
165 or a hearing officer by other provisions of the code. [Ord. 17-07(S-3)(A) § 5, 2017; Ord.
166 08-29, 2008].

167

168 ~~21.93.040—Decisions not subject to appeal.~~

169 ~~The following acts or determinations may not be appealed:~~
170 ~~a. A decision to cite or not cite a person for a violation of the code under HCC 21.90.090 or any~~
171 ~~other provision of the code.~~
172 ~~b. A decision to not issue an enforcement order under HCC 21.90.060, 21.40.150, or any other~~
173 ~~provision of the code.~~
174 ~~c. An order of abatement issued under HCC 21.90.070 after all appeals have been exhausted~~
175 ~~or the time for appeal has expired.~~
176 ~~d. Any legislative act or determination, including any recommendations, to approve or reject~~
177 ~~any proposal or ordinance for the adoption, revision, or amendment of the zoning code, the~~
178 ~~zoning map, a comprehensive plan or any component thereof, any other plan, a rezoning, or~~
179 ~~any other legislative matter.~~
180 ~~e. Any matter not expressly made appealable by this section or another provision of the~~
181 ~~Homer Zoning Code. [Ord. 08-29, 2008].~~

182
183 21.93.050 ~~Standing—Appeal to Planning Commission.~~

184
185 **a.** Only the following have standing to appeal an appealable action or determination of the
186 **City Manager**, City Planner, or **City Planner’s designee** to the Commission **a hearing**
187 **officer**:

- 188
189 1. The applicant for the action or determination, or the owner of the property that is the
190 subject of the action or determination.
191 2. The City Manager or City Planner or any governmental official, agency, or unit.
192 3. Any person aggrieved **adversely affected** by the action or determination. [Ord. 08-29,
193 2008].

194
195 21.93.060 ~~Standing—Appeal to hearing officer.~~

196
197 **b.** Only the following have standing to appeal an appealable action or determination of the
198 Planning Commission to the Board of Adjustment or a hearing officer:

- 199
200 1. Applicant for the action or determination, or the owner of the property that is the
201 subject of the action or determination under appeal.
202 2. The City Manager, the City Planner or the City Planner’s designee, or any
203 governmental official, agency, or unit.
204 3. Any person who actively and substantively participated in the proceedings before the
205 Commission and is aggrieved by the action or determination.
206 4. Any person who actively and substantively participated in the proceedings before the
207 Commission and would be aggrieved **adversely affected** if the action or
208 determination being appealed were to be reversed on appeal. [Ord. 17-07(S-3)(A) § 6,
209 2017; Ord. 14-45 § 1, 2014; Ord. 08-29, 2008].

210

211 21.93.070 Time for appeal.

212

213 a. An appeal to the Planning Commission must be filed within ~~30~~ **15** days after the date of:

214 **1.** Distribution of the final action or determination **decision of the City Manager, City**
215 **Planner, or planning staff members** to the applicant or other person whose
216 property is the subject of the matter being appealed; or

217

218 b. ~~2.~~ An appeal to the Board of Adjustment or a hearing officer must be filed within ~~30~~ **15**
219 ~~days after the date of d~~ Distribution of the final action or determination **decision of the**
220 **Planning Commission** to the applicant and other parties, if any.

221

222 21.93.080 Notice of appeal.

223

224 a. A notice of appeal from an action or determination of the City Planner or the Planning
225 Commission shall be filed with the City Clerk **and shall be accompanied by the planning**
226 **appeal fee as established in the City of Homer Fee Schedule.**

227

228 b. A notice of appeal shall be in writing, be signed by the appellant, and shall contain, ~~but is~~
229 ~~not limited to~~, the following information:

230

231 1. The name and address of the appellant.

232 2. A description of the action or determination from which the appeal is sought and the
233 date upon which the action or determination became final.

234 3. The street address and legal description of the property that is the subject of the
235 action or determination being appealed, and the name and address of the owner(s) of
236 that property.

237 4. Detailed and specific allegations of error, including reference to applicable provisions
238 of the zoning code or other law.

239 5. A statement of whether the action or determination should be reversed, modified, or
240 remanded for further proceedings, or any other desired relief.

241 6. Proof showing that the appellant is an aggrieved person with standing to appeal
242 under HCC 21.93.050 or 21.93.060, whichever is applicable.

243 ~~7. The appellant's choice of decision maker, which may be either the Board of~~
244 ~~Adjustment or a hearing officer appointed by the City Manager.~~

245

246 c. The City Clerk shall reject any notice of appeal that does not comply with HCC 21.93.070
247 and this section and notify the appellant of the reasons for the rejection. If a notice of appeal
248 is rejected for reasons other than timeliness, a corrected notice of appeal that complies with
249 this section will be accepted as timely if filed within seven days of the date on which the City
250 Clerk mails the notice of rejection.

251

252 **d. Within seven days of the date on which the City Clerk determines the notice of appeal**
253 **complies with HCC 21.93.070, The City Clerk shall mail copies of the notice of appeal shall**
254 **be mailed to all parties of record the appellant, appellee, owner of the property that is**
255 **the subject of the action or determination, and to neighboring property owners in the**
256 **proceeding appealed as set forth in HCC 21.94.030 to owners of record on the Borough**
257 **Assessor's records of real property within a 300-foot periphery of the site that is the**
258 **subject of the proposed action** from within seven days of the date on which the City Clerk
259 determines the notice of appeal complies with HCC 21.93.070 and this section.

260
261 e. Any person with standing under HCC 21.93.050 or 21.93.060, whichever is applicable, may,
262 within seven days after the date the City Clerk mailed copies of an accepted notice of appeal,
263 file notice of cross appeal. Any notice of cross appeal shall, to the extent practical, comply
264 with subsection (b) of this section.

265
266 f. The City Clerk shall promptly give notice of the cross appeal to the appellant and all other
267 parties who have filed a notice of appearance. [Ord. 17-07(S-3)(A) § 8, 2017; Ord. 08-29, 2008].

268
269 21.93.090 Authorized representative **Representation.**

270
271 No person may represent a party to an appeal without filing with the City Clerk written
272 authorization, which shall be signed by the party so represented and provide the name and
273 address of the party's representative. If the person representing another is a lawyer licensed
274 to practice law in Alaska, an entry of appearance signed by the attorney is acceptable in lieu
275 of authorization signed by the person so represented. [Ord. 08-29, 2008].

276
277 **a. A party to an appeal may be represented by an attorney or may be self-represented.**
278 **An agency or entity is self-represented when acting through an authorized employee or**
279 **officer.**

280
281 **b. A party represented by an attorney in the appeal shall file, or cause the attorney to**
282 **file, and serve on the other parties a document that:**

- 283
284 **1. identifies the attorney; and**
285 **2. provides the address, telephone number, facsimile number, and electronic mail**
286 **address for the attorney.**

287
288 21.93.100 General appeals procedure.

289
290 **a. A hearing officer shall be appointed in accordance with HCC 21.91.100.**

291
292 **ab.** All appeals must be heard **and a decision rendered** within ~~60~~ **90** days after the appeal
293 record has been prepared. The ~~body or officer~~ hearing the appeal **hearing officer** may, for

294 good cause shown, extend the time for hearing. The decision on appeal must be rendered
295 within 60 days after the appeal hearing.

296
297 ~~b.c.~~ The appellant, the applicant for the action or determination that is the subject of the
298 appeal **appellee**, owner of the property that is the subject of the action or determination,
299 and all parties who have entered an appearance **their representatives** shall be provided not
300 less than 15 days' written notice of the time and place of the appeal hearing. ~~Neighboring~~
301 ~~property owners shall be notified as set forth in HCC 21.94.030.~~

302
303 ~~e.d.~~ When an appellant chooses to appeal to a hearing officer, ~~t~~ **The City Clerk** shall identify
304 the hearing officer in the notice of hearing. All parties shall have ~~10~~ **5** days from the date of
305 the notice to object to the hearing officer based upon conflicts of interest, personal bias or ex
306 parte contacts. Failure to file an objection to the hearing officer within the ~~10~~ **5** days shall
307 waive any objection to the hearing officer.

308
309 **e. A notice of hearing shall be published at least once during the calendar week prior to**
310 **the appeal hearing date and the notice shall contain:**

- 311 **1. A brief description of the proposal on which the public body is to act;**
312 **2. A legal or common description of the property involved and a street address;**
313 **3. Date, time and place of the public hearing;**
314 **4. A statement that the complete proposal is available for review, specifying the**
315 **particular City office where the proposal may be examined.**

316
317 **Two weeks prior to the appeal hearing, the notice of hearing discussed in this**
318 **subsection shall be mailed to owners of record on the Borough Assessor's records of real**
319 **property within a 300-foot periphery of the site that is the subject of the proposed**
320 **action.**

321
322 ~~e.f.~~ An electronic recording shall be kept of the entire proceeding. ~~Written minutes shall be~~
323 ~~prepared.~~ The electronic recording shall be preserved for one year unless required for further
324 appeals. No recording or minutes shall be kept of deliberations that are not open to the
325 public. [Ord. 17-07(S-3)(A) § 9, 2017; Ord. 10-41(A) § 1, 2010; Ord. 08-29, 2008].

326
327 21.93.110 Appeal decisions.

328
329 a. All final decisions on appeals shall be in writing, ~~and shall state the names and number of~~
330 ~~members of the body who participated in the appeal, the names and number voting in favor of~~
331 ~~of the decision, and the names and number voting in opposition to the decision. All final~~
332 ~~decisions issued by a hearing officer must state the name of the officer.~~

333
334 b. A decision shall include an official written statement of **factual** findings and reasons **legal**
335 **conclusions** supporting the decision. This statement shall refer to specific evidence in the

336 record and to the controlling sections of the zoning code. ~~Upon express vote, the body~~ **The**
337 hearing officer may adopt, as their statement of findings and reasons, those findings and
338 reasons officially adopted by the body or officer below from which the appeal was taken.

339
340 c. Copies of the written decision shall be promptly mailed to the appellant, ~~the applicant for~~
341 ~~the action or determination that is the subject of the appeal~~ **appellee**, the owner of the
342 property that is the subject of the action or determination, and ~~all parties who entered a~~
343 ~~written notice of appearance in the appeal proceeding~~ **their representatives**. [Ord. 17-07(S-
344 3)(A) § 10, 2017; Ord. 10-41(A) § 2, 2010; Ord. 08-29, 2008].

345
346 ~~Article II. Planning Commission Appeal Procedures~~

347
348 ~~21.93.300 — Appeals to the Planning Commission.~~

349
350 a. ~~Within 30 days after receipt of a timely notice of appeal to the Planning Commission, the~~
351 ~~City Planner will prepare an appeal record consisting of all relevant documents submitted to~~
352 ~~or used by the Planning Department in making the decision under appeal, including any staff~~
353 ~~reports, correspondence, applications, or other documents. The appeal record shall be~~
354 ~~paginated. The appellant shall be notified by mail when the appeal record is complete. Any~~
355 ~~person may obtain a copy of the appeal record from the Planning Department upon payment~~
356 ~~of the costs of reproduction.~~

357
358 b. ~~An appeal hearing shall be scheduled within the time specified in HCC 21.93.100. The~~
359 ~~hearing will be open to the public.~~

360
361 c. ~~The Commission may prescribe rules of procedure for additional public notification in~~
362 ~~cases where the Commission determines its decision would have a substantial effect on the~~
363 ~~surrounding neighborhood.~~

364
365 d. ~~The Commission may accept new testimony and other evidence, including public~~
366 ~~testimony, and hear oral arguments as necessary to develop a full record upon which to~~
367 ~~decide an appeal from an act or determination of the City Planner. Any person may file a~~
368 ~~written brief or testimony in an appeal before the Commission.~~

369
370 e. ~~The Commission may undertake deliberations immediately upon the conclusion of the~~
371 ~~hearing on appeal or may take the matter under advisement and meet at such other time as~~
372 ~~is convenient for deliberations until a decision is rendered. Deliberations need not be public~~
373 ~~and may be in consultation with an attorney acting as legal counsel to the Commission.~~

374
375 f. ~~The Commission may affirm or reverse the decision of the City Planner in whole or in part. A~~
376 ~~majority vote of the fully constituted Commission is required to reverse or modify the action~~
377 ~~or determination appealed from. For the purpose of this section the fully constituted~~

378 Commission shall not include those members who do not participate in the proceedings due
379 to a conflict of interest or disqualifying ex parte contacts, disqualifying partiality, or other
380 disqualification for cause. A decision affirming, reversing, or modifying the decision appealed
381 from shall be in a form that finally disposes of the case on appeal, except where the case is
382 remanded for further proceedings.

383

384 g. The Commission may seek the assistance of legal counsel, City staff, or parties in the
385 preparation of a decision or proposed findings of fact. [~~Ord. 10-41(A) § 3, 2010; Ord. 08-29,~~
386 ~~2008~~].

387

388 21.93.310 — Other procedures.

389 If no specific procedure is prescribed by the code, the Planning Commission may proceed in
390 an administrative appeal in any lawful manner not inconsistent with this title, statutes, and
391 the Constitution. [~~Ord. 08-29, 2008~~].

392

393 Article III. Board of Adjustment Appeal Procedures

394

395 21.93.500 — Parties eligible to appeal Planning Commission decision to the Board of
396 Adjustment or a hearing officer — Notice of appearance.

397

398 a. Only persons who actively and substantively participated in the matter before the
399 Commission and who would be qualified to appeal under HCC 21.93.060 may participate as
400 parties in an appeal from the Commission to the Board of Adjustment or a hearing officer.

401

402 b. Any person so qualified who desires to participate in the appeal as a party, other than the
403 appellant, the City Planner or the City Planner's designee, the applicant for the action or
404 determination that is the subject of the appeal and the owner of the property that is the
405 subject of the action or determination, must, not less than 14 days before the date set for the
406 appeal hearing, file with the City Clerk a written and signed notice of appearance containing
407 that party's name and address, and proof that the person would be qualified under HCC
408 21.93.060 to have filed an appeal. [~~Ord. 17-07(S 3)(A) § 11, 2017; Ord. 14-45 § 2, 2014; Ord. 10-~~
409 ~~41(A) § 4, 2010; Ord. 08-29, 2008~~].

410

411 21.93.510 New evidence or changed circumstances.

412

413 a. Except as provided in subsections (b) and (c) of this section, the Board of Adjustment or
414 hearing officer shall not consider allegations of new evidence or changed circumstances and
415 shall make their decision based solely on the record. If new evidence or changed
416 circumstances are alleged, the ~~Board of Adjustment~~ or hearing officer may, in their discretion,
417 either hear the appeal without considering the allegations or may remand the matter to the
418 appropriate lower administrative body or official to rehear the matter, if necessary.

419

420 b. When the standing of a person is in issue, the Board of Adjustment or hearing officer may
421 take additional evidence for the limited purpose of making findings on the question of the
422 person's standing. No evidence received under this subsection shall be considered for
423 purposes other than determining standing.

424
425 ~~c. When the disqualification of a member of the Board of Adjustment for conflict of interest,
426 ex parte contact, partiality or other cause is in issue, the Board of Adjustment may take
427 additional evidence for the limited purpose of making findings on the question of
428 disqualification. No evidence received under this subsection shall be considered for purposes
429 other than determining disqualification. [Ord. 17-07(S-3)(A) § 12, 2017; Ord. 10-41(A) § 5, 2010;
430 Ord. 08-29, 2008].~~

431
432 21.93.520 Preparation of record.

433
434 a. The appeal record shall be completed within ~~30~~ **15** days after receipt of a timely and
435 complete notice of appeal to the Board of Adjustment or hearing officer, and **The appeal**
436 **record** shall consist of the items, and shall be prepared in the manner, described in this
437 subsection.

- 438
439 1. The Clerk will assemble and paginate all relevant documents involved in the original
440 decision, including any staff reports, minutes, exhibits, notices, and other documents
441 considered in making the original decision.
- 442 2. A party may elect to include a verbatim transcript of the testimony before the
443 Planning Commission in the appeal record by making a written request to the City
444 Clerk for a recording of the testimony within 14 days after the Clerk mails copies of the
445 notice of appeal to the parties pursuant to HCC 21.93.080(d). The requesting party
446 shall arrange and pay for the preparation of the transcript. Only a transcript prepared
447 and certified as accurate by a qualified court reporter shall be accepted. The original
448 transcript must be filed with the City Clerk to be provided to the hearing officer with
449 the record on appeal.

450
451 b. The appellant, ~~the applicant for the action or determination that is the subject of the~~
452 ~~appeal~~ **appellee**, the owner of the property that is the subject of the action or determination,
453 ~~or other parties who have entered an appearance shall be notified by mail when the record~~
454 ~~and transcript, if ordered, are complete. A~~ any person may obtain a copy **of the record** upon
455 payment of the costs of reproduction and any applicable mailing costs.

456
457 21.93.530 ~~Written briefs.~~ **Prehearing conference.**

458
459 a. ~~Each party to the appeal (each appellant, cross appellant, and respondent) may file with~~
460 ~~the City Clerk one opening brief not later than 20 days after the date of mailing the notice of~~
461 ~~the completion of the record on appeal. The brief shall be typed on eight and one half by 11-~~

462 inch paper and shall include a statement of relevant facts contained in the record on appeal,
463 with citations to the page numbers in the record, a clear statement of the party's position
464 regarding the allegations of error specified in the notice of appeal, and arguments citing
465 points and legal authorities in support of such position.

466
467 b. Each party (each appellant, cross appellant, and respondent) may submit one reply brief
468 within 14 days after the date opening briefs are due. A reply brief shall be limited to a
469 response to matters specifically raised in the opening brief(s) being responded to.

470
471 c. Upon request, any person may obtain a copy of any brief upon payment of reproduction
472 charges and any applicable cost of mailing.

473
474 d. Upon written request, and for good cause shown and when it appears to the City Clerk that
475 other parties will not be unduly prejudiced by the delay, the City Clerk may grant an
476 extension of time not to exceed five days for the filing of any brief. [Ord. 10-41(A) § 7, 2010;
477 Ord. 08-29, 2008].

478
479 **The hearing officer will hold a preconference hearing to develop a briefing schedule, set**
480 **a hearing date, and address other matters as needed related to the appeal hearing.**

481
482 21.93.540 Appeal hearing.

483
484 a. The meeting at which the Board of Adjustment hears an appeal shall be open to the public.
485 An appeal before the hearing officer shall also be open to the public. The City Attorney or
486 another attorney acting as legal counsel to the Board shall be present at appeals before the
487 Board of Adjustment.

488
489 b. Each party (each appellant, cross appellant, and respondent) may present oral argument
490 at the appeal hearing, subject to the order of presentation and time limitations that the
491 Board of Adjustment or hearing officer adopts at the commencement of the hearing. The
492 taking of testimony or other evidence is limited by HCC 21.93.510.

493
494 c. The Board of Adjustment or hearing officer may undertake deliberations immediately upon
495 the conclusion of the hearing on appeal or may take the matter under advisement and meet
496 at such other time as is convenient for deliberations until a decision is rendered.
497 Deliberations need not be public.

498
499 d. The Board of Adjustment or hearing officer may exercise his or her independent judgment
500 on legal issues raised by the parties. "Legal issues" as used in this section are those matters
501 that relate to the interpretation or construction of the zoning code, ordinances or other
502 provisions of law.

503

504 e. The Board of Adjustment or hearing officer shall defer to the findings of the lower
505 administrative body regarding disputed issues of fact. Findings of fact adopted expressly or
506 by necessary implication by the lower body shall be considered as true if they are supported
507 by substantial evidence. But findings of fact adopted by less than a majority of the lower
508 administrative body shall not be given deference, and when reviewing such findings of fact
509 the Board of Adjustment or hearing officer shall exercise independent judgment and may
510 make their own findings of fact. If the lower administrative body fails to make a necessary
511 finding of fact and substantial evidence exists in the record to enable the Board of
512 Adjustment or hearing officer to make the finding of fact, they may do so in the exercise of
513 their independent judgment, or, in the alternative, the Board of Adjustment or hearing officer
514 may remand the matter for further proceedings. “Substantial evidence,” as used in this
515 section, means such relevant evidence as a reasonable mind might accept as adequate to
516 support a conclusion. [Ord. 17-07(S-3)(A) § 14, 2017; Ord. 10-41(A) § 8, 2010; Ord. 08-29, 2008].
517

518 **Unless otherwise established in the prehearing conference an appeal to a hearing**
519 **officer will be conducted as follows:**

520
521 **1. Preliminary Matters**

522 **2. Oral arguments – 20 minutes each for appellant and appellee. The appellant may**
523 **reserve a portion of their time for rebuttal or closing comments.**

524 **3. The hearing officer may question each of the parties**

525 **4. Adjourn for deliberative purposes.**

526
527 21.93.550 Board of Adjustment or h Hearing officer decision.
528

529 a. The Board of Adjustment or hearing officer may affirm or reverse the decision of the lower
530 administrative body in whole or in part. If the appeal is heard by the Board of Adjustment, a
531 majority vote of the fully constituted Board is required to reverse or modify the action or
532 determination appealed from. For the purpose of this section, the fully constituted Board
533 shall not include those members who do not participate in the proceedings due to a conflict
534 of interest or disqualifying ex parte contacts, disqualifying partiality, or other disqualification
535 for cause. A decision affirming, reversing, or modifying the decision appealed from shall be in
536 a form that finally disposes of the case on appeal, except where the case is remanded for
537 further proceedings.
538

539 b. The Board may seek the assistance of legal counsel, City staff, or parties in the preparation
540 of a decision or proposed findings of fact. [Ord. 17-07(S-3)(A) § 15, 2017; Ord. 08-29, 2008].
541

542 21.93.560 Remand.
543

544 a. The Board of Adjustment or hearing officer may remand the appeal to the lower
545 administrative body when the Board or hearing officer determines that:

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1. There is insufficient evidence in the record on an issue material to the decision of the case;
2. There has been a substantial procedural error that requires further consideration by the lower administrative body; or
3. There is other cause requiring further proceedings by the lower administrative body.

b. A decision remanding a case shall describe any issue upon which further evidence should be taken, and shall set forth any further directions the ~~Board or~~ hearing officer deems appropriate for the guidance of the lower administrative body.

c. The lower administrative body shall promptly act on the case upon remand in accordance with the decision of the ~~Board of Adjustment or~~ hearing officer. A case on remand has priority on the agenda of the lower administrative body, except cases remanded under HCC 21.93.510(a) are not entitled to priority. The applicant or owner of the property in question may waive the priority given by this subsection. [Ord. 17-07(S-3)(A) § 16, 2017; Ord. 08-29, 2008].

21.93.570 Other procedures.

If no specific procedure is prescribed by the code, the Board of Adjustment or hearing officer may proceed in an administrative appeal in any lawful manner not inconsistent with this title, statutes, and the Constitution. [Ord. 17-07(S-3)(A) § 17, 2017; Ord. 08-29, 2008].

Article IV. Conflicts of Interest and Ex Parte Contacts

21.93.700 Appeals—Conflict of interest.

~~a. A member of the Planning Commission, Board of Adjustment or a hearing officer appointed to hear an appeal from a Planning Commission decision may not participate in the deliberation or voting process of an appeal if, following the procedures set forth in this chapter, the Commission, or Board member or hearing officer is determined to have a substantial financial interest in the official action, as defined in Chapter 1.18 HCC. In the absence thereof, all Commission or Board members or a hearing officer shall participate in the deliberation and voting process unless excused pursuant to other provisions of this chapter.~~

~~b. When a financial interest of a member of the Planning Commission or Board of Adjustment is disclosed on the record, the remainder of the Commission or Board, respectively, shall determine whether the member should participate in the matter. If it is determined the member should participate, any action taken thereafter by the body shall be valid notwithstanding a later determination by a court, an appellate tribunal, or a hearing officer that the member should have been disqualified from participation because of a substantial~~

588 financial interest in the matter; except the action shall be invalidated when the disqualified
589 member's vote was necessary to establish the required majority to approve the decision of
590 the body. When a Commission or Board decision is invalidated because such vote was
591 necessary to establish the required majority, the body shall commence new consideration of
592 the matter beginning at the point where the Commission or Board, respectively, determines
593 it is necessary to do so to eliminate the effect of the member's improper participation.

594
595 c. A hearing officer shall disclose any substantial financial interest, personal bias or ex parte
596 contact immediately upon being appointed by the City Manager and shall refrain from
597 accepting the appointment if a substantial financial interest, personal bias or ex parte
598 contact exists. If the substantial financial interest, personal bias or ex parte contact arises
599 after the hearing officer's appointment, he or she shall disclose his or her interest and shall
600 be disqualified from serving as the hearing officer unless all parties waive any objection to
601 the hearing officer.

602
603 d. For purposes of hearing an appeal, a quorum of the Commission is four members. If it is
604 not possible to obtain a quorum of the Planning Commission to hear an appeal without the
605 participation of members disqualified by reason of a substantial financial interest, then all
606 members who would be so disqualified shall nevertheless participate in the appeal, including
607 deliberations and voting, and the decision rendered in such a case shall be valid
608 notwithstanding the participation of such members. This subsection shall not apply if the
609 matter can be postponed to a later date (not later than 75 days after the appeal record is
610 prepared) when the body can obtain a quorum of members who are not disqualified by a
611 substantial financial interest.

612
613 e. For purposes of hearing an appeal, a quorum of the Board is four members. If it is not
614 possible to obtain a quorum of the Board to hear an appeal without the participation of
615 members who have chosen to abstain or been disqualified by the Board due to substantial
616 financial interest, bias or partiality, then the hearing shall be postponed and a hearing officer
617 shall be appointed. A hearing officer appointed under this subsection shall conduct the
618 rescheduled hearing no more than 60 days after the original hearing date except that the
619 hearing officer may extend the hearing date for good cause shown. [Ord. 17-07(S-3)(A) § 18,
620 2017; Ord. 08-29, 2008].

621
622 A hearing officer or administrative law judge shall refrain from hearing or otherwise deciding
623 a case presenting a conflict of interest. A conflict of interest may arise from a financial or
624 other personal interest of the hearing officer or administrative law judge, or of an immediate
625 family member. A conflict of interest exists if:

626
627 a. The financial or other personal interest reasonably could be perceived to influence the
628 official action of the hearing officer; or

629 b. A hearing officer previously represented or provided legal advice to a party on a
630 specific subject before the hearing officer or administrative law judge.

631

632 21.93.710 Appeals— Ex parte communication prohibited.

633

634 a. ~~No member of the Commission or Board of Adjustment or any~~ **The** hearing officer
635 appointed ~~by the City Manager~~ to review a decision issued by the Commission shall **not** have
636 ex parte communication with any person. “Ex parte communication” means to
637 communicate, directly or indirectly, with the appellant, other parties or persons affected by
638 the appeal, or members of the public concerning an appeal or issues specifically presented in
639 the notice of appeal, either before the appeal hearing or during any period of time the matter
640 is under consideration or subject to reconsideration, without notice and opportunity for all
641 parties to participate in the communication.

642

643 b. This section does not prohibit:

644 1. ~~Members from discussing matters relating to the appeal among themselves.~~

645 1. Communications between municipal staff and Commission or Board members or the
646 hearing officer where:

647 a. Such staff members are not themselves parties to the appeal; and

648 b. Such communications do not furnish, augment, diminish, or modify the
649 evidence in the record on appeal.

650 2. Communications between the Commission or Board and its legal counsel.

651

652 ~~c. If, before an appeal commences, a member of the Commission or Board receives an ex~~
653 ~~parte communication of a type that could not properly be received while an appeal is~~
654 ~~pending, the member shall disclose the communication in the manner prescribed in~~
655 ~~subsection (d) of this section at the first meeting of the Commission or Board at which the~~
656 ~~appeal is addressed.~~

657

658 ~~d. A member of the Commission or Board who receives an ex parte communication at any~~
659 ~~time shall, at the first opportunity after the communication, place on the record of the~~
660 ~~pending matter all written communications received, all written responses to the~~
661 ~~communications, and a memorandum stating the substance of all oral communications~~
662 ~~received, all responses made, and the identity of each person from whom the member~~
663 ~~received an ex parte communication. Any party to the appeal desiring to rebut the ex parte~~
664 ~~communication must be granted a reasonable opportunity to do so if a request is promptly~~
665 ~~made.~~

666

667 ~~e. If the Commission or Board determines in its discretion it is necessary to eliminate the~~
668 ~~harmful effect of an ex parte communication received in violation of this section, the~~
669 ~~Commission or Board may disqualify the member who received the communication from~~

670 ~~participation in the appeal. In addition, the Commission may impose appropriate sanctions,~~
671 ~~including default, against a party to the appeal for any violation of this section.~~

672

673 f. It is a violation, subject to penalties and other enforcement remedies under this title:

674 1. For any person to knowingly have or attempt to have ex parte communication with a
675 Commission or Board or hearing officer in violation of subsection (a) of this section.

676 2. For any Commission or Board member or hearing officer to knowingly receive an ex parte
677 communication in violation of subsection (a) of this section.

678 3. For any Commission or Board member to knowingly fail to place on the record any matter
679 when and as required under subsections (c) and (d) of this section. [Ord. 17-07(S-3)(A) § 19,
680 2017; Ord. 08-29, 2008].

681

682 Section 3. This Ordinance is of a permanent and general character and shall be included
683 in the City Code.

684

685 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 9th day of August, 2021.

686

687 CITY OF HOMER

688

689

KEN CASTNER, MAYOR

690

691 ATTEST:

692

693

MELISSA JACOBSEN, MMC, CITY CLERK

695

696 YES:

697 NO:

698 ABSTAIN:

699 ABSENT:

700

701 First Reading:

702 Public Hearing:

703 Second Reading:

704 Effective Date:



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 21-137

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: JULY 30, 2021

SUBJECT: ORDINANCE 21-44 SUBSTITUTE

Substitute Ordinance 21-44(S)-

- Strikes Section 21.93.040 Decisions not subject to appeal. This was intended to be removed in the original draft because the sections above specify what final decisions are subject to appeal.
- Amends 21.93.050 (a)(3) and (b)(4) to strike proposed new wording “adversely affected” and retain the word aggrieved. It was realized that aggrieved is defined in 21.03 Definitions and Rules of Construction as follows - *“Person aggrieved” means a person who shows proof of the adverse effect an action or determination taken or made under the Homer Zoning Code has or could have on the use, enjoyment, or value of real property owned by that person. An interest that is no different from that of the general public is not sufficient to establish aggrievement.*
- 21.93.080 (d) adds clarifying language regarding notice to neighboring property owners to be consistent with 21.93.110(e).
- Amends 21.93.110 (b) to read **factual** findings and **legal** conclusions, (c) to strike notice to neighboring property owners, and (e) adds language regarding notice to neighboring property owners.



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clerk@cityofhomer-ak.gov

(p) 907-235-3130

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MEMORANDUM 21-131

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: JULY 26, 2021

SUBJECT: ORDINANCE 21-44 RE: ZONING APPEALS TO A HEARING OFFICER

The Planning Commission considered this ordinance at their June 2 and 16, 2021 regular meetings. On June 21st they held a public hearing and recommend adoption by City Council.

The City Attorney has reviewed the ordinance.

Attachments:

Planning Commission minutes of June 2 and 16, 2021

Chair Smith asked for any additional comments from the commission and then called for a motion.

HIGHLAND/BARNWELL MOVED TO APPROVE CONDITIONAL USE PERMIT CUP 21-06 TO ADD MULTIPLE STRUCTURES FOR OFFICE SPACE, DWELLINGS, AND GUESTROOMS/HOTEL AT 1308 LAKESHORE DRIVE.

Commissioner Highland commented that it was a very complete application, which made it easy to read and support.

Commissioner Barnwell commended the applicant for the comprehensive map that was provided in their proposal. In response to Mr. Barnwell's request and questions, Ms. Greer spoke to the proposed development plan outlined in the map created by Z Architects, LLC included in the packet, and gave an overview of what improvements they have planned for the property.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

B. Staff Report 21-39, Re: Ordinance amending the administrative appeals process for City Planning decisions under Homer City Code 21.91 and 21.93

Chair Smith introduced the item by reading the title and deferred to City Planner Abboud.

Mr. Abboud recapped how the commission had reviewed the proposed amendments to the Title 21 appeal procedures at their last meeting. They are now at the public hearing stage and ready for a motion of recommendation to City Council for adoption.

Chair Smith opened the public hearing.

There was no audience members in attendance.

Chair Smith closed the public hearing and opened the floor for questions from the commission.

City Planner Abboud facilitated discussion with the commission, clarifying that these amendments would mean the commission would not have to hear another appeal hearing. Commissioner Venuti voiced his support for that given the difficulty of the last appeal process.

Chair Smith requested a motion. In response to Commissioner Highland's request, Deputy City Clerk Tussey provided verbiage for a motion.

HIGHLAND/BARNWELL MOVED TO SUPPORT AN ORDINANCE AMENDING THE ADMINISTRATIVE APPEALS PROCESS FOR CITY PLANNING DECISIONS UNDER HOMER CITY CODE 21.91 AND 21.93 AND RECOMMEND TO CITY COUNCIL FOR ADOPTION.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

PLAT CONSIDERATION

PENDING BUSINESS

NEW BUSINESS

INFORMATIONAL MATERIALS

- A. City Manager's Report for June 14, 2021 City Council Meeting
- B. Kenai Peninsula Borough Notice of Decisions
- C. Planning Commission Calendar
- D. Memorandum 21-088 Re: appointment of Richard Chiappone to the Planning Commission

Chair Smith noted the items listed under Informational Materials. There were no comments or discussion on the items provided.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Deputy City Clerk Tussey thanked the commission for a short meeting.

City Planner Abboud commented on future agenda items and requested to consult with Chair Smith at a later time to put together a plan for the remainder of the year.

COMMENTS OF THE COMMISSION

Commissioner Highland noted it was a nice, short meeting and wished everyone a happy 4th of July.

Commissioner Venuti commented on the short meeting and wished all the fathers in attendance a happy Father's Day.

Commissioner Barnwell wished everyone a happy 4th of July and commented on the significance of the appeal hearing process change.

Commissioner Conley thanked everyone for a short meeting and wished them a good summer and 4th of July.

Commissioner Smith commented on his absence from the last City Council meeting. He spoke to his involvement in game events in the State and thanked the commissioners and staff for tonight's meeting.

Motion carried.

Chair Smith facilitated discussion and questions from the Commission with Ms. Logan on the following:

- Conducting tours for City Law Enforcement officials and members of City Council on the proposed onsite consumption operation
 - o This was an undocumented and informal tour
- Benefits to the existing business in the increase in business revenue, employees, additional activities such as paint night, pop up dinners with a visiting chef, etc.
- COVID 19 precautions and preventions

City Planner Abboud responded regarding other options for onsite consumption for the general public that are being discussed at this time by City Council were none. He stated that it would not be allowed on city property in regards to leased lands. The City cannot declare something that conflicted with state statutes.

Chair Smith reviewed the motion on the floor.

Commissioner Venuti called for the vote.

VOTE. YES. HIGHLAND, BARNWELL
VOTE. NO. CONLEY, SMITH, VENUTI

Motion failed.

PLAT CONSIDERATION

PENDING BUSINESS

NEW BUSINESS

- A. Memo from City Clerk, Re: Introduction of an Ordinance amending the administrative appeals process for City Planning decisions under Homer City Code 21.91 and 21. 93

Chair Smith introduced the item into the record and invited the City Planner to provide input on the matter.

City Planner Abboud provided a summary review of what and how the draft ordinance would be applied referencing the information provided in the memorandum from City Clerk Jacobsen.

Commissioner Highland requested a brief recess.

Chair Smith called for a recess at 7:55 p.m. The meeting was called back to order at 8:01 p.m.

City Planner Abboud finalized his review of the proposed changes to Title 21.91 and 21.93

Commissioner Highland requested clarification on page 49 in the packet, section 21.93.300 regarding items coming before the Commission would not happen and the qualifications of a Hearing officer since they would not necessarily have the experience that the Planning Commission would have.

Chair Smith commented that he reviewed the draft and believed it to be incredibly thorough and very timely.

VENUTI/HIGHLAND MOVE TO RECOMMEND THE DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.91 TO REMOVE BOARD OF ADJUSTMENT AND HOMER CITY CODE 21.93 ADMINISTRATIVE APPEALS, ESTABLISHING THAT ADMINISTRATIVE APPEALS FROM CERTAIN FINAL CITY PLANNING DECISIONS SHALL BE FILED BEFORE A HEARING OFFICER AND SUPPLEMENTING NOTICE REQUIREMENTS BE MOVED TO PUBLIC HEARING.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

~~B. Staff Report 21-36, Extending the No Wake Zone in City Tidelands, Closing Areas to Motorized Vessels & Funds for Regulation Changes.~~

~~Chair Smith introduced the item by reading of the title and noted that they received public comment and confirmed with the Commission that they had a chance to review the comments received~~

~~The Commissioners present did not indicate that they needed additional time for review of public comment.~~

~~City Planner Abboud reviewed Staff Report 21-36 for the Commission and noted that Port Director Hawkins was present to answer any questions.~~

~~Port Director Hawkins facilitated discussion and responded to the following topics:~~

- ~~- This was before the Port & Harbor Advisory Commission and they supported it as written~~
- ~~- The previous action taken by the Parks, Art, recreation & Culture Advisory Commission to prohibit personal watercraft from being launched from city beaches and in fact widen it to encompass any motorized watercraft to launch from city beaches without the harbormaster's approval.~~
- ~~- Limited the launching of watercraft to the Load and Launch Ramp in the Harbor~~

ORDINANCE REFERENCE SHEET
2021 ORDINANCE
ORDINANCE 21-45

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a State of Alaska Public Library Assistance Grant for the FY 2022 in the Amount of \$7,000 for Books and Library Materials and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Library Director

1. City Council Regular Meeting July 26, 2021 Introduction
Memorandum 21-123 from Library Director as backup
2. City Council Regular Meeting August 9, 2021

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

3 City Manager/
4 Library Director

5 **ORDINANCE 21-45**

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 ACCEPTING AND APPROPRIATING A STATE OF ALASKA PUBLIC
9 LIBRARY ASSISTANCE GRANT FOR FY 2022 IN THE AMOUNT OF
10 \$7,000 FOR BOOKS AND LIBRARY MATERIALS AND AUTHORIZING
11 THE CITY MANAGER TO EXECUTE THE APPROPRIATE
12 DOCUMENTS.

13
14 WHEREAS, The City submitted an application for the Alaska Public Library Assistance
15 Grant for books and library materials; and

16
17 WHEREAS, The State awarded the grant in the amount of \$7000 requiring a local match
18 of \$7000; and

19
20 WHEREAS, The required match of \$7000 can be funded by the FY2022 budget.

21
22 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

23
24 Section 1. The Homer City Council hereby accepts and appropriates a State of Alaska
25 Public Library Assistance Grant in the amount of \$7,000 for books and library materials as
26 follows:

27
28 Revenue:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
157-7100-XXXX	State of Alaska Public Library Assistance Grant	\$7000

32
33 Expense:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
100-0145-5228	Books	\$7000

34
35
36
37 Section 2. The City Manager is authorized to execute the appropriate documents.

38
39 Section 3. This is a budget amendment ordinance only, is not permanent in nature, and
40 shall not be codified.

41
42 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of August, 2021.

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CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:



July 14, 2021

The **Public Library Assistance (PLA)** grant for FY22 for **Homer Public Library** will be **\$7,000**. We are delighted that your library is eligible to receive this annual operating grant so that you can provide the best possible service to your library patrons.

In order to receive your grant money, please return the attached grant agreement as soon as you can. Two different people (the librarian and the appropriate legal authority) must sign the grant agreement, since it is a legal document committing your library to certain obligations in return for receiving the public library assistance grant. Once we have your agreement, we will be able to electronically deposit your grant award (or mail a paper check in specific instances).

Librarians and officials should carefully note and follow the regulations governing the administration of this grant. To remain eligible for future grants, I have highlighted some of the most important grant requirements:

- Meet the four statutory requirements:
 - Maintain a Collection for Lending
 - Provide Reference
 - Provide Interlibrary Loan
 - Offer Children's Programming
- Submit the online Alaska Public Library Report for this fiscal year grant by **September 1, 2022**.
- Spend **at least \$3,500** on library materials and online services.
- Be open 48 weeks and the appropriate number of hours for your population and type of library.
- Attend **at least 6 hours of continuing education** (CE) during the current two-year cycle (7/1/2021-2023).

Please note that in addition to the above requirements, Non-profit and school/public libraries have additional requirements. Non-profit organizations must have at least quarterly (4) public board meetings and **submit minutes** to the State Library. School libraries must execute and keep in force a **binding legal agreement** between the school district and the public library governing body. The governing body of the public library may be the municipal assembly, an advisory board appointed by the municipal assembly, or the board of directors of a nonprofit corporation.

The State Library audits the records of selected libraries at the end of the grant year and reclaims any grant funds not properly accounted for. Also, any portion of this grant money not spent or encumbered by June 30, 2022 should be returned to the State Library. You may request a brief extension to spend unused FY22 collection grant funds.

Please return your signed agreements to eed.library.grants@alaska.gov. Questions should be directed to 907-465-1018 or the email above. Thank you!

Sincerely,

Patience Frederiksen
State Librarian
Alaska State Library

Alaska Public Library Assistance Grant Agreement FY2022

This agreement made and entered into on Wednesday, July 14, 2021, by and between the **Alaska State Library**, hereafter referred to as the Grantor; and the **Homer Public Library**, hereafter referred to as the Grantee.

Whereas, the State of Alaska has appropriated funds for public library assistance; and whereas, the application of the Grantee for a grant for public library assistance has been approved. NOW THEREFORE, for and in consideration of the mutual covenants herein contained the parties hereto agree as follows:

The Grantor will agree to:

1. Furnish funds in the amount of **\$7,000** (dispersed after July 1).
2. Provide advisory services in furtherance of the grant project.
3. Acknowledge the Grantee's eligibility for additional grants and services.

The Grantee will agree to:

Provide at least the following services free to residents of the municipality or community:

- Establish and maintain a **collection** of books and other materials for loan;
- Provide access to **interlibrary loans**;
- Provide **programming for children**; and
- Provide **reference** information.

Abide by the conditions set forth in its application, guidelines, and approved by the Grantor, including:

- The number and timing of **open hours**;
- The existing and ongoing **educational requirements** for the library director.
- Expend at least **\$3,500** on library materials and online services for each outlet.
- Have **trained paid or volunteer staff on duty** in the library during the scheduled open hours.

Maintain accurate financial records for auditing purposes.

- Return any grant funds **unexpended or unencumbered** by June 30, 2022, and all funds for which there is no proper accounting.
- Receive prior approval from the Grantor for **any line item change** that exceeds 10% of the line item, except that no prior approval is required for: Line item changes of less than \$100; or line item changes that add funds to library materials and online services.
- **Expend local funds** of at least **\$7,000** for project purposes. Repay any portion of grant funds that have not actually been matched by local funds over the course of the grant period. Local fund match can include volunteer service as described in the Guidelines.
- Expended funds must be clearly attributable to **public library (not school) services and operations**.

Uphold specific governance requirements

- Non-profits will maintain "**Good Standing**" with the State and **submit minutes** of required quarterly public board meetings.
- School/public libraries will have **an agreement** between the school district and the public library governing body.

Submit reports, certifications, and contact information such as:

- The online **Alaska Public Library Report (APLR)** by September 1, 2022.
- The follow-up **signed certification** for the APLR
- Any changes in director or library **contact information** within 30 days.

Funding for this grant is dependent on the following source:

State Sources	PLA22-Homer	\$7,000
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By accepting this award or agreement, the grantee may become subject to the audit requirements of State of Alaska Administrative code 2 AAC 45.010. As a result, the grantee may be required to provide for an audit and to permit independent auditors to have access to their records and financial statements. The grantee should consult with an independent auditor for assistance in determining audit requirements for each fiscal year.

The undersigned understands and agrees to the conditions of this agreement. Both signatures are required.

For the Library

For the Legal Entity

Signature

Signature

Title

Date

Title

Date

MAIL TO: Library Grants Administrator, Alaska State Library,
P.O. Box 110571, Juneau, AK 99801, SCAN TO eed.library.grants@alaska.gov, or FAX to 907-465-2151



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: Melissa Jacobsen, City Clerk/Acting City Manager
DATE: August 4, 2021
SUBJECT: City Manager's Report for August 9, 2021 Council Meeting

Tsunami Warning Response

On Wednesday, July 28th at approximately 10:15 p.m. an 8.2 magnitude earthquake occurred about 64 miles southeast of Perryville, Alaska that triggered the Tsunami Warning sirens in Homer. The KPB Emergency Alert sounded and phone calls and texts starting ringing my phone. The Emergency Operations Team mustered quickly at the Fire Hall, and the public safety worked to get the spit and other low lying area cleared. Fortunately a significant wave wasn't generated for the Aleutian Islands, Kodiak or the Southern Kenai Peninsula. I appreciate the City staff and Homer High School for their quick and professional response to the warning, and thank the residents and visitors for their cooperation in the evacuation efforts.

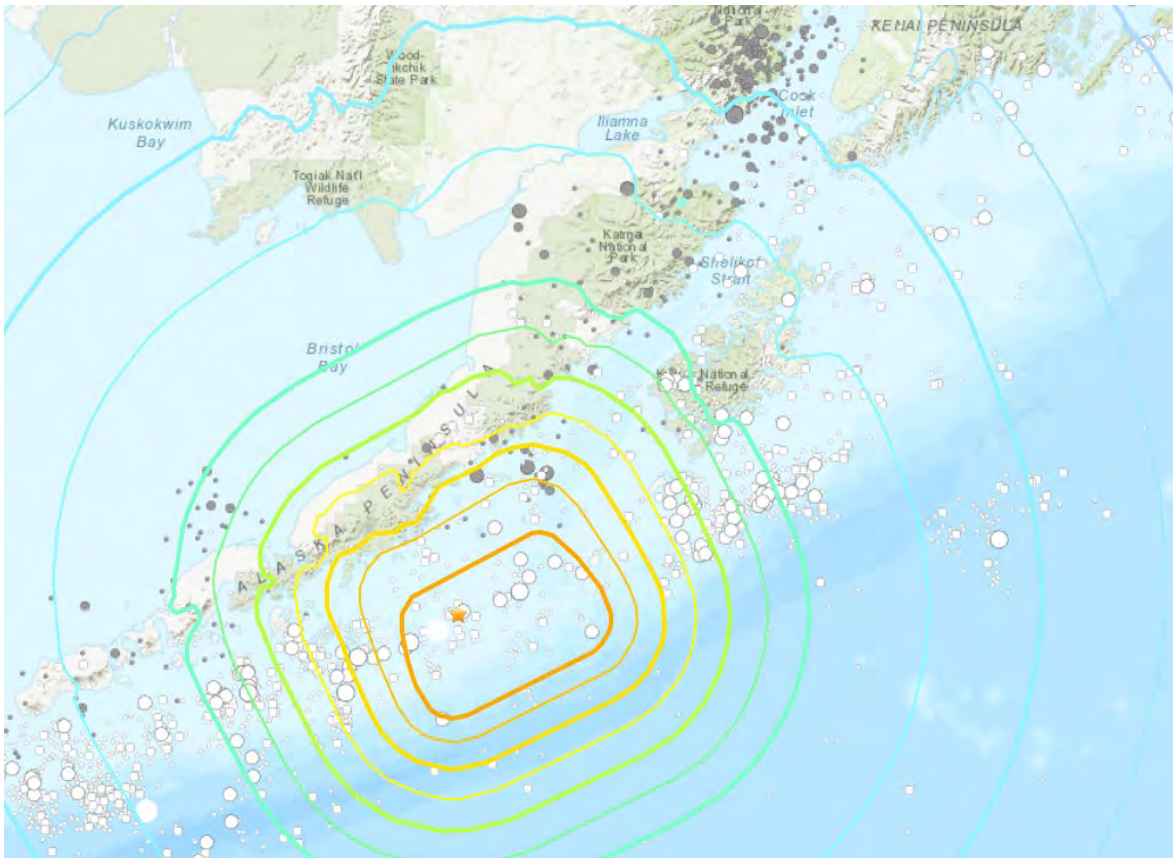


Image from earthquake.usgs.gov

COVID Risk Status Upgraded to Yellow

At the direction of City Manager Dumouchel the internal COVID working group continued to meet in his absence to discuss the increased of COVID cases occurring in Homer. In response to the Center for Disease Control recommendations the City moved from “Green” to “Yellow” on Wednesday, August 4th. The public won’t see much impact as Yellow status is focused more toward internal protocols of staff masking when interacting with public. Hybrid meetings will continue in the Cowles Council Chambers with slight modifications in the room. We will continue to monitor the situation and consider further recommendations if case counts continue to rise.

Hybrid Meetings in the Council Chambers

Following our first hybrid meeting on July 26th, IT continued to work on fixes in the Council Chambers to improve sound quality in the room. Noticeable progress has been seen, and heard, at the Library Advisory Board, Port and Harbor Commission, and Board of Adjustment meetings that have occurred since the 26th. The microphones in the chambers were installed in 2010 with the City Hall remodel and installation of new microphones will improve the sound quality and will help with camera tracking.

Opportunity for Acquisition of Tax Foreclosed Property

The Kenai Peninsula Borough is offering tax foreclosed properties to cities, if the lands can be used for a public purpose. There are two lots within Homer City limits that are available, located on Kachemak Drive. The City would be responsible for back property taxes and fees of approximately \$3,000. The two lots are fairly wet and have unpaid water, sewer and natural gas assessments of approximately \$73,000 (\$36,000 per lot). These lots are about half an acre in size, with tax assessed values of about \$8,700.

The value for the city is that the northern lot (28-A) is part of a road connection shown in the Transportation Plan that would serve the area for an expanded boatyard and mixed use industrial area. This lot does have a road easement already, but it’s possible that additional right of way will be necessary. The southern lot (28-D) has less value for the city, although mitigation or storm water management could be a use. Staff will further research whether a roadway is practical on the northern lot. If it is, staff intends to notify the Borough that the City would like to acquire the northern lot only for public roadway purposes, and will bring an ordinance to the City Council for the Borough’s back taxes and fees. If Council would like to go a different direction or discuss the opportunity further, the issue can be placed on the next agenda. Formal response is due to the Borough by August 30th.

Spit Parking Study

HDL Engineering Consultants have provided a Homer Spit Parking Progress Report that’s included as an attachment.

RFID Tagging Project

Since February, library staff and many enthusiastic volunteers have been inserting radio-frequency ID (RFID) tags into library materials, and I’m happy to report that the entire library collection is finished! RFID tags replace the library’s current barcode system, and offer a number of advantages:

- Checking in and checking out is much faster, with fewer steps in the process and the ability to handle several items simultaneously.
- Three self-checkout stations will be available near the front desk, allowing patrons to skip waiting in line.
- Tags can be read while items are still on the shelves, which makes shelf-reading much faster. We can wave a radio “wand” along the shelves, allowing the computer to read off the position and identification of each item and sound an alert when items are misshelved.

Processing all 50,000 physical items in the library collection has taken months of hard work, and it would have taken much longer without the help of the Friends of the Library and other members of the community. Volunteers came in every Sunday for months to stick tags in books and link the tags to catalog records.

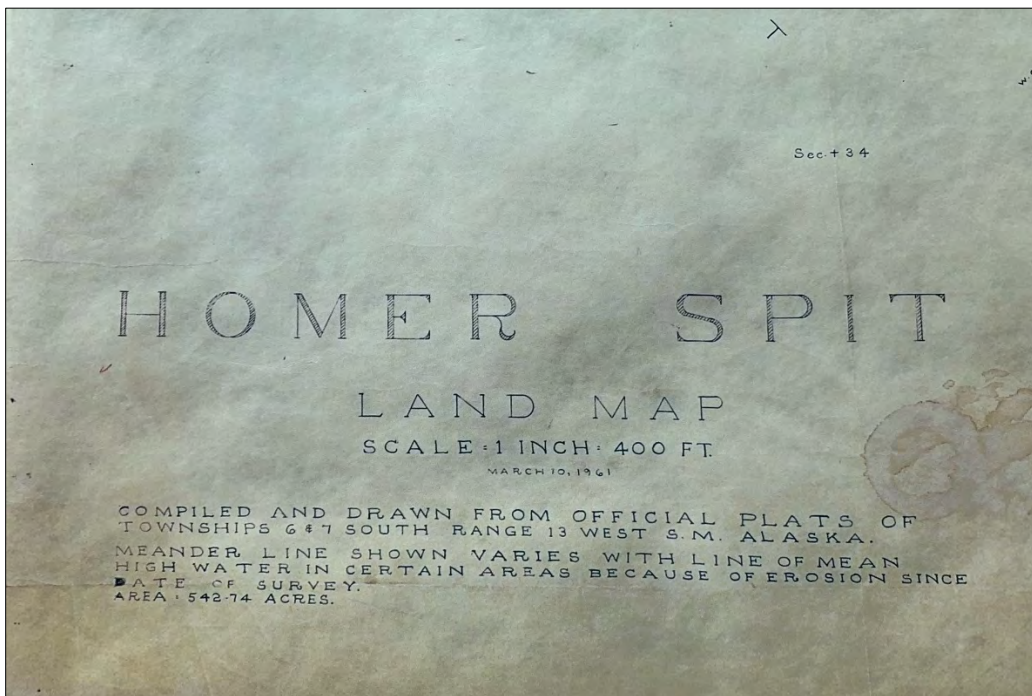
Technicians from Tech Logic will be here next week to set up the last few pieces of the system. If all goes well, the entire project should be fully functional by the end of August.

Cartography of Community

The library has partnered with the Pratt Museum on a community project to trace the history of Homer through maps. “Cartography of Community” is a grant-funded effort to reproduce some of the valuable maps in the Pratt collection and make them available in the library. Throughout the coming months, the Pratt will run a series of conversations with members of the public, inviting them to contribute local knowledge to add details that may be missing from the historical record.

All the maps included in this project, plus a number of others, are searchable in digital form on the museum’s website: <http://www.prattmuseum.org/collections/cartography-of-community/>

The first of the 15 maps has now been printed and is available in the library. Some photos below.



MEMORANDUM

DATE: August 3, 2021

TO: Bryan Hawkins, Port Director/Harbormaster
Janette Keiser, PE, Director of Public Works, City of Homer

FROM: Stephanie Mormilo, PE
Senior Civil Engineer, HDL Engineering Consultants, LLC

RE: REVISED Homer Spit Parking Progress Report

The following list provides information regarding the current status of the work described in the May 18, 2021 Homer Spit Parking Study Scope.

HDL's Scope of Work:

1) Identify improvements that would increase the amount of available parking.

- a. Parking Area between Ramp 1 & Ramp 2
 - i. This area was converted to fee parking this season.
 - ii. Provides approximately 75 parking spaces.
 - iii. HDL is evaluating the benefit/costs of paving this parking lot, which may provide additional parking spaces
 1. Initial evaluations indicate that paving will not significantly increase parking capacity, thus will not likely reduce the number of years required to pay off the improvement costs.
- b. Parking Area between Ramp 3 & Ramp 4
 - i. This parking area currently consists of approximately 212 total parking spaces
 1. Of the total parking spaces 86 are within DOT&PF ROW
 - ii. HDL is evaluating the benefit/costs of paving this parking lot, the benefit of discussing fee parking with DOT&PF for the portion within their ROW, and circulation within the parking area to provide the most efficient parking.
 1. Initial evaluations indicate that paving will not significantly increase parking capacity, thus will not likely reduce the number of years required to pay off the improvement costs.
 2. Discussions with DOT&PF may be required to charge for parking within their ROW. Initial evaluations show that the additional parking within the ROW will generate approximately 65% more income than the on-parcel parking alone.

- c. Parking Area between Ramp 4 and Freight Dock Road
 - i. This parking area currently consists of approximately 200 parking spots total
 - 1. Of the total parking spots 92 are within DOT&PF ROW
 - ii. HDL is evaluating the benefit/costs of paving this parking lot, the benefit of discussing fee parking with DOT&PF for the portion within their ROW, and circulation within the parking area to provide the most efficient parking.
 - 1. Initial evaluations indicate that paving will not significantly increase parking capacity, thus will not likely reduce the number of years required to pay off the improvement costs.
 - 2. Discussions with DOT&PF may be required to charge for parking within their ROW. Initial evaluations show that the additional parking within the ROW will generate approximately 80% more income than the on-parcel parking alone.
- d. Long-Term Parking Area Adjacent to Seafarer's Memorial
 - i. This parking area currently consists of approximately 89 parking spots total
 - 1. Of the total parking spots 43 are within DOT&PF ROW
 - ii. HDL is evaluating the benefit/costs of paving this parking lot, the benefit of discussing fee parking with DOT&PF for the portion within their ROW, and circulation within the parking area to provide the most efficient parking.
 - 1. Initial evaluations indicate that paving will not significantly increase parking capacity, thus will not likely reduce the number of years required to pay off the improvement costs.
 - 2. Discussions with DOT&PF may be required to charge for parking within their ROW. Initial evaluations show that the additional parking within the ROW will nearly double the income than the on-parcel parking alone.
- e. Proposed Parking Area Northwest of Freight Dock Road (Behind Bait Shop)
 - i. This area is currently used to store dredged materials.
 - ii. HDL is evaluating the number of parking spaces that can be provided by leveling/grading this area and estimating the costs of these improvements.
- f. Lots 9 & 10 (Adjacent to Fish Dock Road)
 - i. This area is currently used for storage.
 - ii. HDL is evaluating the number of parking spaces that can be provided on these parcels and estimating the costs of relocating stored materials and parking improvements.

2) Provide planning level cost estimates for possible improvements.

- a. HDL is currently developing the planning level cost estimates as part of the benefit/cost analysis to identify the most efficient improvements.

3) Make recommendations for revenue generation.

- a. HDL will provide draft recommendations and update them upon review and comment from the Port Director/Harbormaster and Director of Public Works Director.

For the general benefit/cost analysis and cost estimates, HDL will need confirmation of the following information:

- 1) Cost of automated pay machines
- 2) Cost of dry wells constructed in existing paved parking areas at Ramps 1-4.

HDL will submit the draft memorandum August 18, 2021 for review by the Port Director/Harbormaster and Director of Public Works. The document will be finalized 15 business days after receiving comments.



Land Management

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2205 • (907) 714-2378 Fax

A Division of the Planning Department

Charlie Pierce
Borough Mayor

TO: Cities within the Kenai Peninsula Borough

FROM: Aaron Hughes, Land Management Agent

DATE: July 29, 2021

SUBJECT: Application to Request Conveyance of Tax Foreclosure Property for a Public Purpose

KPB Land Management has prepared a **preliminary list** of foreclosed parcels to be disposed of in the Borough's 2021 Tax Foreclosure Auction. Please review the attached list for parcel(s) that you wish to acquire. This list includes a column heading called "Parcel Number" that contains a hyper-link to the parcel viewer for each parcel. Simply click on the respective Parcel Number under this column for additional information. In addition, you will find attached a vicinity map reflecting the general location of the parcels referenced on the disposal list of foreclosed parcels.

Pursuant to AS 29.45.450 Deed to Borough or City; a city may request conveyance of tax foreclosed property when the city has an immediate need for that property. Property may be deeded to the city subject to taxes owed through judgment date, interest, and any out of pocket cost incurred by the KPB through the date of the actual payment.

To request conveyance of a parcel, please complete the attached application form and return it to me by no later than **August 30, 2021**. The form requests that the city identify the proposed public purpose for which the property would be retained. Additionally, the city, by ordinance must meet the obligations of AS 29.45.460 with respect to retention for a public purpose.

If you should have any questions, please contact Land Management at 907-714-2205.



Land Management

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2205 • (907) 714-2378 Fax

A Division of the Planning Department

Charlie Pierce
Borough Mayor

APPLICATION TO REQUEST CONVEYANCE OF REAL PROPERTY FORECLOSED FOR DELINQUENT PROPERTY TAX FOR A PUBLIC PURPOSE PURSUANT TO A.S. 29.45.450

Name of city requesting conveyance: _____

Attention to: _____

Mailing Address: _____ City _____ State _____ Zip _____

KPB Assessor Parcel ID No.: _____

Is parcel within city limits? Yes No

(Optional)

Proposed public purpose: _____

(Optional)

Explanation of public purpose that parcel is being requested for should include:

- Reference to city code or other authority that supports the public purpose conveyance.
- Specific and immediate use of parcel.
- Attach additional pages or exhibits as needed.

Proposed method of payment: _____

Authorized City Official

Printed Name, Title

Signature/Date

Invoice (Completed by KPB Finance Dept.)

Parcel ID NO. _____

Amount: _____

Recording Fee: _____

TOTAL DUE: _____

DUE DATE: 147 _____, 2021



VICINITY MAP
2021 Tax Foreclosure Sale
July 28, 2021

INDEX OF SALE PARCELS

Parcel No. (Map Linked)	Legal Description	General Location	Acres	Assessed Land Value	Assessed Improvement Value	Minimum Bid
01232015	Lot Sixteen (16), Block One (1), POINT LOOKOUT SUBDIVISION ADDITION NO. 3, according to Plat No. 78-131, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 01232015)	Nikiski	1.22	\$8,800	\$500	
01320028	Ptn of Gov Lot One (1), Section Six (6), Township Seven (7) North, Range Eleven (11) West, Seward Meridian PTN GL 1 BEGIN @NE CORNER OF GL 1 TH WEST 630 FT TH SOUTH 208 FT TO POD TII SOUTH 320 Ft TO CORNER 2 TH W 210 FT TO CORNER 3 111 N 320 FT TO CORNER 4 THE 210 FT TO POB EXCL NORTH KENAI RD ROW, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 01320028)	Nikiski	1.00	\$10,900	\$36,600	
06345313	Lot Fourteen (14), Block Three (3), STERLING HEIGHTS SUBDIVISION, according to K-935, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 06345313)	Sterling	.26	\$11,500	\$17,700	
13308322	Ptn of Northwest one-quarter (NW¼) of the Northeast one-quarter (NE 1/4) of the Southeast one-quarter (SE ¼), Section Twenty (20), Township Three (3) North, Range Eleven (11) West, Seward Meridian, START @1/4 SEC MARKER COMMON TO SECS 20 & 21 TH 836 Ft WEST TO POB 1H 484 FT WEST TH 450 FT SOUTH TH 484 FT EAST TH 450 FT NORTH TO PO, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 13308322)	Kasilof	4.69	\$28,500	\$85,100	
15936062	Lot Fifty-one (51), HOFFMAN ACRES LOWELL FIELD PHASE 3, according to Plat No. 2007-38, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 15936062)	Happy Valley	.96	\$13,900	\$27,700	
15936068	Lot Fifty-seven (57), HOFFMAN ACRES LOWELL FIELD PHASE 3, according to Plat No. 2007-38, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 15936068)	Happy Valley	.94	\$17,800	\$0	
17214008	Tract Eight (8), KACHEMAK WILDERNESS ACRES SUBDIVISION, according to Plat No. 72-1216, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 17214008)	Homer	4.35	\$64,900	\$414,900	

INDEX OF SALE PARCELS

Parcel No. (Map Linked)	Legal Description	General Location	Acres	Assessed Land Value	Assessed Improvement Value	Minimum Bid
17225016	Lot Six (6), Block Two (2), MARIMAC 2 SUBDIVISION, according to Plat No. 83- 97, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 17225016)	Homer	1.29	\$36,600	\$54,500	
18512125	ALASKA STATE LAND SURVEY 92-197, according to Plat No. 93-32, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 18512125)	Fox River	5.00	\$6,600	\$3,400	
01320005	Ptn of Gov Lot Three (3), Section Six (6), Township Seven (7) North, Range Eleven (11) West, Seward Meridian PTN GL 3 BEGINNING @NW CORNER OF LOT 3 TH S 308 FT TO POB; TH S 218 FT; THE 200 FT; TH N 218 FT; TH W 200 FT TO POB, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 01320005)	Nikiski	1.00	\$10,900	\$0	
02519007	The Southeast one-quarter (SE 1/4) Lying South of North Kenai Rd, Section Eighteen (18), Township Eight (8) North, Range Ten (10) West, Seward Meridian, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 02519007)	Nikiski	7.00	\$21,200	\$0	
02544709	Lot Two-hundred fifty-five (255), MOOSE POINT SUBDIVISION, according to Plat No. 84-65, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 02544709)	Point Possession	18.22	\$12,500	\$0	
04709303	Lot Three (3), Block Twenty (20), ORIGINAL TOWNSITE OF KENAI, U.S. SURVEY NO. 2970, according to the official plat thereof, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 04709303)	Kenai	0.21	\$500	\$0	
05518016	Lot Five (5), Block Three (3), KALIFONSKY BEACH INDUSTRIAL PARK SUBDIVISION, according to Plat No. 73-23, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 05518016)	Kenai	0.96	\$1,000	\$0	
06516350	Lot Thirteen (13), Block Two (2), THE HEATHER, according to Plat No. 84-313, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 06516350)	Sterling	0.93	\$18,300	\$0	
15912062	Track Fifty-one (51) HAPPY CREEK HOMESITES SUBDIVISION, according to Plat No, 62-711, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 15912062)	Happy Valley	5.00	\$700	\$0	

INDEX OF SALE PARCELS

Parcel No. (Map Linked)	Legal Description	General Location	Acres	Assessed Land Value	Assessed Improvement Value	Minimum Bid
04707403	Lot Three (3), Block Eight (8), ORIGINAL TOWNSITE OF KENAI, ALASKA, according to U.S. Survey No. 2970, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 04707403)	Kenai	0.21	\$500	\$0	
13338004	Lot Two (2), Block One (1), CARDWELL SUBDIVISION, RESUBDIVISION OF TRACT-1 & TRACT-3, ADDITION NO. I, according to Plat No. 77-147, Kenai Recording District, Third Judicial District, State of Alaska (KPB PIN 13338004)	Soldotna	2.35	\$25,800	\$4,000	
14535318	Tract "B," GATEWAY SUBDIVISION AMENDED, according to Plat No. 84-18, Seward Recording District, Third Judicial District, State of Alaska (KPB PIN 14535318)	Seward	2.34	\$169,600	\$0	
15914321	Lots Two (2) and Six (6), PIPERS HAVEN UNIT 2, according to P1at No. 97-86, Homer Recording District, Third Judicial District, State of Alaska (KPB PINS 15914321 and 15914325)	Happy Valley	5.88	\$30,400	\$0	
15914325	Lots Two (2) and Six (6), PIPERS HAVEN UNIT 2, according to P1at No. 97-86, Homer Recording District, Third Judicial District, State of Alaska (KPB PINS 15914321 and 15914325)	Happy Valley	9.60	\$23,600	\$0	
16503115	Tract Fifteen (15), DEL RIO RANCHOS SUBDIVISION, according to Plat No. 2000-49; Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 16503115)	Anchor Point	8.72	\$23,500	\$0	
16548063	Lot Thirteen (13), EVERGREEN MEADOWS SUBDIVISION, according to Plat No. 2002-39, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 16548063)	Anchor Point	9.31	\$18,600	\$0	
16561036	Lot Six (6), OLD PIONEER SUBDIVISION, according to Plat No. 82-66, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 16561036)	Anchor Point	4.01	\$27,200	\$0	
17102147	The West One-Half (W 1/2) of Lot Eighteen (18), ANCHOR RIVER RANCHOS SUBDIVISION, according to Plat No. 72-328, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 17102147)	Anchor Point	9.42	\$8,300	\$0	
17227101	Lot One (1), Block Two "C" (2-C), MOUNTAIN GLACIER ESTATES PARTS, according to Plat No. 83-22, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 17227101)	Homer	2.41	\$40,800	\$0	

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

3 City Clerk/Parks, Art,
4 Recreation and Culture
5 Advisory Commission

6 **RESOLUTION 21-053**

7
8 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
9 AMENDING AND UPDATING THE CITY OF HOMER BEACH POLICY
10 AND RENAMING IT THE CITY OF HOMER BEACH POLICY AND
11 MANAGEMENT PLAN.
12

13 WHEREAS, The City Council adopted the City of Homer Beach Policy, as recommended
14 by the Beach Policy Task Force, with Resolution 01-44(A); and
15

16 WHEREAS, City Council adopted Ordinance 07-01(A), adding advising on public beaches
17 to the duties of Parks, Art, Recreation, and Culture Advisory Commission (PARCAC); and
18

19 WHEREAS, As part of those duties assigned, the Beach Policy is reviewed and updated
20 on a bi-annual basis by PARCAC, or as deemed necessary by City Council, to ensure the policies
21 are kept current; and
22

23 WHEREAS, The intent and purpose of the Beach Policy is to provide guidance, yet with
24 the most recent review PARCAC determined the document did not fully meet that intent due
25 to lack of clarity, outdated information, and included identified goals which are more suitable
26 for a Strategic Plan; and
27

28 WHEREAS, The PARCAC worked on policy amendments over the course of five
29 meetings, one worksession, and tasked three commissioners, who met on June 1, 2021, to
30 work with City staff on a comprehensive rewrite of the policies; and
31

32 WHEREAS, At their June 17, 2021 regular meeting, PARCAC approved the City of Homer
33 Beach Policy and Management Plan with amendments and updates.
34

35 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby
36 amends the Beach Policy and renames it the Beach Policy and Management Plan.
37

38 PASSED AND ADOPTED by the Homer City Council this 26th day of July, 2021.
39

40 CITY OF HOMER
41

42 _____
43 KEN CASTNER, MAYOR
44

45 ATTEST:

46

47 _____

48 MELISSA JACOBSEN, MMC, CITY CLERK

49

50 Fiscal Note: N/A



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 21- 128

TO: MAYOR CASTNER & HOMER CITY COUNCIL

FROM: PARKS, ART, RECREATION AND CULTURE ADVISORY COMMISSION

THRU: RACHEL TUSSEY, CMC, DEPUTY CITY CLERK

DATE: JULY 15, 2021

SUBJECT: BEACH POLICY AMENDMENTS

The Parks, Art, Recreation & Culture Advisory Commission (PARCAC) took action on rewriting the City Beach Policy at their following meetings:

- February 18, 2021 regular meeting
- March 18, 2021 regular meeting
- April 15, 2021 regular meeting
- May 20, 2021 worksession
- May 20, 2021 regular meeting
- June 17, 2021 regular meeting

Final approval of the revised policies was postponed to the June 17th regular meeting to give time for a Beach Policy Work Group, comprised of Commissioners Roedl, Lowney, and Lewis, to review the policy and separate the document into policy and recommendations. The work group met on June 1st and provided Clerk staff a page-by-page account of which amendments to keep, what to change, and any additional revisions they found. Given the large number of revisions, Deputy City Clerk Tussey produced a clean, reformatted draft that would accompany the current 2017 version for comparison.

What Changed

- Layout and formatting.
- Title is now “Beach Policy and Management Plan” to address the document’s dual purpose as providing policy and management guidance.
- Content reflects the changes made by PARCAC and the work group.
- Verbiage used provides policy guidance without sounding like recommendations/goals.
- Additional imagery and updated maps were included.
- The Proposed Easement and Pedestrian Access to Outer Beach Area map was omitted given it’s a very specific proposal to a singular area that does not warrant its own page in a policy/management plan.

- Appendix A (Beach Access Notes) and Appendix B (Mainland public access points to Kachemak Bay) were removed from the policies and to be merged into a single, stand-alone document for regular review by the commission. The primary reasoning for this amendment is so any changes/updates made to the list of public beach access points would not require a full Council approval every time.

Recommendation

Adopt Resolution 21-053 amending the Beach Policy and renaming it the Beach Policy and Management Plan.

Attached: PARCAC Meeting Minute Excerpts
DRAFT 2021 Beach Policy & Management Plan
2017 Beach Policy



CITY OF HOMER

BEACH POLICY &

MANAGEMENT PLAN

Adopted July XX, 2021

Resolution 21-0XX





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DEFINITIONS

- A. "Berm" means a natural, linear mound or series of mounds in a beach area composed of sand, gravel, or both, generally paralleling the water at or landward of the elevation of mean high water.
- B. "Storm berm" means a berm formed by the upper reach of storm wave surges or the highest tides. Storm berms generally include an accumulation of seaweed, driftwood, and other water-borne materials. A beach area may have more than one storm berm.
- C. "Submerged land" means land covered by tidal water from the elevation of mean low water seaward to the corporate boundary of the city.
- D. "Tideland" means land that is periodically covered by tidal water between the elevation of mean high water and mean low water.
- E. "Beach area" means all of the following, whether publicly or privately owned: submerged land, tideland, and the zone of sand, gravel and other unconsolidated materials that extends landward from the elevation of mean high water to the place where there is a marked change in material or physiographic form.
- F. "Motor vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over land, that is self-propelled except by human or animal power.
- G. "Personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power. The vessels are designed to be operated by a person sitting, standing or kneeling.



Grassy area of Beluga Slough where highest tides and storm deposit logs and driftwood. Tall grasses and other plants grow there most of the time, and only at the highest tides and largest storms are logs thrown up on this area of the beach.



INTRODUCTION, PURPOSE, & GOALS

Purpose and Intent

The purpose of the City of Homer Beach Policy and Management Plan is to support the enforcement of existing regulations, proposed new regulations, or actions that may be needed, for the seven areas of beaches in City limits. The intent of the policy is to provide guidance to keep Homer's beaches safe and enjoyable for all users while preserving the natural environment. This document will be reviewed and updated on a bi-annual basis by the Parks, Arts, Recreation, and Culture Advisory Commission or as deemed necessary by City Council.

History

The original Beach Policy Task Force was established in 2000 as the result of strong public concern on the current and future use of Homer beaches. They completed the beach policy in 2001 which was adopted by City Council on June 25, 2001. In 2003, per Ordinance 03-27, the City was awarded a \$75,000 Coastal Impact Assessment grant to fund beach access restriction improvements, regulatory signage, a GIS coastal erosion and beach habitat information mapping project and funds for the 2004 United States Geological Survey sediment transport study camera operation.

The Task Force made further recommendations in 2005 through Memorandum 05-78, and concluded their work. In 2007, City Council adopted Ordinance 07-01(A) which added advising on public beaches to the duties of Parks, Art, Recreation and Culture Advisory Commission. The Commission formed a Beach Committee to update the Beach Policy, which resulted in this document.

In fall of 2014 the Parks, Art, Recreation & Culture Advisory Commission was directed by Council to review and recommend revisions to the Beach Policy. The Commission worked on the policy the first six months of 2015 and made recommendations via Memorandum 15-102. Council adopted Ordinance 16-05 (S-2)(A-2) on February 23, 2016. Ordinance 16-13 then made minor amendments. The Beach Policy was amended to reflect these revisions through Resolution 16-029(S-2). Resolution 17-021 amended the policy for clarity providing corrections for grammar and content.



*Storm Berm in front of Bishop's Beach Parking Lot
Photo provided by PARCAC Member circa 2000*

Goals of this Policy

❖ Education

Educate beach users by providing signage and beach information at convenient locations.

❖ Safety and Prevention

Limit conflicts between motorized users and pedestrians by encouraging courtesy and common sense.

Protect sensitive beach habitat and wildlife from inappropriate use of beaches - e.g., keep motorized vehicles out of lagoon areas and personal watercraft off beaches.

❖ Enforcement

Ensure adequate staffing on holiday weekends, that regulatory signage is installed where needed so laws can be enforced, and gates are operational to prevent or limit access to sensitive or prohibited areas.



Bishop's Beach has a 2-tier parking area that is delineated by driftwood, rocks, and grassy areas. Vehicle access to the west end (Area 7) is located at the northwest corner of the lower lot and a gate at the southeast end restricts access to the East-end of Ocean Drive Loop Seawall to Bishop's Beach Park (Area 6).



GENERAL POLICY & PLAN FOR ALL HOMER BEACHES

A. Identify and improve beach access points. Heavy impacts are created by a large number of people accessing the beach at a small number of places. By finding, improving, and publishing all public beach access points, this will diffuse the impacts and provide a more enjoyable experience to all.

1. Improve and maintain beach access points.
 - a. Document the known public beach access points and tracks their current status, development, and other notes of interest.
 - b. An audit/review for updates of the beach access points and documentation shall be done every three years.
2. Provide signage at selected public access points.

B. Install and maintain signage as needed. Signage shall be positive and informative to encourage courtesy to pedestrians, appropriate pet control and clean up, and indicate where vehicles are permitted. All signage must be installed in a manner that meets the needs of law enforcement.

1. Installed signage shall address the following:
 - a. The berm building process, shore zone wildlife habitat, etc.
 - b. The risks of driving on the beach and the responsibility the owner/driver accepts, specifying that the City shall not be held liable.
 - c. The prohibition of removal and burning of driftwood along the berm, and where campers can locate campfire wood.
 - d. City code prohibitions and applicable fines, so that any violators of the law on City beaches may be ticketed.
2. City shall coordinate with U.S Fish and Wildlife (USFW) on a uniform interpretative signage plan for all City beach parks. Adjust signage language over time to meet changing needs. Include the project in the annual budget.
3. Ensure there are line items in the City's budget for sign repair, updating, and replacement.



*Northwest end of Mariner Park
Signage clearly states City Code and
vehicle restrictions, rocks adequately
delineate the parking area, and the
Alaska flag adds a positive touch.*

C. Be aware of seaward property boundaries when making municipal decisions. Although many believe property lines stop at a water boundary, it has become apparent this is not always the case in Kachemak Bay. Normal property lines next to the ocean are established at mean high tide, and slow erosion does change boundaries. The 1964 earthquake caused the sinking of the Spit and Homer area and the sea flowed over the lowered land. This sudden change is called avulsion and legally does not change land boundaries. However, avulsion does have to be proven which can be difficult without adequate historical records. Common in Alaska, the area below mean high tide is owned by the State of Alaska, and this is true in a few spots in Homer. But generally speaking, the City owns the tidelands below mean high tide.

D. Encourage better enforcement of applicable existing state and local laws. Examples of applicable laws include: HCC 19.08 Campgrounds, HCC 7.16 Vehicles in Beach Areas; HCC18.28.200 Waste or injury to land, and Alaska State Traffic Regulations regarding: DWI, Reckless Driving, Negligent Driving, Basic Speed, and Littering.

1. Evening quiet hours shall be posted and enforced in applicable areas.
2. City driving laws in City beach parking areas and on west Bishop's Beach where driving is permitted shall be enforced.
3. Any observed violations of policies or laws shall be reported to the Homer Police Department.

E. Develop a coordinated public relations campaign. It is important to enlist the public in the campaign to keep our beaches enjoyable for all, to limit the human damage to fragile areas, and to minimize friction between user groups. The City requires everyone's help.

1. Prior to major holiday weekends, beach rules and etiquette in the local newspapers, on social media, and local radio stations shall be advertised.
2. Beach maps and brochures on beach etiquette shall be provided at all City campground facilities, Homer Chamber of Commerce, City Hall, and the Port and Harbor's Office.
3. Beach educational materials shall be distributed to local school district officials to ensure information is included in existing curriculum pertaining to beach activities and field trips.
4. Ensure there are line items in the City's budget for advertising expenses.

F. Perform an annual assessment of beach health and developing impacts.

1. Provide City Council with annual updates from local organizations and entities that support clean-up efforts on city beaches. Host on City Website.
2. On a biannual basis, take photographs of sensitive areas or places and keep a photo record of changes. Host on City website.

G. Driftwood from berm areas should not be removed. Testimony by scientists emphasizes the importance of the natural berm building process to protect the Spit, Mariner Lagoon, and Beluga Slough and provide wildlife habitat. The driftwood plays an important role in building and stabilizing berms and is an esthetic enhancement to the beach. Therefore, it is hoped that providing an alternate source of campfire wood for campers serves the important function of protecting the berms.

1. Prohibit the burning of driftwood from berm areas.
2. Provide alternative wood sources for campfires, or install signage that informs campers where campfire wood can be found.

H. Find ways of supporting beach clean-up.

1. Encourage the elimination of unsightly waste on properties near the beach by working with landowners, particularly in the Louie's Lagoon, Homer Spit, and Mariner Park areas.
2. Support volunteer efforts by providing trash bags for annual clean-up events and dumpsters or trash removal at locations such as Bishop's Beach.
3. Support local organizations and entities that provide clean-up efforts on city beaches. Support may be in the form of providing trash bags, dumpster service at beach parks, and City funding for newspaper advertising educational and beach clean-up activities.

I. Keep cars from encroaching onto beach berms and beaches in city campgrounds, parks, and along the Homer Spit Road.

1. Define parking lots so they do not spread onto the beach.






Gates and use of natural vegetation are used to delineate parking lots at parks and beaches at the south end of Mariner Park (top), Southeast end of Bishop's Beach (middle), and Louie's Lagoon parking lot (bottom)



POLICIES & PLANS FOR SPECIFIC AREAS

The following are management plans for specific beach areas, identified as Areas 1 through 7, and follow the beach line from East to West.

Color Key for Area Maps

	No Vehicles Allowed
	Boundary Lines Identified in HCC 7.16
	Vehicles Allowed per HCC 7.16.020 Exceptions

AREA 1

Miller's Landing to East of Airport Beach Access Road

- Miller's Landing – Maintain a public viewing spot in the Airport Beach Access Road Right-of-Way off of Kachemak Drive through the use of signage stating the location of the public access. A small parking area may be designated with the use of boulders to discourage trespassing on adjacent properties.
- Airport Beach Access Road – Support state efforts to place signage or interpretive displays.
- Vehicle use at the bottom of Airport Beach Access Road on the beach is not allowed – Vehicles are allowed east of that area, but there is no public vehicle access point to get to that part of the beach. Land owners, or those with land owner permission, may access the beach from private vehicle access points. Once on the beach, nothing in City laws or policy condones trespassing on adjacent private lands.
- Vehicles are allowed on the beach east of the vacated easement (formerly known as Shirlene Circle).



AREA 2

Airport Beach Access Road to North-End of Berm outside of Louie's Lagoon, and Louie's Lagoon

- A. Vehicles are prohibited in this entire area, excluding designated access driveways and parking. Vehicle restriction is necessary to protect the fragile habitats of Mud Bay and Louie's Lagoon.
- B. Maintain signage identifying public pedestrian access points and vehicle parking areas.
- C. Ensure area and easements are zoned for conservation.
- D. Preserve subsistence fishing access through the northern portion of the English Bay property, which traditionally has included pedestrian and vehicle access.



AREA 3

Louie's Lagoon-South to End of Homer Spit, then North to the South-end of Mariner Park

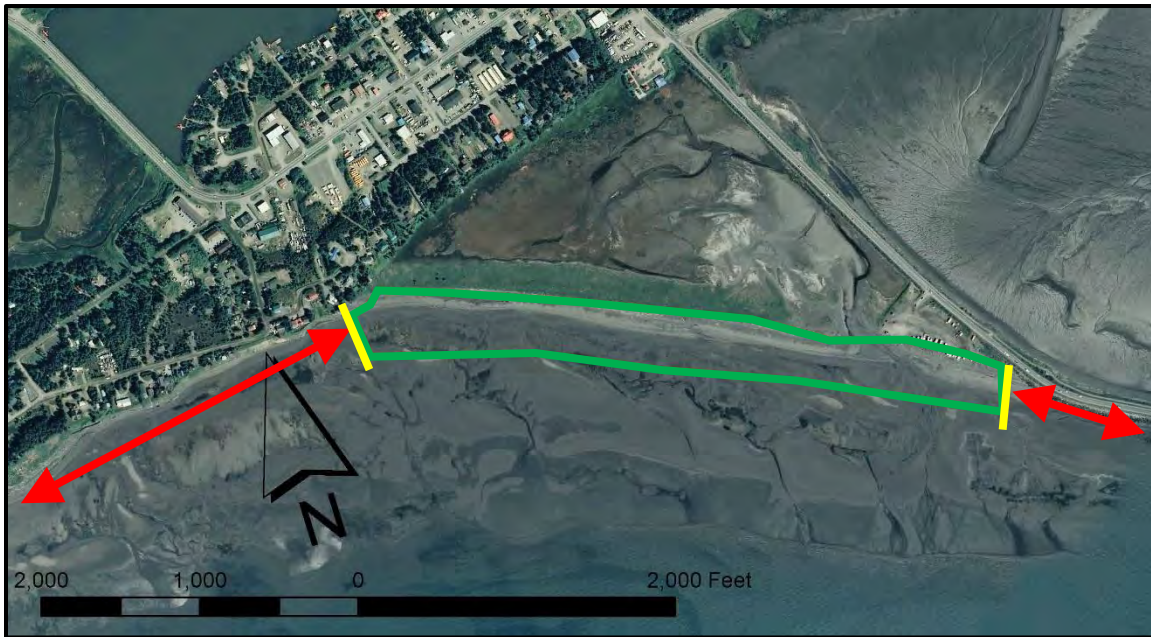
- A. Vehicles are prohibited in this entire area, excluding designated access driveways and parking.



AREA 4

South-end of Mariner Park to East-end of Ocean Drive Loop Seawall

- A. Vehicles are allowed between the south-end of Mariner Park Beach and the east-end of the Ocean Drive Loop seawall from October 1st through March 31st for the sole purpose of gathering sand and coal. The beach is closed to vehicles at all times for any other purpose.
- B. The area in front of the seawall west to the Beluga Slough outfall is closed to vehicles.
- C. Mariner Park Campground and day-use area has defined campsites and controlled vehicle access to the beach through the use of logs, rocks, and a gate. Maintain the campground and these measures as they provide protection to the berm, encouraging natural vegetation growth.



AREA 5

Mariner Park Lagoon and Storm Berm

- A. Vehicles are prohibited in this entire area.
- B. Ensure there are line items in the City's budget to dredge Mariner Slough on a biennial year period.



AREA 6

East-end of Ocean Drive Loop Seawall to Bishop's Beach Park

- A. Vehicles are prohibited in this area.
- B. Maintain the gate and rocks at Bishop's Beach Park to physically block access to vehicles.
- C. Support U.S. Fish and Wildlife efforts to protect berm and promote rye grass/driftwood build-up.
- D. Support U.S. Fish and Wildlife's efforts to develop a plan to maintain the ecological integrity of their educational reserve, including possible conservation zoning.



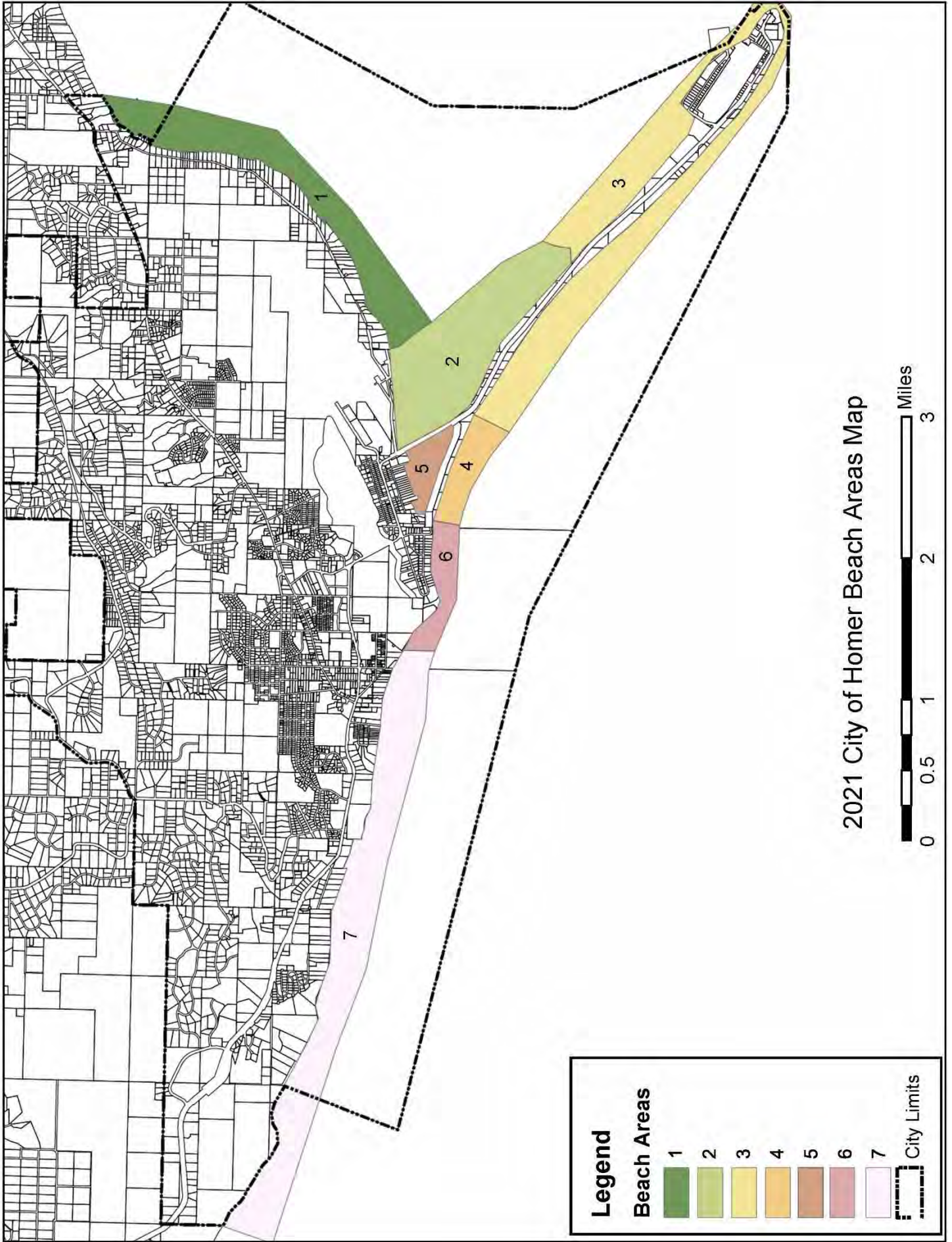
AREA 7

Bishop's Beach Park Access-West to Homer City Limits

- A. This is a heavily used area and has the greatest potential for conflicts between user groups.
- B. Ensure there is adequate parking and signage at Bishop's Beach Park and in the area. Wayfinding signage may direct people to nearby public parking (e.g., Homer Chamber of Commerce, Islands and Ocean Visitor Center).
- C. Vehicles are allowed west from Bishop's Beach Park access and prohibited to the east. Posted signage shall warn drivers to proceed at their own risk.
- D. Improve erosion control and maintain beach access points.

E. Work with property owners and interested volunteers to remove derelict vehicles from City beaches. Owner will be responsible for the costs and removal of vehicle(s).





City of Homer Beach Policy

March 13, 2017



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1. Purpose and Intent

This document is an update to the Beach Policy Task Force Final Recommendations, adopted June 25th 2001 and the Parks, Art, Recreation and Culture Commission recommendations in 2007 and 2016. Since 2001, the City of Homer has annexed more land and beaches, and implemented parts of the original plan. The purpose of this document is to update the Beach Policy and make recommendations for future actions. The intent of the Beach Policy is to keep Homer's beaches safe and enjoyable for all users, and preserve natural environment.

Goals

Education

Educate beach users by providing signage and beach information at convenient locations.

Prevention

Limit conflicts between motorized users and pedestrians by encouraging courtesy and common sense.

Protect sensitive beach habitat and wildlife from inappropriate use of beaches – e.g., keep motorized vehicles out of lagoon areas.

Enforcement

Ensure adequate staffing on holiday weekends. Ensure regulatory signage is installed where needed so laws can be enforced.

2. Definitions

a. "Berm" means a natural, linear mound or series of mounds in a beach area composed of sand, gravel, or both, generally paralleling the water at or landward of the elevation of mean high water.

b. "Storm berm" – means a berm formed by the upper reach of storm wave surges or the highest tides. Storm berms generally include an accumulation of seaweed, driftwood, and other water-borne materials. A beach area may have more than one storm berm.

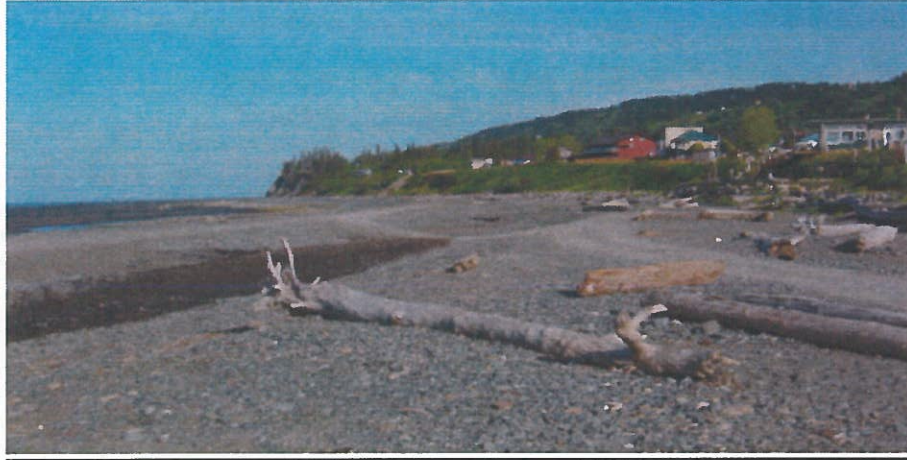
Example: Grassy areas of Mariner Lagoon and Beluga Slough where highest tides and storm deposit logs and driftwood. Tall grasses and other plants grow there most of the time, and only at the highest tides and largest storms are logs thrown up on this area of the beach.

c. "Submerged land" means land covered by tidal water from the elevation of mean low water seaward to the corporate boundary of the city.

d. "Tideland" means land that is periodically covered by tidal water between the elevation of mean high water and mean low water.

e. “Beach area” means all of the following, whether publicly or privately owned: submerged land, tideland, and the zone of sand, gravel and other unconsolidated materials that extends landward from the elevation of mean high water to the place where there is a marked change in material or physiographic form.

f. “Motor vehicle” means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over land, that is self-propelled except by human or animal power.



3. General Recommendations for all Homer Beaches

A. Identify and improve beach access points. Heavy impacts are created by a large number of people accessing the beach at a small number of places. By finding, improving and publishing all public beach access points, we will diffuse the impacts and provide a more enjoyable experience to all.

1. Improve Access via: Main Street, Ocean Dr., Spit, Kachemak Dr. 2. Provide signage at all public access points.

a. Specifically, signage shall be maintained at Bishop’s beach park, Ocean Drive Loop, the parking areas on the east side of the Homer Spit, on the Airport Beach Access Road, and Kachemak Drive.

b. Appendix A documents other public access points and the pros and cons of their development. The appendix should be expanded to include Homer Spit public access points, particularly on the east side of the spit.

B. Install and maintain signage as needed. Signage should be positive and informative to encourage courtesy to pedestrians, appropriate pet control and clean up, and indicate where vehicles are permitted. Interpretive signage about the berm building process, shore zone wildlife

habitat, etc. should be developed and installed. Ensure signs are installed to meet the needs of law enforcement.

1. Work with USFW on a uniform interpretative signage plan that can be used in all City beach parks. Adjust signage language over time to meet changing needs. Include the project in the annual budget.
2. Budget at least \$500 a year for sign repair, updating, and replacement.

C. Be aware of seaward property boundaries when making municipal decisions. Although many people believe property lines stop at a water boundary, it has become apparent this is not always the case in Kachemak Bay. Normal property lines next to the ocean are established at mean high tide, and slow erosion does change boundaries. The 1964 earthquake caused the sinking of the Spit and Homer area. The sea flowed over the lowered land. This sudden change is called avulsion and legally does not change land boundaries. However, avulsion does have to be proven which can be difficult without adequate historical records. Usually in Alaska, the area below mean high tide is owned by the State of Alaska, and this is true in a few spots in Homer. But generally speaking, the City owns the tidelands below mean high tide.

D. Encourage better enforcement of applicable existing state and local laws. Examples of applicable laws include: HCC 19.08 Campgrounds, HCC 7.16 Vehicles in Beach Areas; HCC 18.28.200 Waste or injury to land, and Alaska State Traffic Regulations regarding: DWI, Reckless Driving, Negligent Driving, Basic Speed, and Littering.

1. Encourage more evening enforcement in City campgrounds and encourage/post quiet hours.
2. Encourage more enforcement of city driving laws in city beach parking areas and on west Bishop's Beach where driving is permitted.
3. Ensure adequate City signage is installed so that violators of city laws on City beaches may be ticketed

E. Develop and distribute brochures with a coordinated public relations campaign. It is important to enlist the public in the campaign to keep our beaches enjoyable for all, to limit the human damage to fragile areas and to minimize friction between user groups. We need everyone's help.

1. Prior to major holiday weekends, advertise beach rules and etiquette in the local newspapers. Consider a public services announcement on local radio stations. Budget at least \$500 annually for this advertising.
2. Provide beach maps and brochures on beach etiquette at city campground facilities.

F. Perform an annual assessment of beach health and developing impacts.

1. Provide City Council with copies of the annual Coastwalk Report, from the Center for Alaskan Coastal Studies. Host on City Website.
2. On a biannual basis, take photographs of sensitive areas or places and keep a photo record of changes. This could be hosted on the City website.

G. Driftwood from berm areas should not be removed. Testimony by scientists emphasized the importance of the natural berm building process to protect the spit, lagoon and slough. The berms also provide important wildlife habitat. It was found that driftwood plays an important role in building and stabilizing berms. Thus, it is hoped that providing an alternate source of campfire wood for campers serves the important function of protecting the berms. Driftwood was also described as an important esthetic enhancement to the beach and a material resource.

1. Prohibit the burning of driftwood from berm areas and direct City Administration to investigate providing firewood to beach users or allowing firewood concessions in city campgrounds.

H. Find ways of supporting beach cleanup.

1. Support the efforts of spring clean up day to include Homer beaches. The City should actively continue to support the efforts of volunteers by providing trash bags for the event and dumpsters or trash removal at locations such as Bishop's Beach.
2. Support the efforts of the Center for Alaskan Coastal Studies for their annual CoastWalk and beach trash removal. Support may be in the form of providing trash bags, dumpster service at beach parks, and city funding for newspaper advertising for CoastWalk educational and beach cleanup activities.

I. Keep cars from encroaching onto beach berms and beaches in city campgrounds, parks, and along the Homer Spit Road. Define parking lots so they do not spread onto the beach.

4. Recommendations by Area (Following the beach line, East to West)

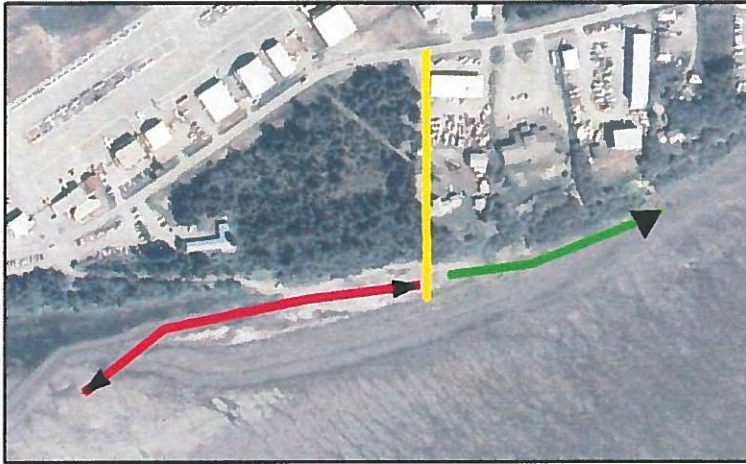
Area 1 - Miller's Landing to just east of the Airport Access Road.

A. Miller's Landing. Create a public viewing spot in the Beach Access Road Right of Way off of Kachemak Drive, by posting a sign stating the location of the public access. In the future, as use warrants, create a small parking area, and use boulders to discourage trespassing on adjacent properties.

B. Airport Access Road. Support state efforts to place signage or interpretive displays.

C. Vehicle use at the bottom of airport beach access road on the beach is not allowed. Referred to HCC 7.16.020 for exceptions.

D. Vehicles are allowed on the beach east of the vacated easement formerly known as Shirlene Circle (refer to map), under the terms of HCC 7.16



Vehicles are not allowed on the beach at the bottom of the airport beach access road. Vehicles are allowed east of that area, but there is no public vehicle access point to get to that part of the beach. Land owners or those with land owner permission may access the beach from private vehicle access points. Once on the beach, nothing in City laws or policy condones trespassing on adjacent private lands.

Area 2 - Airport Beach Access Road to North End of Berm outside of Louie's Lagoon and Louie's Lagoon.

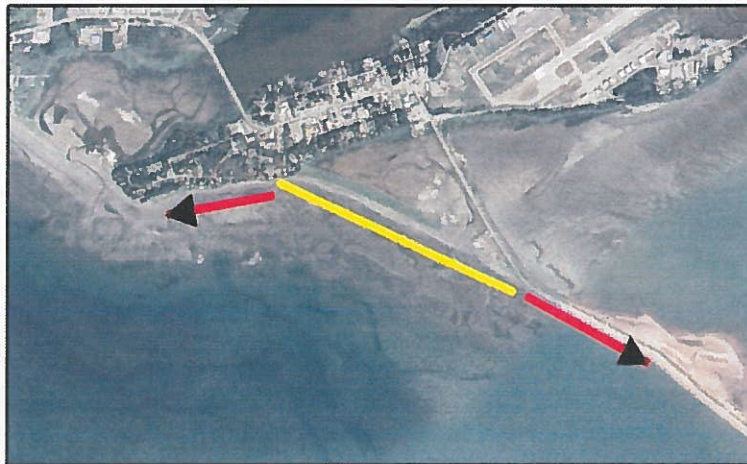
- A. Due to expert testimony, it was agreed by the BPTF that limiting vehicle use in this area was necessary to protect the fragile habitats from Mud Bay to Louie's Lagoon.
- B. Vehicles are prohibited in this entire area - outside of access driveways and parking.
- C. Maintain signage identifying public pedestrian access points and vehicle parking areas.
- D. Complete Conservation zoning for all public lands in this area. Much of Area 2 has a conservation easement and zoning.
- E. Designate the platform area as a park and initiate cleanup of surface debris in Louie's Lagoon. A layer of dredge spoils to cover debris and more grass around the platform is also recommended. Investigate potential as a bird viewing platform.
- F. Long term goal: Acquire a pedestrian easement as shown on the map, for access to the outer beach without going through the mudflats. The current section line easement goes across the mud flat in the bird sanctuary. A new easement would provide better access to the beach and protection for the sanctuary. See attached map.
- G. Preserve subsistence fishing access through the northern portion of the English Bay property, which traditionally has included pedestrian and vehicle access.

Area 3 - From Louie's Lagoon - South to end of Homer Spit and then North to the South end of Mariner Park.

- A. Encourage the elimination of unsightly waste on properties near the beach by working with landowners.

Area 4 - From the south end of Mariner Park to the East End of the Seawall

A. Vehicles are allowed between the south end of Mariner Park beach and the east end of the seawall from October 1 through March 31st solely for the purpose of gathering sand and coal. The beach is closed to vehicles at all times for any other purpose. The area in front of the sea wall west to the Beluga Slough outfall is closed to vehicles.



Red = No vehicles
Yellow = Vehicles only under the terms of HCC 7.16, paraphrased in C, above.

B. Define limits to Mariner Park campground by utilizing logs, rocks or other means to restrain vehicles from entering the lagoon while creating a beach access point that can be gated seasonally to control vehicle access to the beach. This would also help protect the berm in the park, which sees heavy seasonal use from campers. Create a phased cost estimate and include the project in the annual budget in the near future.

Area 5 - Mariner Park Lagoon including the storm berm

A. Vehicles are not allowed in this area.

Area 6 East End of Seawall to Bishop's Beach Park

A. Vehicles are not allowed in this area.

B. Maintain the gate and rocks at Bishop's Beach Park to physically block access to vehicles

C. Support USFS efforts to protect berm and promote rye grass and driftwood buildup.

D. Support USFS work to develop a plan to maintain the ecological integrity of their educational reserve, including possible conservation zoning.

E. Improve and identify with signage the Ocean Drive Loop beach and Beluga Slough access.

Area 7 - Bishops Beach Park access, west to Homer city limits. This is a heavily used area, and has the greatest potential for conflicts between user groups.

- A. Increase parking at Bishop's Beach Park and in the area. Increase wayfinding signage directing people to nearby public parking (e.g., Chamber of Commerce, Island and Ocean Visitor Center) may be needed.
- B. This area is open to vehicles, following the laws under HCC 7.16.



Vehicles are allowed west from Bishop's Beach Park access, and prohibited to the east.

C. Improve erosion control and access at Crittenden Drive and at Main Street. Use seeding, of native grasses and other low impact techniques to control erosion in the right of way at the end of Main Street. Install a stairway so pedestrians may access the beach safely and without treading on the eroding bluff face.

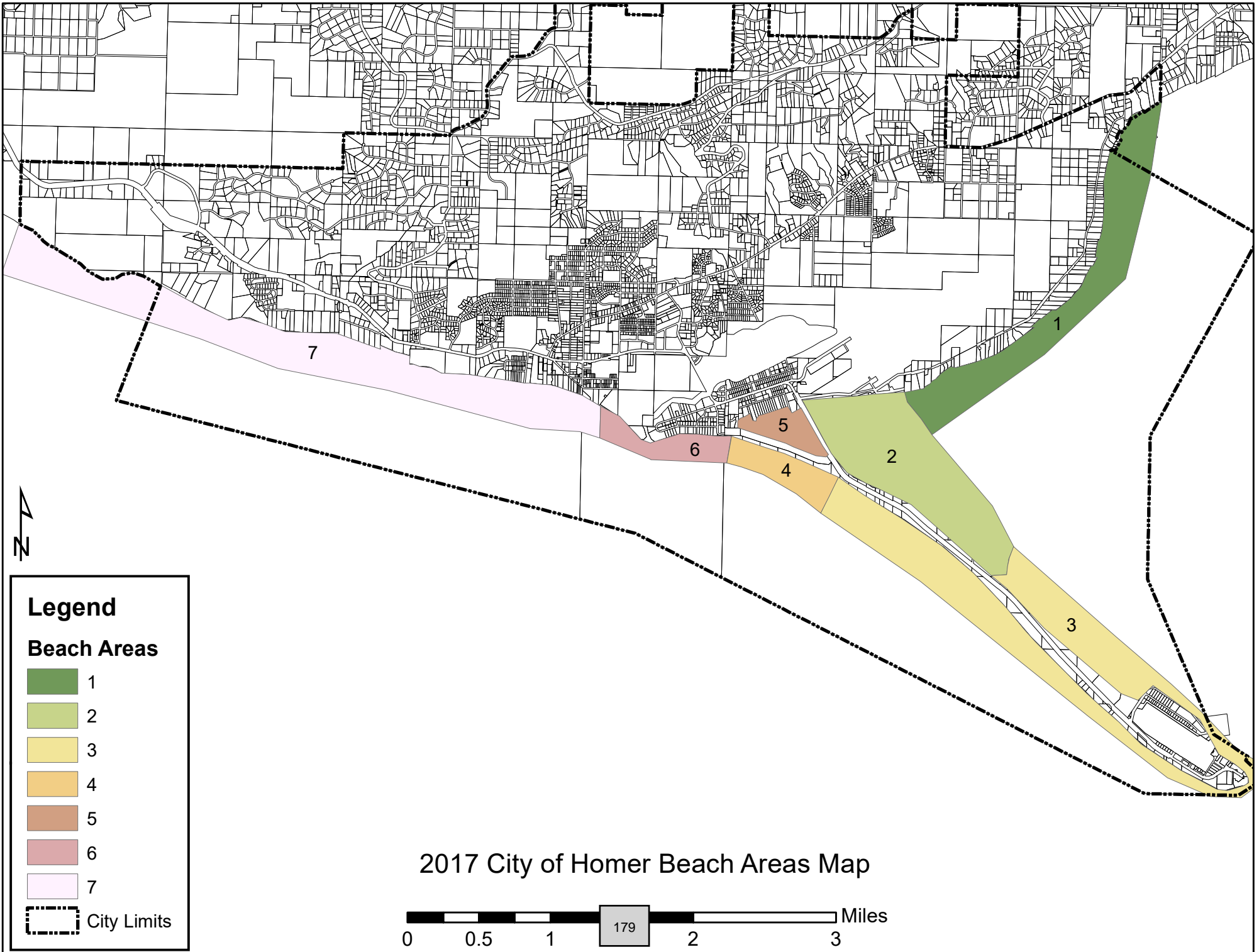
D. Work with property owners and interested volunteers to remove the remaining junk cars from the beach near the bottom of West Hill.

5. History

The original Beach Policy Task Force was established in 2000 and completed the beach policy in 2001. The City adopted it on June 25, 2001. In 2003, Ordinance 03-27, the city was awarded a \$75,000 Coastal Impact Assessment grant to fund beach access restriction improvements, regulatory signage, a GIS coastal erosion and beach habitat information mapping project and funds for the 2004 United States Geological Survey sediment transport study camera operation.

The Task Force made further recommendations in 2005, in Memorandum 2005-78, and concluded their work. In 2007, the City Council added advising on public beaches to the duties of Parks and Recreation Advisory Commission (Ordinance 2007-01(A)). The Commission formed a Beach Committee to update the Beach Policy, which resulted in this document.

In fall of 2014 the Parks and Recreation Advisory Commission was directed by Council to review and recommend revisions to the Beach Policy. The Commission worked on the policy the first six months of 2015 and made recommendations via Memorandum 15-102. Council adopted Ordinance 16-05 (S-2)(A-2) on February 23, 2016. Ordinance 16-13 then made minor amendments. The Beach Policy was amended to reflect these revisions through Resolution 16-029(S-2). (Resolution 17-021).



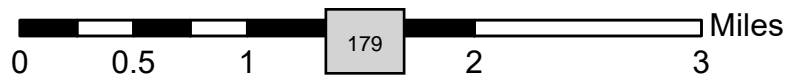
Legend

Beach Areas

- 1
- 2
- 3
- 4
- 5
- 6
- 7

City Limits

2017 City of Homer Beach Areas Map



Proposed Easement and Pedestrian Access to Outer Beach Area

Outer Beach

TIDE ST.


Proposed easement

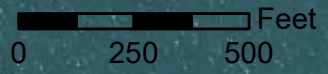
Kevin Bell Arena

180



Legend

 City Lands



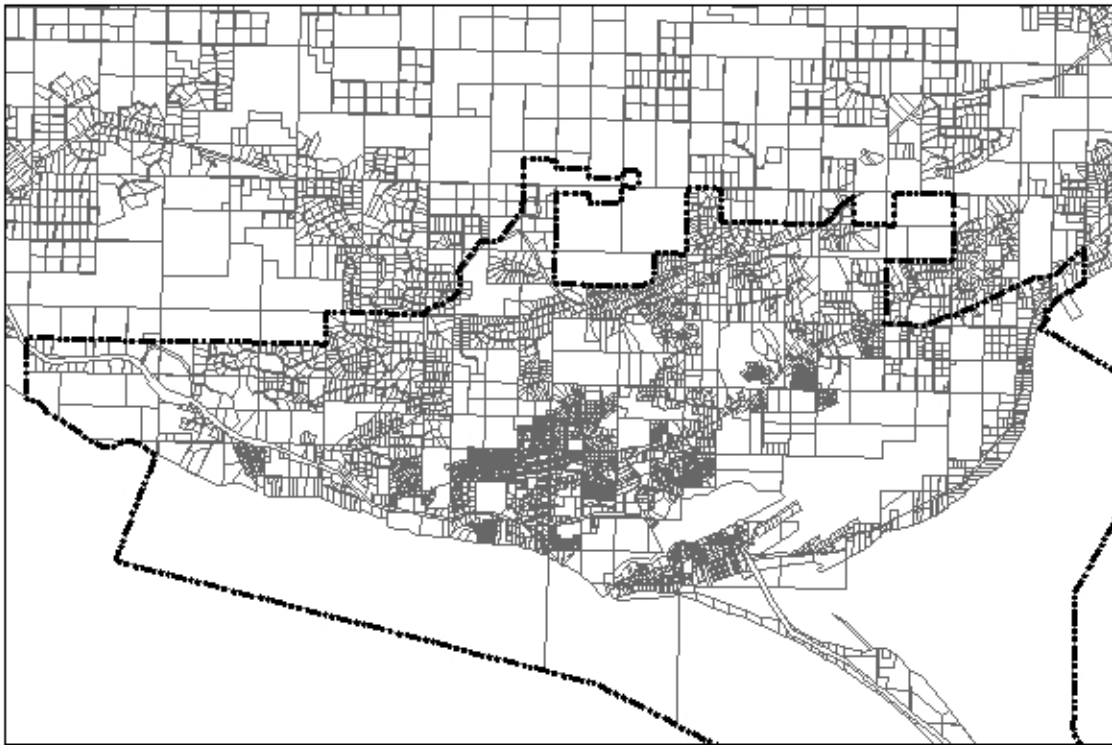
Appendix A: Beach Access Notes

Public access points

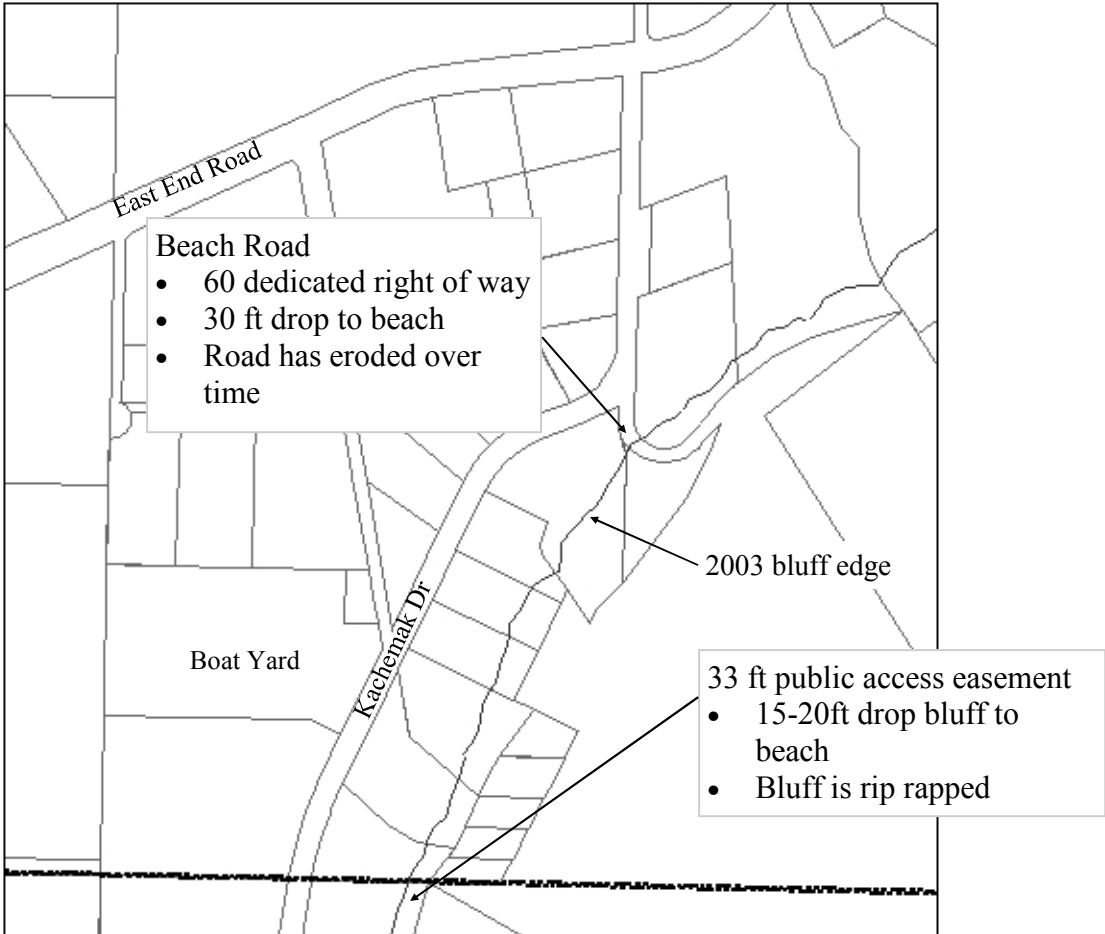
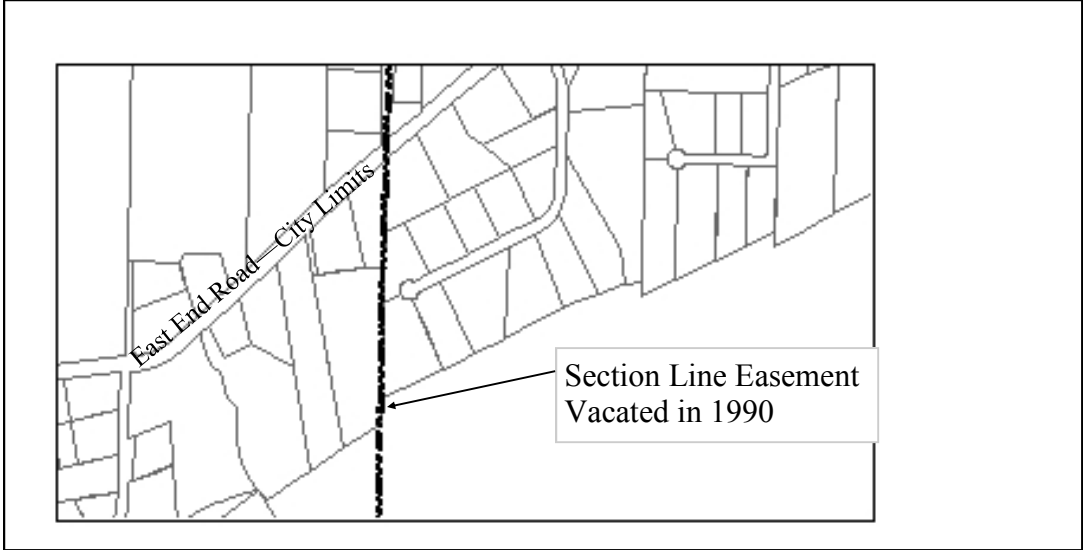
	Pros	Cons	Comments
Miller's Landing Beach Road	Nice picnic spot Difficult trek down to the beach	No defined parking area	
Airport Access Road			State owned land. Gate and key system installed in 2016.
Spit			
Mariner Park	Large parking area for campers and day users	Occasionally motor vehicles drive around in the lagoon.	Need more enforcement here Need more education here/kiosk
Lake Street		Constructed road ends at the Seawall. It will be expensive and difficult to create beach access that will withstand the wave energy at this point. Most of the land below is private property.	There may be other better pedestrian access points that are currently not public, along Ocean Drive Loop
Oscar Munson/Bell		Some public access points must cross the seawall, and most of the beach area is private property.	Neighborhood Access Point
Bishop's Beach	Flat beach access, public parking	High user conflicts	
Main Street	Section line easement access	Highly erosive, very steep trail	
Crittenden	Right of way access	No parking. Tends to be a party spot.	City constructed trail in conjunction with Crittenden/Waddell Road Improvements. There is also an adjacent private access from Ocean Shores Motel. Landowner allows neighborhood use of his trail to the beach.

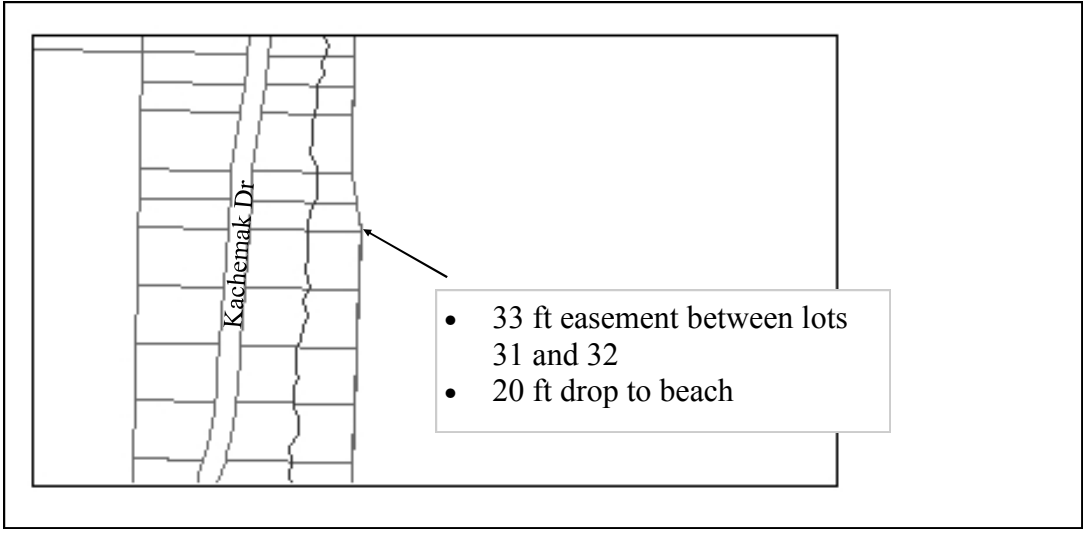
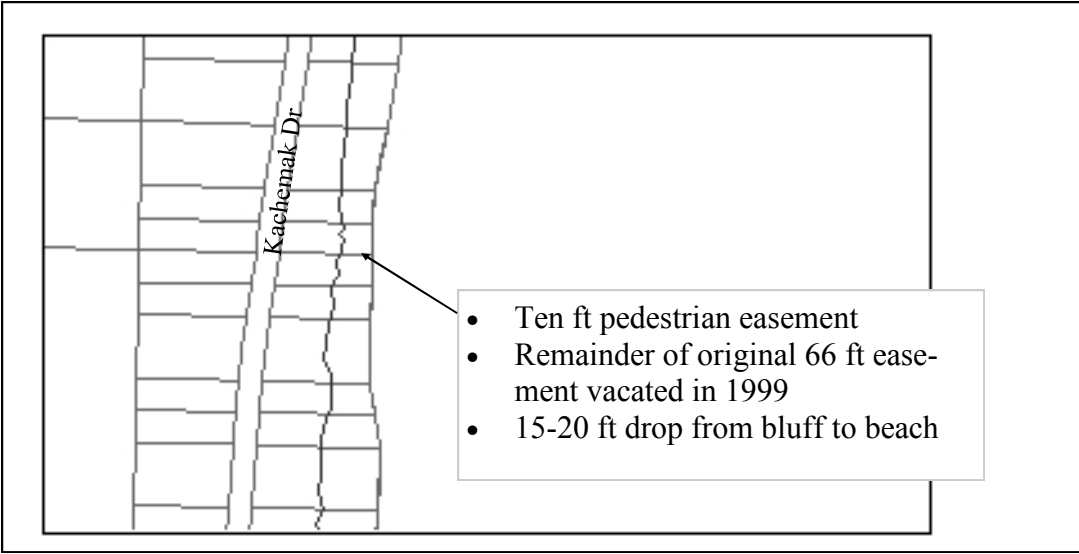
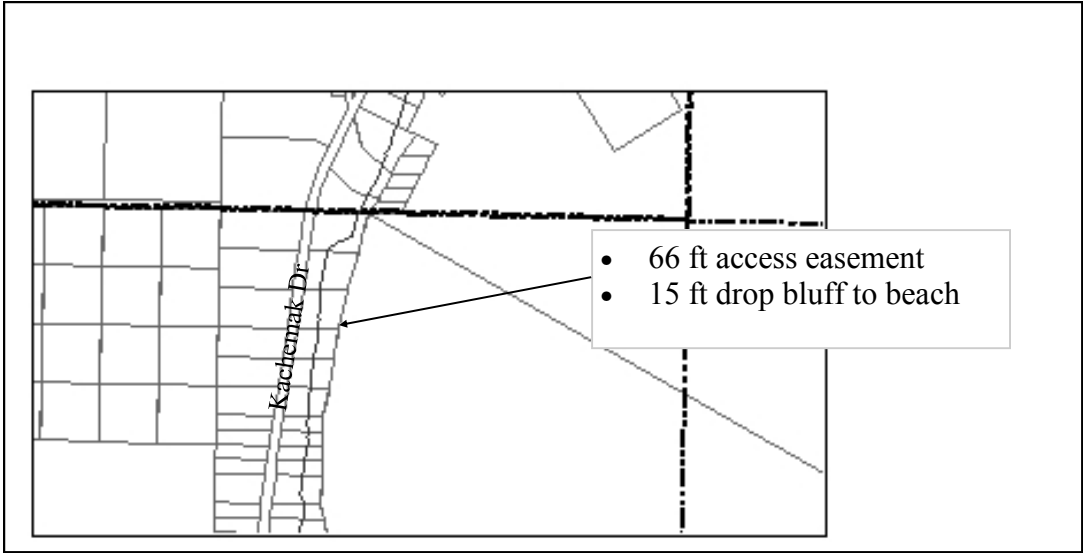
Updated 6/2016

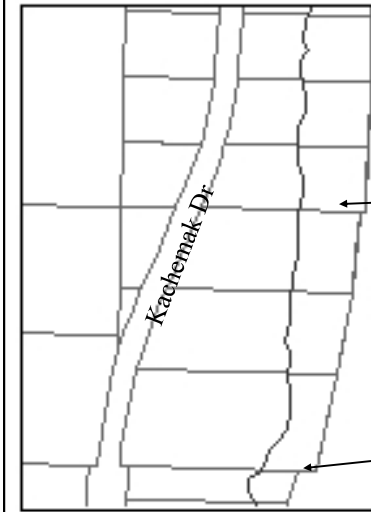
Beach Policy Appendix: B
Mainland Public Access Points to Kachemak Bay
2017



Prepared by the City of Homer Planning and Zoning Office.
Erosion data from KBRR 2004 coastal erosion study. Easement
data from plat research, and from 1982 Homer and Vicinity
orthotopographic map by Walker and Associates.







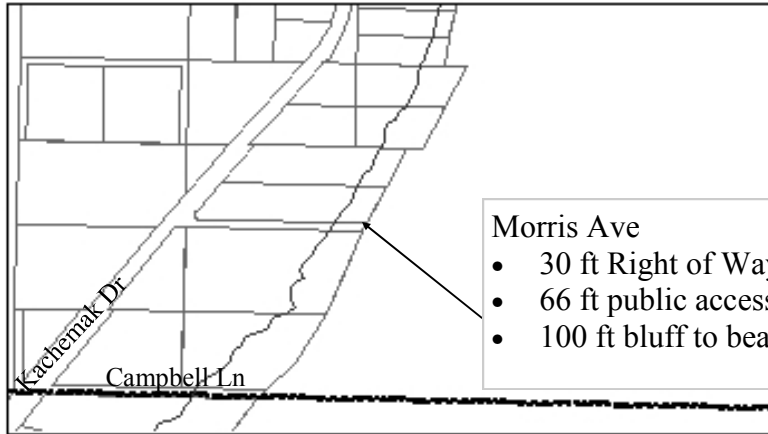
- Ten foot pedestrian easement on northern property, 33ft easement on southern property.
- Remainder of northern 33 ft easement vacated
- 30 foot drop from bluff to beach

- 33 ft easement
- Remainder of 66 ft easement vacated in 1976
- 35 foot drop from bluff to beach

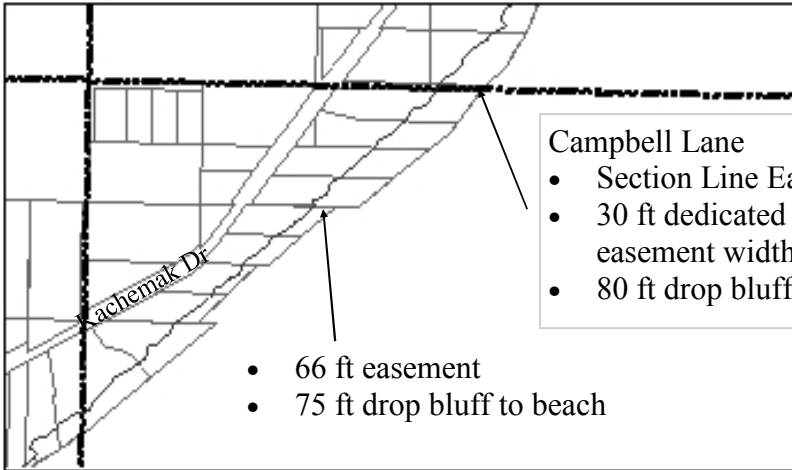


- 33 ft access easement
- 65 foot drop from bluff to beach

- 33ft access easement
- 75 foot drop from bluff to beach



- Morris Ave**
- 30 ft Right of Way
 - 66 ft public access
 - 100 ft bluff to beach drop

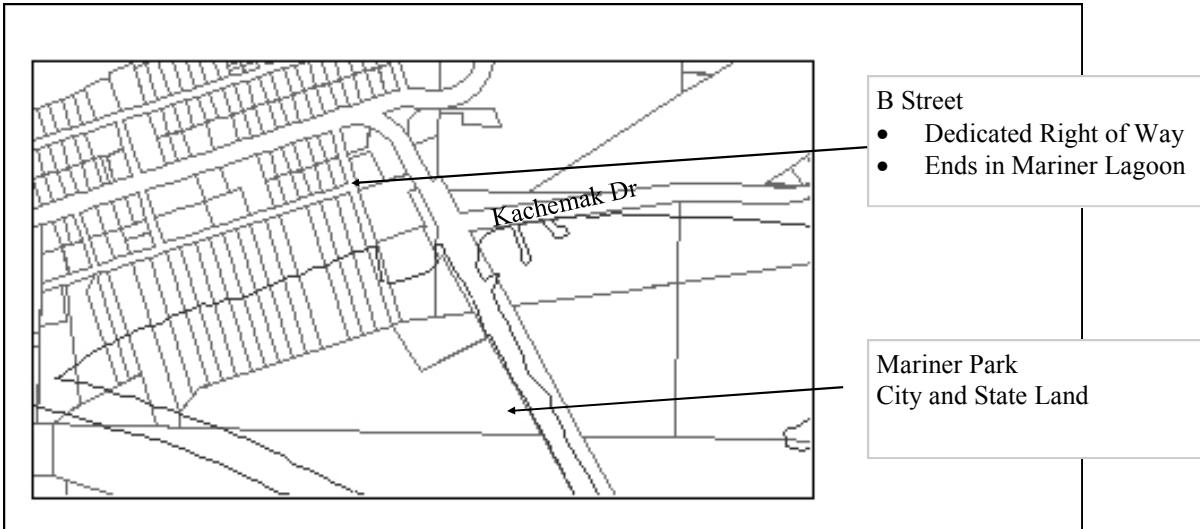
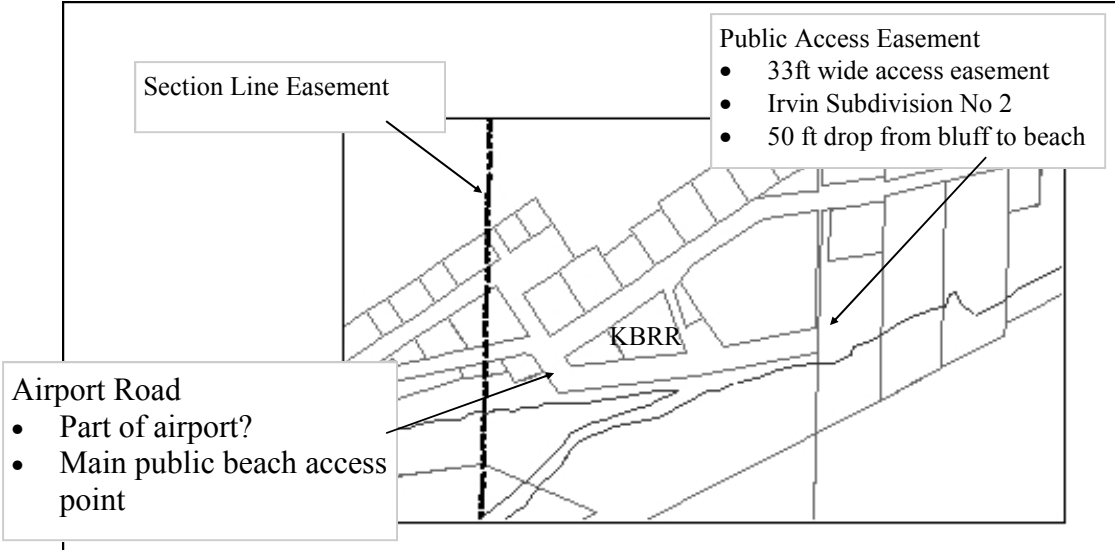
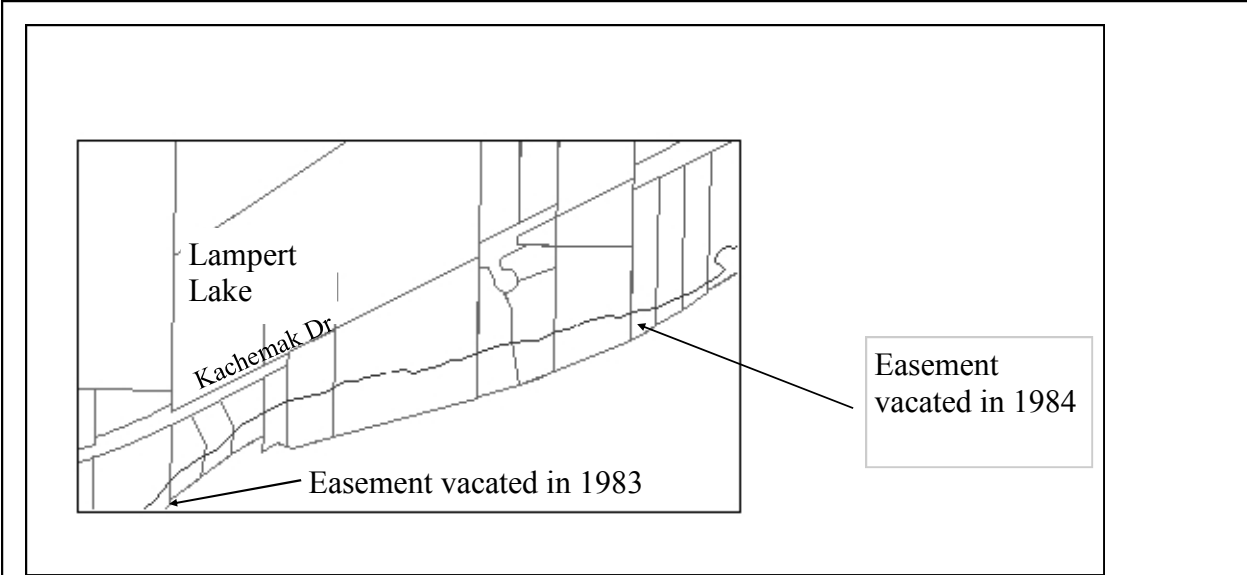


- Campbell Lane**
- Section Line Easement
 - 30 ft dedicated Right of Way, 66 ft total easement width
 - 80 ft drop bluff to beach

- 66 ft easement
- 75 ft drop bluff to beach



- Easement vacated in 1979
- Proposed Section Line Easement Vacation 2007.
 - Proposed public access viewpoint.





Lake Street

- Dedicated 60 ft Right of Way
- Sea wall crosses the Right of Way

Section Line Easement

- 66 ft wide
- 30 ft drop from bluff to beach

Oscar Munson Subdivision

Victoria Place

- 50 foot Right of Way
- Not constructed

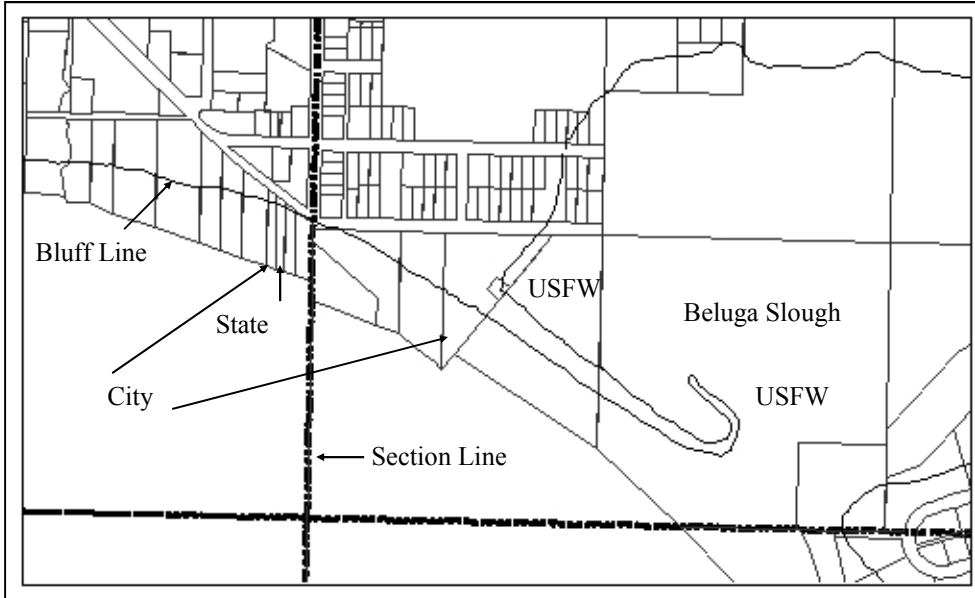
Section Line Easement/Right of Way

- 30 ft Right of Way, 33 ft section line
- Exact width of possible public access not know, but probably about 60 ft



Parson Lane

- 30 ft Right of Way
- About a 30 ft drop from street level to the beach
- Seawall runs along the bluff



Ohlson Lane Property

- 15-20 ft drop from street level to the beach
- City of Homer owns one lot; the state owns another

Section Line Easement

- Main Street is on a section line easement
- 15-20 ft drop from street level to the beach

Bishops Beach

- One of the few easy access point to the beach

This is an area of moderate long term erosion, averaging about 2 and a half feet per year.

Crittenden Dr

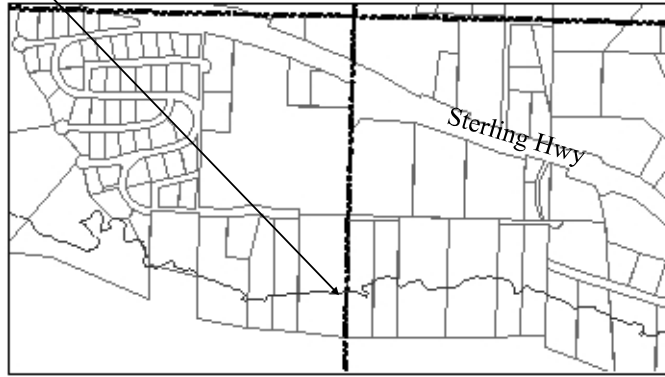
- 60 ft Right of Way
- New trail is steep and is eroding.
- 60 ft drop from Hidden Way to the beach



- Section Line Easement
- 120 ft drop from bluff to beach



- Section Line Easement
- 230 ft+ drop from bluff to beach

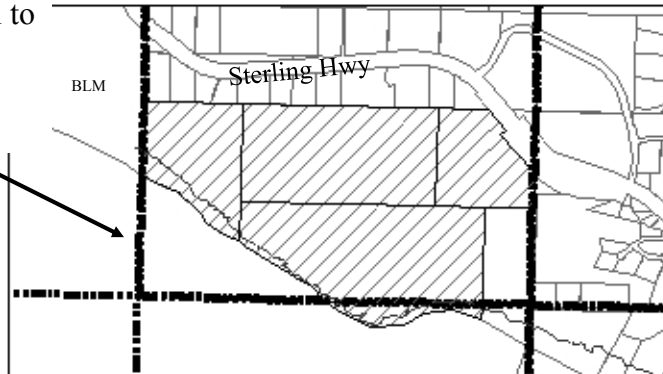


Leber Street

- 30 Right of Way Leber St
- Section Line Easement
- 25 foot drop from upland to beach.



- Section Line Easement, north-south along city limit boundary
- 60 foot bluff from beach to upland plateau
- EVOS and other public lands shown



Commissioner Archibald expressed concerns on having a high concentration of homeless people at Karen Hornaday Park since there were several ballfields, the playground and then regular campers and if they don't want them spread out to other campgrounds. He also inquired how many campsites that would be allocated to the Special Use camping program. He noted the use of the park by children.

Parks Superintendent Steffy responded that due to the decrease in the use by visitors camping and such things as ball games it was determined that use of the campgrounds was better than no use. He then proceeded to described the process and reporting that was undertaken in the 2020 Camping Season. He responded to concerns regarding the possibility of sex offenders and having them located near a heavily used playground.

Further discussion between staff and commissioners ensued on the following:

- Background checks versus inquiries of previous experience within the community
- Valid searches of official registries
- Homeless Coalition involvement and partnership with the city to engage with indigent campers
- Trying to not compromise the beauty of Karen Hornaday Park and selectively placing the campsites used and available for the Special Camping program
- Continuous improvements to clean up and mitigation measures for open but semi private campsite
- Waiving the camping fees will require Council approval will need to be approved for through June 30th then for the next fiscal year. This will be affecting approximately 10-15 campsites and approximately \$30,000 in revenue loss.

Parks Superintendent Steffy requested a motion of support for the Special Use Camping.

HARRALD/LOWNEY – MOVED THAT THE PARKS ART RECREATION & CULTURE ADVISORY COMMISSION SUPPORTS CONTINUING THE SPECIAL USE CAMPING PROGRAM FOR THE 2021 CAMPING SEASON.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Beach Policy Review

Chair Lewis introduced the item by reading of the title and requested any amendments to the policy that would relate to the use of personal watercraft, noting the recommendations

previously made under that topic earlier in the agenda. He opened the floor to discussion. Seeing no hands raised to comment, Chair Lewis then opened discussion by offering the following amendment for consideration:

No personal watercraft allowed on city beaches.

Discussion was facilitated between staff and Commissioners on the following:

Banning Personal Watercraft from city beaches

Defining exactly where city limits were to the right of the Bishops Beach Access

Applying the same methods used to control vehicles on Mariner Beach to Bishops Beach

Clarification with the City Attorney if they can block vehicle access west of Bishops Beach Access March 1 to September 30th

Previous complaints from property owners regarding the vehicles, partiers, and trash on the beach

Difficulties in enforcing no vehicle access past West Hill, but maybe limiting it to a road bed and keep vehicles from the mud flats

Recommended prohibition of landing motorized watercraft on beaches within city limits

LOWNEY/ARCHIBALD – MOVED THAT MOTORIZED WATERCRAFT ARE PROHIBITED FROM BEING LAUNCHED, LANDED OR RETRIEVED FROM ANY CITY BEACH WITH THE EXCEPTION OF OFFICIAL BUSINESS USE.

Discussion ensued on the language being used is appropriate but allowing emergency responders, Coast Guard, etc. to be able to access the beaches as needed. IT was noted that there was existing language that could be used.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Recreation Manager Illg pointed out the following:

Typographical error on page 16, item 3 title, should read, "...for all Homer Beaches."

Budget \$500 per year for sign repair, updating and replacement, Item B on page 17

Develop and distribute brochures with a coordinated public relations campaign

Budget \$500 per year for advertising the beach rules and etiquette , Item E on page 17

To discourage the use of driftwood maybe we should issue and RFP or something similar

Recreation Manager Illg wanted to make sure that the staff and commission are following the recommendations outlined in the policy regarding public education and information. He can work with Parks Superintendent Steffy on developing a brochure if they do not have one.

Parks Superintendent Steffy reported on previous attempts with regard to supplying firewood and the lack of success. He recommended a vending machine style firewood supply with a money drop box or swipe machine that the customer then takes product. He then provided an example of the bike rentals that they had last year which was a success. He then noted that they would like to allow third party operations in the city parks which are currently not allowed but with expectations of a percentage of revenue being paid to the city as the rental or lease fee.

Commissioner Lowney requested the commission to address the beach clean-up through establishing a day or supplies such as bags and promoting or building energy within the community for beach clean-up. She then requested reviewing and analyzing the beach access points to determine if they are feasible as an access point to the beach. Commissioner Lowney suggested that they may even want to vacate those access points due to the proximity to private property, steepness of the access, etc.

Commissioner Archibald supported the statements made by Commissioner Lowney and then commented on the proposed easement on page 23 of the packet and noted that there is a berm that is walkable but access is difficult when the tide comes in and a person could get stuck in that area of Louie's Lagoon, but it should be pursued by the Commission.

Parks Superintendent Steffy continued reporting on the idea to allow mobile food vendors in city parks which is currently prohibited and will be bringing forward for further discussion.

Public Works Director Keiser reported that she has noticed that one item that she believes is very important is maintaining natural flow of tidal waters where appropriate and in review of the policy this is not addressed. She the reported being asked by several people regarding dredging work to open up the Mariner Beach slough and Beluga Slough areas. She recommended adding on page 18 a section that addressed the requirement to perform dredging efforts to maintain the natural tidal flow into the inland area.

Chair Lewis requested a motion to make that recommendation.

Commissioner Archibald commented on the verbiage used in a motion, since it was natural tidal efforts that closed off those waterways and why those channels must be maintained and opened mechanically.

Parks Superintendent Steffy recommended contacting the Kachemak Bay Research Reserve to get some technical specifications in order to make informed decisions on recreational and ecological function of the two areas.

Commissioner Archibald noted that there is a private property owner that dredges their property and it may be a good idea to contact them to see how often they perform dredging.

Parks Superintendent Steffy noted that he would like to get the information to properly manage those openings before implementing more prescriptive language.

Chair Lewis turned the gavel over to Vice Chair Archibald noting he needed to depart the meeting for a few minutes.

Vice Chair Archibald requested additional recommendations. Hearing none from the Commission he stated that he would like to address motorcycles/dirt bikes, loud vehicles and unlicensed vehicles on the beach. He noted that they spoke about prohibiting unlicensed vehicles on the beach it would prohibit the use of dirt bikes on the beach.

Parks Superintendent Steffy recalled a previous conversation, during the last Beach Policy review, with Chief Robl indicating that laws of the road apply to the beach so if someone was on the beach spinning “brodies” that would be considered reckless driving and they could be cited. But he then noted that he recalled reading that if you are not operating a vehicle on a state maintained road there were some exceptions, so he would need to get some clarification on that issue. He then noted that if they are having issues again then they need to encourage reporting of incidents to the Police Department.

Further discussion made points on enforcement issues and staff resources and creating or marking a dedicated road bed and installation of signage to ensure that vehicles stay out of the mud flats.

The item was requested to be on the March agenda for further review to discuss beach access and recommending that the Commissioners visit the accesses shown so that they can see if there are any that could be developed better so that Bishop’s Beach does not get too crowded. It was suggested that the commissioners visit the beach easement behind the property with all the derelict vessels also before the next meeting.

Recreation Manager Illg suggested that the Commission schedule a worksession since they are representatives to the Homer Community and some of them have no idea where these access locations are collectively.

Chair Lewis stated that they could schedule worksessions in April when the weather is better.

Parks Superintendent Steffy noted that they can schedule the Spring Park Walk Through.

Deputy City Clerk Krause confirmed with the Commission that a worksession will be scheduled prior to the April regular meeting.

INFORMATIONAL MATERIALS

- A. 2021 Commission Annual Calendar
- B. 2021 Commissioner Attendance at City Council Meetings

Chair Lewis requested a volunteer to speak at the upcoming Council meeting.

Public Works Director Keiser noted that there will be an ordinance introduced requesting funding for ADA improvements on Main Street project for the Bayview Park.

Commissioner Archibald volunteered to report and Commissioner Roedl offered to submit written comment to the City Council.

Public Works Director Keiser will provide talking points to the Clerk to forward to Commissioners.

- C. City Manager's Report from February 8, 2021 City Council Meeting

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY STAFF

Parks Superintendent Steffy commented that it was a great meeting, he appreciated the input from the Commission and was able to refocus on parks and camping is just right around the corner if it would just stop snowing.

Recreation Manager Illg commented that this commission was his favorite, he provided a shout out to Matt and Jan and all the work they do and the City Manager as he is very supportive of Parks and Recreation and we are very fortunate to have him in a leadership role. Great things all coming and this Commission will be a part of it.

Public Works Director Keiser commented it was a great meeting.

COMMENTS OF THE COMMISSION

Commissioner Harrald commented that it was a good meeting apologized for being quiet tonight but she had a headache. She expressed appreciation for the work of the others.

- Working with various organizations to conduct their programs outdoors and the area that is being used for the Highland Games could be created into an amphitheater with seating on the hillside down into the field area.
- Pratt Museum wants to develop their trails into a park
- West Homer Trails Story Trail expansion and trying to work a small amphitheater into that project.
- Land Acknowledgement project with the art installation at Bishop's Beach the images have changed a bit since the first presentation. He recommended scheduling a meeting to review the area since it is larger and more hands on interaction.
- Shorebird Festival Planning – working with the Board and the Chamber, activities that were conducted at Islands and Ocean are being relocated to Bishop's Beach, Chamber is leading this however since they are moving many activities outside the Parks Department is getting more involved.
- Peony Festival is in planning dates are July 9-24, 2021 on March 23 at 7:30 p.m.
- Little League and High School Softball will be starting up and both are hoping for a normal year
- Plans are in place that if they are able to start the project in Karen Hornaday Park they are going to be scheduling it so that it does not greatly interfere with Little League
- Summer Bike Rentals
- Discussion with the Homer Council on the Arts regarding mural juries
 - o There are two new retaining walls in town, Main Street/Sterling Highway and Pioneer Avenue at the car wash
 - o Homer Council on the Arts would issue the Request for Proposals, review of submittals and selection process
 - o Recommendations would be presented to the Commission for questions
 - o Submittal to Council for Approval
 - o Staff would like to have this item on the April meeting agenda, Scott Bartlett with Council on the Arts will attend to address concerns and constraints
 - o Discuss the public process being facilitated by a third party
- Social Media Training conducted to expand the city social media presence, the Recreation Facebook Page will become the Parks and Recreation Facebook page and they will be establishing a city wide Instagram account
- Parks will be applying for a recreational trails program grant for the pedestrian trail associated with the Karen Hornaday Park road project.
- Participation on the Review Committee for the Wayfinding and Streetscape RFP

Park Superintendent Steffy facilitated additional discussion on the following:

- Plowing of the trail between the Ramp 3 and Ramp 5

PUBLIC HEARING

PENDING BUSINESS

- A. Beach Policy Review and Updates
 - Beach Policy with Amendments and revisions
 - Memorandum from PARCAC to Port & Harbor Advisory Commission

- Draft Ordinance Prohibiting Motorized Watercraft

Chair Lewis introduced the item by reading of the title and then brought forward the issues that Mr. Zitzmann has brought before the Commission in previous years of trash, camping and most recently vehicles being driven in the tidal pools and areas that are harmful to the natural vegetation and wildlife.

Parks Superintendent Steffy noted that those issues have been concerns for a while and we do have a problem on who will provide the enforcement of the policy. He noted that previous remedies such as signage, outreach or city staff have been implemented. He would welcome a discussion on the mechanism on how the city can address these concerns.

Discussion was facilitated on the following issues:

- Enforcement on bonfires, vehicles, dirt bikes traveling in areas that should be restricted
- Negative behaviors need to be reported so that there is support for the revisions needed to the policy
- The policy needs to be something that can and will be enforced
- Bishop's Beach is receiving heavier use by a wide variety of persons causing more interactions.
- Homer is changing, whether is it wanted or not and it is the responsibility of the city to adapt to that change and apply new protocols to responsibly manage the resources that the city manages.
- The amendments that are currently noted in red were recommended from the worksession. The Commission will need to make motions to approve those changes.
- The language for the proposed ordinance from KBCS went to the City Attorney and the City Attorney did not think those stipulations held legal merit.
- The enforcement is limited to launching of personal watercraft.
- Clarification was made that the draft ordinance in the packet had been submitted to the City Manager and forwarded to the Port & Harbor Advisory Commission. This ordinance is limited to the launching of the personal watercraft.
- Specifically limiting the distance that personal watercraft can be used from shore.
- Concerns on language and description of watercraft since there are now motorized kayaks or canoes with motors.

ROEDL MOVED THAT MOTORIZED WATERCRAFT CAN ONLY BE LAUNCHED FROM LOAD AND LAUNCH RAMP IN THE HARBOR.

The motion died for lack of a second.

Parks Superintendent Steffy pointed out that he believed there was adopted legal language of personal watercraft and that there was a difference of whether you sat on it or sat in it, he provided the example of the electric motorized kayak.

Chair Lewis requested further clarification for lines 43-44 and noted that personal watercraft should be inserted and requested a motion to make that amendment.

HARRALD/LOWNEY - MOVED TO INSERT THE WORD PERSONAL BEFORE THE WORD WATERCRAFT IN LINE 44 UNDER THE GOALS SECTION OF THE POLICY.

A brief discussion ensued on the proposed amendment to this section since it refers only to keeping vehicles out of the lagoon area. Staff pointed out that the Commission did not make any motions at the last meeting to amend the policy to add a section regarding personal watercraft that is still needed. Further discussion concluded that they should add a statement under the Goals section regarding Personal Watercraft only being allowed to be launched, landed and retrieved from the Harbor and are prohibited from beach areas. It was also asked if this was not addressed in the Tariff or in another section of Homer City Code.

Commissioner Lowney requested that the information be brought to the Commission on the possible existing regulations and then requested the motion on the floor to be read again.

Commissioner Archibald provided an alternative suggestion for verbiage, "internal combustion driven vessel" stating that nomenclature would be more accurate.

Parks Superintendent Steffy commented that they will probably see by next season electric driven watercraft that are capable of raising safety concerns and if the Commission concerns are speed of operation and size of craft or if the concern is pollutants then the recommendation is sufficient.

Commissioner Roedl stated that battery operated watercraft are already available and then added that they will soon be dealing with electric bikes that can do 30 mph on the trails too.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Deputy City Clerk Krause confirmed that she will research and have any information on existing regulations on motorized watercraft for the April meeting.

Commissioner Lowney recognized that there were additional amendments with questions in the policy and would like to address them.

Chair Lewis reviewed page 32 of the packet, lines 225-227 for the Commission.

Parks Superintendent Steffy facilitated a discussion on whether the intent is to remove the platform to remove the hazard and possible liability or is the intent for habitat remediation of that area.

Commissioner Lowney also noted that the paragraph also deals with placement of dredge spoils in the area.

Parks Superintendent Steffy responded that placement of dredge spoils opens up numerous questions and the requirement for permits and possible effects of placement of those materials into that ecosystem.

Further discussion ensued on just striking from Area 2, Item E, lines 225-227, removing the platform and acknowledging that the area is already designated as a park.

LOWNEY/HARRALD - MOVED TO KEEP THE PORTION ON DESIGNATING THE AREA AS A PARK BUT STRIKING THE REMAINING PORTION OF THAT SECTION.

Further discussion on the fact that Louie's Lagoon is already a park so all that is really required is to clean up the area.

LOWNEY/ARCHIBALD - MOVED TO AMEND THE MOTION TO STRIKE LINES 225-227, ITEM E AND DISPOSE OF THE PLATFORM.

There was no further discussion.

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

Motion carried.

There was no further discussion on the main motion as amended.

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

Motion carried.

Commissioner Lowney addressed Lines 231-235 which references the map on page 37.

Deputy City Clerk Krause will contact Deputy City Planner Engebretsen to get confirmation on the easement and bring it back for the April meeting.

Chair Lewis then proceeded to Line 253-258 and asked staff if this has been accomplished. Parks Superintendent Steffy facilitated a discussion on the tasks as outlined were accomplished and while they could be refined and improved this section could be deleted.

Commissioner Roedl commented on the airport beach access and spoke about adding additional space to allow parking spaces. He acknowledged that he did not have his packet in front of him and he was not sure where they were at in the policy.

Commissioner Lowney requested that Commissioner Roedl hold his request since they were talking about Mariner Park right at the moment.

Chair Lewis redirected the discussion to Section B under Area 4, Lines 253-258 and requested a motion to strike or amend since that has been completed.

LOWNEY/HARRALD MOVE TO STRIKE LINES 253-258 FROM THE BEACH POLICY HAS IT HAS BEEN COMPLETED.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Lewis introduced the next amendment, adding a recommendation to dredging the opening to Mariner Lagoon on a biennial period and that funding be included in the Fiscal year budget. He further noted that this was requested by Public Works Director Keiser. He requested a motion.

LOWNEY/ARCHIBALD MOVED TO AMEND THE BEACH POLICY TO ADD ITEM B RECOMMEND DREDGING THE MARINER LAGOON OPENING ON A BIENNIAL PERIOD AND INCLUDE FUNDING IN THE FISCAL YEAR BUDGET.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Lowney noted the typographical error on line 261 stating that it should reflect Area 5, not Area S.

Chair Lewis directed the Commission to the next amendment, Lines 296-297 regarding the junk vehicles on the beach. He expressed that he did not have a knowledge of the vehicles and opened the floor to discussion.

Commissioner Harrald stated that the vehicles are just a little west, past West Hill Road on Bishop's Beach they are pretty torn apart and rusted out, buried under the sand, almost completely. She reported that maybe with some volunteers and ATV's that the vehicles could be pulled out of the sand but it did not hit her top 10 to do's for the community right now.

Commissioner Lowney suggested keeping it in the policy but not specific to Bishop's Beach.

LOWNEY/HARRALD MOVED TO INCORPORATE THE LANGUAGE REMOVE DERELICT VEHICLES FROM CITY BEACHES.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Lewis stated the next recommendation is to move the History section to beginning of the policy as an introduction.

LOWNEY/ARCHIBALD MOVED TO RELOCATE CONTENT OF LINES 300-320, HISTORY TO THE BEGINNING OF THE DOCUMENT AFTER LINES 24-32, PURPOSE AND INTENT.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Harrald noted that line 164, on page 31 of the packet regarding firewood was overlooked.

Chair Lewis noted the recommendation was to strike the portion regarding the City providing firewood or amend it to allow firewood concessions or provide alternative options. He then requested input from Parks Superintendent Steffy.

Parks Superintendent Steffy facilitated a discussion on the attempts to provide and allow firewood concessions. He is still considering the options since he has to weigh in staff time that would be involved for some of the options considered. Mr. Steffy provided details on what was done previously in arranging supply of firewood with a third party contractor and the difficulties in that arrangement.

Chair Lewis noting the time and requested that the Commission continue their review and revisions at the April meeting.

There were no objections from the Commission.

NEW BUSINESS

- A. Memorandum from Public Works Director re: Karen Hornaday Park Proposed Parking Improvements

There was no discussion on this item by the Commission or Staff present.

- B. Memorandum from Public Works Director re: Allowing Mobile Food Vendors in City Parks

Chair Lewis introduced the item by reading of the title and open the floor for discussion.

Parks Superintendent Steffy requested that this item be postponed at this time due to other work being done on Special Event and Itinerant Merchant Permitting. The goal is not to have to construct concession stands in city parks.

Commissioner Harrald commented on benefits to the community, small business and the city overall to allow food trucks into city parks.

- High School Senior will be having a parade again this year for graduation and they will be installing the banners along Pioneer Avenue
- Worksession on the Public Works Department Budget was conducted and they have proposed a number of increases in professional and maintenance type services for parks as well as capital improvements.

C. Staff Report – Recreation Manager Illg

Vice Chair Archibald introduced the item and noted that Recreation Manager Illg had a conflict and could not attend the meeting but submitted a written report for this meeting.

There were no comments or questions from the Commission on the report.

PUBLIC HEARING

PENDING BUSINESS

- A. City of Homer Beach Policy Review and Update
- Ordinance 21-23 Amending Homer City Code 19-20.020 Personal Watercraft
 - Memorandum from Port Director/Harbormaster as backup

Vice Chair Archibald introduced the item by reading of the title and then requested guidance and clarification from Deputy City Clerk Krause on the document provided in the Supplemental Packet.

Deputy City Clerk Krause reported that the document in the packet did not contain all the previous amendments made by the Commission at the March meeting. She further noted that there were still amendments that the Commissioners need to address.

Vice Chair Archibald read the previous amendments made on the policy at the last meeting. He then noted that the next amendments were on line 26-38 was updated to better reflect the purpose and intent of the policy and requested a motion.

Commissioner Lowney noted that she would like to address the amendments individually.

Deputy City Clerk Krause explained that the Working Agenda lists the amendments in order as they appear in the document. She then brought up the beach policy in a share screen to assist in addressing those amendments.

HARRALD/LOWNEY MOVED TO AMEND THE PURPOSE AND INTENT SECTION BY REPEALING AND RESTATING THE SECTION AS SHOWN IN THE DRAFT DOCUMENT IN THE SUPPLEMENTAL PACKET.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Vice Chair Archibald then noted Lines 76-78 were updated since the installation of gates to prevent or limit access to sensitive areas were completed.

A brief discussion ensued on whether a motion was needed since this was a staff recommendation or adopt the changes through the final motion to adopt the entire document. It was agreed by consensus to adopt the updates in the one final motion unless there were questions or issues on the update.

Discussion ensued on the following:

- Addressing the amendments and updates to make sure that the Commission understand each recommendation and can draft or review the content for the new sections;
- How the document is formatted;
- A worksession would be better to address these issues and for fine tuning the document.
- The policy should contain information related to the regulations and appendices with the goals or actions items for improvements such as the stairway can be reflected in another document like the CIP or separate listing

The Commission agreed to have a worksession on the Beach Policy at 4:30 p.m. prior to the May 20, 2021 regular meeting.

- B. Karen Hornaday Park Proposed Parking Improvements – Memorandum from Public Works Director as back up

Vice Chair Archibald introduced the item by reading the title and deferred to Public Works Director Keiser.

Public Works Director Keiser noted that the Commission has had some discussion on this project and she wanted to specifically identify the various elements of the improvements and the proposed funding for them. She spoke to how City Council will approve the strategy for funding at their April 26th meeting.

Vice Chair Archibald expressed his appreciation for the great job that Ms. Keiser is doing to move parks related projects forward.

- C. Mariner Park Lagoon Dredging – Memorandum from Public Works Director as backup

Vice Chair Archibald introduced the item by reading of the title and invited Public Works Director Keiser to speak on her memorandum.

Public Works Director Keiser reported that the photos provided were immediately after they dredged the entrance at 2:30 p.m. and by 4:30 p.m. it was completely filled again. She reported receiving a call from a property owner who stated that they did not dig deep enough so they made an additional attempt and so far it appears to be working. Ms. Keiser informed the Commission that they will be able to extend the permit from the Army Corps of Engineers for another 10 years, so they will be able to plan for further action.

- Special Projects Coordinator pointed out the Achilles Heel of the Community Recreation Project is the operational costs. That it does not pencil out. The public tax dollar cannot support it without sustainable funding of some kind
- The HERC Task Force made recommendations and yet the facility still sits there with nothing being done.
- Improvement of playing fields to be able to host tournaments which also drives tourism.

PUBLIC HEARING

PENDING BUSINESS

A. 2021 Beach Policy Update – Review, Amendments and Corrections

Chair Lewis introduced the item by reading of the title. He noted that they had this on the Worksession agenda prior to the meeting. He opened the floor for discussion or a motion.

LOWNEY/HARRALD MOVED TO POSTPONE THIS ITEM TO ALLOW A WORK GROUP TO REVIEW, AMEND AND FORMAT THE POLICY DOCUMENT.

There was brief discussion noting that during the worksession it was agreed that the document was difficult to follow and that it was supposed to be a policy, but in some areas was more like a to do list. It was recommended to create a small workgroup to go through the document and arrange it as a policy with the list of recommendations to be added as an attachment or separate document.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

A brief discussion ensued on the ability to form a committee and keeping the membership to less than a quorum.¹

Commissioners Roedl, Lowney and Lewis volunteered to be on the Beach Policy Workgroup.

NEW BUSINESS

A. Homer Drawdown Peatland Mural project Proposal for the Homer Airport Terminal - City of Homer Accession, Gift & Donation Policy and Procedures for Art

Chair Lewis introduced the item by reading of the title and invited Public Works Director Keiser to provide some input on the topic.

¹ The City Attorney has advised that no committee or workgroup should meet without those meetings being advertised and recorded. Even if the number in the group was less than a required quorum. A member of the advisory body speaking one on one with staff did not require or constitute a meeting.

C. Public Works Director Report - Jan Keiser, PE

Public Works Director Keiser provided a verbal report, commenting on the wayfinding-streetscape plan pop-up events that took place with Corvus Designs, Capital Improvement Plan projects related to parks, and the final budget approval at the June 28th City Council meeting. Ms. Keiser spoke to the variety of improvements Public Works is making to the airport and her support of the Homer Drawdown efforts to install murals on the building.

Commissioner Archibald inquired on what the large pipes were at Karen Hornaday Park. Ms. Keiser said they are the new culverts for the culvert replacement project.

At the request of Commissioner Lowney, Ms. Keiser facilitated discussion with the commission regarding Homer Accelerated Water Sewer Program (HAWSP) funds. At the last City Council meeting, Mayor Castner had voiced his disapproval of using HAWSP funds for the replacement of the Karen Hornaday Park restrooms. This would cause a delay of the restroom replacement until another source of funding is secured and we see what kind of support can be found from councilmembers.

PUBLIC HEARING

PENDING BUSINESS

- A. 2021 Beach Policy Update – Beach Policy Workgroup Recommendations
- i. DRAFT 2021 City of Homer Beach Policy & Management Plan
 - ii. 2017 City of Homer Beach Policy

Chair Lewis introduced the item by reading the title and opened the floor for discussion.

Commissioner Lowney provided a summary of what the Beach Policy Work Group worked on and the changes they submitted to Deputy City Clerk Tussey for compilation into the draft document. She went over what primary changes were made and what amendments still need to be considered.

The commission and City staff discussed the following:

- The new layout and formatting of the revised draft document.
- Signage on berms regarding the removal of driftwood.
- Means of educating the public through the use of signs, maps, written/online materials, and curriculum materials to the local schools.
- Enforcement and funding:
 - Setting the budget line items for signage maintenance
 - If Chief Robl needs to be included in the conversation at a future meeting
 - Clarifying the purpose of this document as policy and a management plan; what is already established in City code should be referenced, not incorporated into the plan
- Updating the appendices and maps; Appendix A and B provide historical information and should be preserved, but whether they should be included in the policy document.

With the large number of questions and suggested amendments, the commission discussed whether they should review the document page-by-page and discuss each question/amendment at this meeting, or take more time to review the revisions and come back for a July Worksession. Concerns were raised over the timing; some commissioners wished to have more time to address their questions while others felt the commission had already spent several meetings working on the policy rewrite and a postponement would mean a final approval would not happen until their August meeting. The commission agreed to go through each page with staff making their amendments throughout the discussion, and at the end they would determine if they are ready for approval or to schedule a July worksession.

Commissioner Roedl joined the meeting at 6:55 p.m.

Deputy City Clerk Tussey facilitated discussion with the commission and staff, responding to questions and concerns, and made their proposed amendments to the draft policies page-by-page.

LOWNEY/ARCHIBALD MOVED TO ACCEPT THE BEACH POLICY DOCUMENT, AS AMENDED, THROUGH THE TITLE PAGE TO PAGE 11.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

In response to Commissioner Harrald's question, Ms. Tussey clarified that the motion just made did not include a recommendation to City Council. Another motion will be needed to do a final approval and send it on to Council.

LOWNEY/ARCHIBALD MOVED TO HOLD DISCUSSION ON APPENDIX A AND B IN AUGUST.

Commissioner Lowney inquired if they held discussion on the appendices later, if the rest of the document could still be sent to Council for approval, or do we want to get through the appendices before approval. Ms. Tussey noted that the policy gets approved by resolution, so the commission would essentially be sending and having Council approve two separate resolutions, which is doable but ideally it would be nice to have one complete document approved by one resolution.

Discussion ensued on the commission not being prepared to fully discuss the appendices at this meeting, and to wait until August to hold that discussion. Ms. Tussey pointed out her staff recommendation in the memo was to remove the appendices from the policy document and be reformatted into a stand-alone document that the commission reviewed on an annual basis. That way they would not have to update their beach policies via resolution every time they want to update the list of public beach access points.

The commission discussed having the list of access points as a separate document, ensuring the information and notes are kept for historical purposes, and maintaining the list like a database that gets regularly updated every three years after the commission conducts a walk-through.

VOTE: OBJECTION: UNANIMOUS CONSENT.

Motion failed.

At the request of Commissioner Lowney, Ms. Tussey clarified that if the commission goes ahead with having a list of public beach access points as they discussed, then part of that is merging Appendices A and B into a single list that would be a stand-alone document. Otherwise if any changes are made to the notes, then they would have to send the whole document back to Council every time they made amendments. Commissioner Fair further clarified with staff which pages would be removed from the policy and that the overview map would remain.

FAIR/ARCHIBALD MOVED TO REMOVE APPENDICES A AND B AND SET THEM ASIDE AS A STAND-ALONE DOCUMENT FOR THE REGULAR REVIEW OF BEACH POLICY.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Commissioner Archibald suggested if the commission would like to include a one-page list of public access points that are currently in use, are safe, and lists just a few pros/cons or discussion about the use of it. Commissioner Lowney recommended they do not only from the standpoint that any changes that they make to the list would have to go to Council for approval.

Deputy City Clerk Tussey commented that a final motion is still needed to approve everything, and to make sure to include the full title since they are proposing to Council a new title of the beach policies.

FAIR/LOWNEY MOVED TO APPROVE THE CITY OF HOMER BEACH POLICY AND MANAGEMENT PLAN WITH AMENDMENTS AND RECOMMEND TO CITY COUNCIL FOR ADOPTION.

There was no discussion.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. City of Homer Draft 2022-27 Capital Improvement Plan (CIP)
 - i. DRAFT 2022-2027 Capital Improvement Plan

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

3 City Manager
4 PW Director

5 **RESOLUTION 21-056**

6
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AWARDING A TERM CONTRACT TO BRISTOL ENGINEERING, LLC FOR
9 ENGINEERING SERVICES AND AUTHORIZING THE CITY MANAGER TO
10 NEGOTIATE AND EXECUTE THE APPROPRIATE DOCUMENTS.

11
12 WHEREAS, In 2006, as part of the Homer Water & Sewer Master Plan, Homer commissioned
13 Bristol to develop a computer program that modeled the City's water distribution system for the
14 purpose of computing how water pressure in the City's network of pipelines varied across the City; and
15

16 WHEREAS, The City uses this model, among other things, to demonstrate to the AK Department
17 of Environmental Conservation (ADEC) that the City is providing no less than the minimum required
18 water pressure throughout its system, as the system expanded overtime with new water main
19 extensions; and
20

21 WHEREAS, There have been numerous water main extensions, hydrant installations and other
22 appurtenances added to Homer's water system since 2006, but the Water Model has never been
23 updated, which has recently become problematic; and
24

25 WHEREAS, It as Homer's water system expands, we are going to be increasingly challenged to
26 demonstrate compliance with regulatory guidelines unless we update the Water Model by calibrating
27 it to actual field conditions; and
28

29 WHEREAS, Bristol developed the original model, is in the best position to help with this
30 recalibration and submitted a proposal for the work; and
31

32 WHEREAS, Bristol will be collaborating with the City's Water/Sewer Crew, who will using the
33 City's fire hydrants to manipulate flows throughout the system, while Bristol collects pressure data; and
34

35 WHEREAS, Bristol's projected level of effort to perform their part of the work ranges between
36 \$5,862 and \$9,960, depending on how much field testing is required to achieve reliable results; and
37

38 WHEREAS, The City does not currently have a Term Contract for engineering services with
39 Bristol; and
40

41 WHEREAS, Funds are available in the Water CARMA, Fund 256-0378, to cover the
42 anticipated expense.

43
44 Current Balance \$2,434,942
45 Less:



Memorandum 21-138

TO: Rob Dumouchel, City Manager
FROM: Janette Keiser, Director of Public Works
DATE: July 27, 2021
SUBJECT: Term Contract to Bristol Engineering, LLC

Issue: The City's 15 year old Water Model needs updating. The Water Model was developed by Bristol Engineering LLC (Bristol), with whom we do not currently have a Term Contract for engineering services. The purpose of this Memorandum is to request approval to (1) issue a contract and (2) assign Task Order #1 to update the Water Model.

Background:

In 2006, as part of the Homer Water & Sewer Master Plan, Homer commissioned Bristol to develop a computer program that modeled the City's water distribution system. The purpose of this model was to compute how water pressure in the City's network of pipelines varied across the City. The City uses this model to demonstrate to the AK Department of Environmental Conservation (ADEC) that the City is providing no less than the minimum required water pressure throughout its system, as the system expanded overtime with new water main extensions.

For example, in order to receive ADEC approval to construct the City's Alder Lane Water Project, we needed to demonstrate that the water main extension serving Alder Lane would not adversely affect our ability to provide the minimum water pressures throughout the system. We used the Water Model to do this and accordingly, the ADEC issued a Certificate of Approval to Construct the Alder Lane Water Project. Without this certificate, we would not have able to build or operate the new water main.

There have been numerous water main extensions, hydrant installations and other appurtenances added to Homer's water system since 2006. But, the Water Model has never been updated, which has recently become problematic. For example, Bishop Engineering submitted a set of plans for a water main extension for a private development to the ADEC for approval. The ADEC asked for documentation that the minimum water pressures could be provided. We ran the Water Model and the results fell short of the minimum requirements. The ADEC refused to grant the developer a Certificate of Approval to Construct. The City's Water/Sewer Crew were able to get a passing grade by running hydrant tests and providing real-time flow data as numerical input to the Water Model. We had to do the same thing to get a passing grade for the Tasmania Court Water Main Extension Project. It is apparent that as Homer's water system expands, we are going to be increasingly challenged unless we update the Water Model by calibrating it to actual field conditions.

Bristol developed the original model and is in the best position to help with this recalibration. We asked them to submit a proposal for the work. (See attached proposal.) They will be collaborating with our Water/Sewer Crew, who will use the City's fire hydrants to manipulate flows throughout the system, while Bristol collects pressure data. Bristol's projected level of effort to perform their part of the work ranges between \$5,862 and \$9,960, depending on how much field testing is required to achieve reliable results.

Each project assigned under a Term Contract has separate account number/project number associated for engineering/design or other project support. Issuing a Term Contract to Bristol allows us to assign Task Order #1, which will be to update the Water Model. The current round of Term Contracts will expire in 2022.

Funds are available in the Water CARMA, Fund 256-0378, to cover the anticipated expense.

Current Balance		\$2,434,942
Less:		
Encumbrances	\$ 692,138	
Authorized Projects	\$ 478,783	
Available Balance		\$1,264,021

Recommendation:

City Council pass a resolution awarding a Term Contract to Bristol Engineering, LLC and authorizing the City Manager to negotiate and execute the appropriate documents.

July 20, 2021

Aaron Yeaton
City of Homer, Public Works
3575 Heath Street
Homer, AK 99603

Subject: Homer Water Model Calibration

Dear Mr. Yeaton,

Bristol Engineering Services Company, LLC (Bristol) appreciates the opportunity to provide the City of Homer (City) with engineering design services to assist with updates to the City's water model. Bristol has prepared this scope of services based on discussions with City staff in June 2021, as well as previous discussions throughout 2020 and early 2021.

BACKGROUND

Bristol provided a water model to the City of Homer as part of the development of the 2006 Homer Water and Sewer Master Plan. The water model was built using hydrant test data collected by the City in 2004. Since that time period, the system has aged (piping has corroded and developed more 'build up' inside the lines, and the previously selected pipe roughness coefficients may not reflect current conditions), the system has been expanded, and the pressure settings at the City Pressure Reducing Valve (PRV) stations have been modified. We understand that the model needs to be updated and recalibrated to match existing conditions. Bristol was requested by the City to assist in refining the City's water model to reflect current conditions as well as recalibrating the City's water model.

SCOPE OF SERVICES

Bristol will provide all the labor, materials, and supplies needed to perform the following tasks:

TASK 1: PROJECT MANAGEMENT & COORDINATION

This task provides overall project management services, which includes project accounting, schedule maintenance, coordination, and project organization.

TASK 2: SITE VISIT / MODEL CALIBRATION

Bristol will evaluate existing water system test data provided by City staff, and provide recommendations for locations where additional hydrant tests should be collected by the City. This data will be critical for calibrating the water model to reflect current conditions.

The Bristol Project Manager will travel to Homer to assist with recalibrating the water model. Bristol proposes that the Project Manager will travel to Homer in order to spend the weekend to disseminate the present modeling software (which is assumed to have been updated in the 15 years since the model was originally created). It is assumed that the time for the software effort will take place over a weekend; the expenses for the software effort (room and board, etc.) will be billed, but Bristol's time to become familiarized with the software will not (16 hours maximum).

It is assumed that any direct assistance on the model calibration will occur from the following Monday onward. Bristol assumes that a minimum of two days will be required to assist with the modeling effort, and could potentially take up to a week depending on the success of the calibration effort and the City's needs.

Bristol will also provide assistance with follow-up calibration work with City staff (preferably by virtual screensharing) after the site visit.

Travel time between Anchorage and Homer will not be billed, except under extreme extenuating circumstances (road closures, natural disasters). Travel expenses will be billed.

DELIVERABLES

All deliverables will be provided in electronic format, via email or Bristol's secure one-drive file-share, unless noted otherwise. The following deliverables will be provided, by task:

- Task 1: Project Management
 - Invoices with status updates
- Task 2:
 - Hydrant Test Recommendations Memorandum
 - Calibration Summary Memorandum

SCHEDULE

It is assumed the site visit will occur in late summer or early fall of 2021. Hydrant test data will be collected prior to the site visit. Bristol will coordinate schedules of meetings, site visits, and deliverables with the City.

ASSUMPTIONS

It is assumed that lodging will be provided through existing lodging facilities (hotels) in Homer, and that reasonably affordable accommodation will be available. Room and board will be billed at actual cost.

FEE PROPOSAL

Bristol is prepared to complete this project as outlined in the scope of services and in accordance with the schedule provided above as a **Time and Materials basis** with a not to exceed amount of **\$9,960**, which would assume one week in Homer (time on initial weekend not billed, expensed

on initial weekend billed, Monday to Friday time and expenses billed). The trips to and from Homer would both take place on Friday evenings.

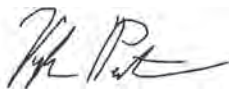
The invoicing for this project will be done on an as-needed basis; **the minimum budget** that is assumed for this effort is estimated to be **\$5,862**, which assumes that the time on the initial weekend would not be billed, expenses on initial weekend would be billed, and time and expenses for two days would be billed. The trip to Homer would take place on a Friday evening, and the trip from Homer would take place on a Tuesday evening.

Any additional time spent on this project will be done only under written authorization by the City. We will keep you apprised during the site visit if revisions to the scope and budget appear to be warranted. Bristol has provided an itemized fee as part of this proposal included as Attachment A.

Any work completed as part of this project, beyond the scope of services outlined in this proposal, will be invoiced on a time and expense basis using rates listed in our current Schedule of Charges, provided in Attachment B. You can issue a notice to proceed by signing the Proposal Terms and Conditions of the work (Attachment C) and returning to Bristol.

Thank you for the opportunity to work with you on this project. If you have any questions, please feel free to contact me at 907-743-9349.

Very Respectfully Yours,
Bristol Engineering Services Company, LLC



Digitally signed by Kyle Petersen
Date: 2021.07.20 09:27:15 -08'00'

Kyle Petersen, P.E.
Senior Civil Engineer

cc. John Blee, P.E. BESC GM
Jan Keiser, City of Homer Public Works Director

Attachments:

- Attachment A – Fee Proposal
- Attachment B -- Bristol Schedule of Charges
- Attachment C -- Terms and Conditions

Attachment A
Fee Proposal

Price per Task Summary

Bristol Engineering Services Company, LLC



Homer Water Model Calibration

Date: 20-Jul-2021

Fee type: Time & Materials

Task	Description	Labor	Expenses	Subs	Total Price
1	Project Management and Coordination	\$722	\$0	\$0	\$722
2A	Model Calibration (Monday to Tuesday)	\$4,144	\$996	\$0	\$5,140
2B	Each Additional Day	\$1,184	\$182	\$0	\$1,366

Total Fee (2 days) = \$5,862

Total Fee (5 days) = \$9,960

Kyle Petersen

Prepared by: Kyle Petersen, PE

COST ESTIMATE PER TASK										
FIRM:	Bristol Engineering Services Company, LLC			PROJECT TITLE: Homer Water Model Calibration				BESC Proj: TBD		
TASK NO:	2A	TASK DESCRIPTION: Model Calibration (Monday to Tuesday)				Date: 20-Jul-2021				
GROUP:		METHOD OF PAYMENT: Time & Materials				PREP BY: I.Pearson				
SUB-TASK NO.	SUB-TASK DESCRIPTION	LABOR HOURS PER JOB CLASSIFICATION								Sub-Task Total
		Senior Engineer / QA/QC	Senior Civil Engineer / PM	Civil Engineer III	Civil Engineer II	Civil Engineer I	Admin	NA	NA	
1.	Test Recommendation Memorandum / Pre-Visit		4							\$592
2.	Travel Time (4 hours each way, not billed)		0							\$0
3.	Software Evaluation (up to 16 hours, not billed)		0							\$0
3.	Model Calibration		16							\$2,368
4.	Calibration Summary Memorandum		3							\$444
5.	Post-trip assistance (as needed)		5							\$740
TOTAL LABOR HOURS		0	28	0	0	0	0	0	0	28
LABOR RATES (\$/HR)		\$197.00	\$148.00	\$148.00	\$115.00	\$80.00	\$65.00	\$0.00	\$0.00	
LABOR COSTS (\$)		\$0	\$4,144	\$0	\$0	\$0	\$0	\$0	\$0	\$4,144
EXPENSES					Notes/Assumptions/Exclusions:					
NO.	ITEM(S)	QUANTITY	UNIT PRICE	TOTAL PRICE	Assumes PM drives to Homer on Friday evening. Time spent on water model on Saturday and Sunday will not be billed to City. Time will be charged from Monday onward.					
a.	Mileage	466	\$ 0.575	\$268.00						
b.	Lodging	4	\$ 132.00	\$528.00						
c.	Food	4	\$ 50.00	\$200.00						
d.				\$0.00						
e.				\$0.00						
TOTAL EXPENSES:				\$996	TOTAL COST OF LABOR:		\$4,144			
SUB-CONTRACTORS: Firm Initials and Price Per Task					TOTAL EXPENSES:					
FIRM:					\$996					
AMOUNT:				\$0	SUBCONTRACTORS:					
				TOTAL SUBS	\$0					
					TOTAL PRICE:					
					\$5,140					

Attachment B
Schedule of Charges

2021-2022 Schedule of Charges

<u>Labor Category</u>	<u>Hourly Rate</u>
Senior Civil Engineer/Structural Engineer	\$145 - \$200
Senior Environmental Engineer	\$150 - \$175
Civil Engineer III/ Project Engineer	\$100 - \$145
Civil Engineer II/GIS Operator	\$85 - \$100
Civil Engineer I/Staff Env. Specialist	\$70 - \$85
Civil Engineering Intern	\$60 - \$75
Clerical/Technical Editor	\$55 - \$75

Update	Schedule of Charges and employee bill out rates will be updated at the end of June on an annual basis.
Travel time	Travel time will be charged as regular hourly rates for actual time involved. For fieldwork other than Anchorage sites, standby time for labor (up to eight hours per day per employee) will be charged when work is delayed or prevented, due to conditions beyond Bristol Engineering Services Company, LLC's control.
Outside Services	Travel expenses, printing, photographic work, rentals, mileage, subsistence, subcontractors, special delivery, and similar services will be billed at cost plus 10%.
Equipment Rentals	Equipment owned by Bristol Engineering Services Company, LLC will be rented according to a standard rate schedule, available on request.
Litigation Support	Expert testimony and preparation for testimony, depositions, hearings, mediation, and trials are at 200% of the above rates.
Contract Employees	Contract employees may be used from time-to-time, and will be billed at the regular schedule rates.
Terms	Bills are payable upon presentation, and are past due 30 days from the invoice date.

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 21-056

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
ACKNOWLEDGING THE SUFFICIENCY OF THE BUNNELL
AVENUE/CHARLES WAY WATER AND SEWER IMPROVEMENT
SPECIAL ASSESSMENT DISTRICT AND APPROVING THE
IMPROVEMENT PLAN, ESTIMATED COST OF IMPROVEMENT AND
ASSESSMENT METHODOLOGY.

WHEREAS, City Council initiated a Special Assessment District for Bunnell Avenue/Charles Way by Resolution 21-030; and

WHEREAS, The Bunnell Avenue/Charles Way Water and Sewer Special Assessment District boundary includes property fronting Bunnell Avenue and Charles Way; and

WHEREAS, A neighborhood meeting was held on May 27, 2021 where property owners were provided conceptual cost estimates for water and sewer, proposed district maps, and property owner assessment projections; and

WHEREAS, A Notice of Public Hearing for August 9, 2021 and Notice of Right to Object and was mailed to property owners on June 4, 2021 in accordance with Homer City Code 17.02.050; and

WHEREAS, The mailing included the preliminary assessment roll with the equal shares methodology based on cost estimates provided to property owners at the neighborhood meeting included as attachment "A"; and

WHEREAS, The deadline to receive written objections is August 8, 2021 and as of the drafting of this resolution one written objection was received; and

WHEREAS, Pursuant to HCC 17.02.050 (b) if owners of real property that would bear 50 percent or more of the assessed cost of the improvement file timely written objections, the Council may not proceed with the improvement unless it revises the improvement plan to reduce the assessed cost to less than 50% of the assessed cost of the improvement; and

WHEREAS, Council finds the petition bears sufficient support and that the water improvement is necessary and to the benefit the properties included in Attachment "A"; and

WHEREAS, The properties will be assessed using the equal shares methodology.

43
44 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska
45 acknowledges the sufficiency of the Bunnell Avenue/Charles Way Improvement Special
46 Assessment and approves the improvement plan, estimated cost of improvement, and
47 assessment methodology.

48
49 PASSED AND ADOPTED by the Homer City Council this 9th day of October, 2021.

50
51
52 CITY OF HOMER

53
54 _____
55 KEN CASTNER, MAYOR

56
57 ATTEST:
58
59
60 _____
61 MELISSA JACOBSEN, MMC, CITY CLERK

62
63 Fiscal Note: HAWSP

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District:

WATER: **\$212,608** SEWER: **\$473,875**

HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$70,869** SEWER: **\$157,958**

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

	PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
1	US FISH & WILDLIFE 1011 E TUDOR RD ANCHORAGE, AK 99503-6119	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 131 #17716229	\$59,000.00	Water \$7874 Sewer \$20603
2		T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 132 #17716228	\$42,600	Water \$7874 Sewer \$20603
3	DAM REVOCABLE TRUST 2019 1477 BAY AVE HOMER AK 99603-7941	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 154 #17716418	\$52,600	Water \$7874 Sewer \$20603
4	GUETSCHOW RUBEN PO BOX 1071 PAHOA HI 96778-1071	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 153 #17716417	\$47,900	Water \$7874 Sewer \$20603
5	LOGAN CHRISTINA ARLYNE LOGAN CHRISTINA 2303 TULIK DR ANCHORAGE AK 99517-1132	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 152 #17716416	\$45,900	Water \$7874 Sewer \$20603
6	CONNOLLY NANCY C 303 TORQUAY CT UNIT B RIDGE NY 11961-8358	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 150 #17716414	\$49,600	Water \$7874 Sewer \$20603
7	SOUL SISTERS INC 233 E BUNNELL AVE HOMER AK 99603-7827	T 6S R 13W SEC 20 Seward Meridian HM 2002032 W R BENSON SUB SOUL SISTERS ADDN LOT 148-A #17716450	\$390,300	Water \$7874 Sewer \$20603
8	SONNEBORN DAVID W SONNEBORN ALEXANDRA H 2548 DISCOVERY CT ANCHORAGE AK 99517-1237	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 05 #17716302	\$51,000	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

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ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

	PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
9	SPENCER J A 1930 E END RD # B HOMER AK 99603-7305	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 04 #17716303	\$62,200	Water \$7874 Sewer \$0
10	SPENCER JAMES A & DOLLY N 3005 BAY CREEK DR DICKINSON TX 77539-3916	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 03 #17716304	\$49,500	Water \$7874 Sewer \$0
11	MILLER DONALD STAFFORD PO BOX 1000 HOMER AK 99603-1000	T 6S R 13W SEC 20 Seward Meridian HM 2006041 W R BENSON SUB 2006 REPLAT LOT 1 A #17716307	\$73,700	Water \$7874 Sewer \$20603
12	PORTER JEANNIE N PORTER JEANNE N 3758 FAA RD STE B HOMER AK 99603-8031	T 06S R 13W SEC 20 Seward Meridian HM 2016010 W R BENSONS 2016 LOT 161A #17716454	\$113,100	Water \$7874 Sewer \$20603
13	LINDSEY RONALD J SAVIDGE BARBARA A PO BOX 1867 HOMER AK 99603-1867	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 162 #17716444	\$85,900	Water \$7874 Sewer \$20603
14	MARY J HILLSTRAND LIVING TRUST 1741 BURLINGTON ST ANCHORAGE AK 99508-5153 JOHNSON PAUL MATTHEW 124 E 23 RD AVE ANCHORAGE, AK 99503-2010	T 6S R 13W SEC 20 Seward Meridian HM 2008066 W R BENSON'S SUB 2008 REPLAT LOT 165-A #17716452	\$186,200	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

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ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

	PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
	JOHNSON KATHRIN MARIE 3476 S HORSESHOE LAKE RD. WASILLA, AK 99623			
15	LARSON BJORN & RAUPP SASHA H PO BOX 1435 HOMER AK 99603-1435	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 167 #17716439	\$51,500	Water \$7874 Sewer \$20603
16	BAUGHER TINA M 209 W DIMOND BLVD STE 4 ANCHORAGE AK 99515-1932	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 168 #17716438	\$50,700	Water \$7874 Sewer \$20603
17		T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 169 #17716437	\$43,300	Water \$7874 Sewer \$20603
18	VERNON ROBERT GORDON PO BOX 3 HOMER AK 99603-0003	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 171 #17716435	\$157,400	Water \$7874 Sewer \$20603
19		T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 172 #17716434	\$41,300	Water \$7874 Sewer \$20603
20	LOGAN IRA LLC 2303 TULIK DR ANCHORAGE AK 99517-1132	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 173 #17716433	\$175,200	Water \$7874 Sewer \$20603
21		T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 174 #17716432	\$58,100	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

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ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

	PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
22	HILLSTRAND NANCY PO BOX 7 HOMER AK 99603-0007	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 175 #17716231	\$102,100	Water \$7874 Sewer \$20603
23		T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 176 #17716430	\$36,000	Water \$7874 Sewer \$20603
24	HOMER CITY OF 491 E PIONEER AVE HOMER AK 99603-7624	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN S 1/16 CORNER SECS 19 & 20 & NW CORNER LOT 2 TH S 89 DEG 57'30" E 600 FT ALONG N BOUND LT 2 TO POB TH S 0 D EG 2' E 391 FT TO CORNER 2 ON MHW KACHEMAK BAY TH S 59 DEG 30' E 150 FT TO CORNE R 3 TH N 38 DEG 0' E 592.6 FT TO CORNER 4 TH N 89 DEG 57'37" W ALONG N BOUNDRY O F GL 2 494.3 FT TO POB SAVE & EXC THAT PTN DESCRIBED IN W/D 88 @ 820 #17714010	\$593,900	Water \$7874 Sewer \$20603
25	HILLSTRAND MARY JOANNE LIVING TRUST 1741 BURLINGTON ST ANCHORAGE AK 99508-5153 JOHNSON PAUL MATTHEW 124 E 23RD AVE ANCHORAGE, AK 99503-2010 JOHNSON KATHRIN MARIE	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN 400 FT E OF 1/16 CRNR COMMO N TO SEC 19 & 20 TH E 200 FT ALONG N BOUND OF GL 2 TH S TO BEACH LINE TH W 200 F T TH 339 FT N TO POB #17714009	\$4,300	Water \$ 7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District:

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HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$70,869** SEWER: **\$157,958**

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

	PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
	3476 S HORSESHOE LAKE RD. WASILLA, AK 99623			
26	VANN REVOCABLE TRUST PO BOX 561 KASILOF AK 99610-0561	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN INTERSECTION OF N BOUNDARY LT 2 & RR ROW TH E TO PT 400 FT FROM 1/16 CRNR TH S TO BEACH TH NW 100 FT TH N T O NORTH SIDE OF OLD RR ROW TH NW TO POB #17714008	\$248,000	Water \$7874 Sewer \$20603



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 21-139

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: AUGUST 4, 2021

SUBJECT: BUNNELL AVENUE/CHARLES WAY WATER & SEWER SAD EQUAL SHARES

Council initiated a water and sewer special assessment district in the Bunnell Avenue/Charles Way area with Resolution 21-030.

A neighborhood meeting was held on May 27, 2021 by Zoom. Property owners were mailed a notice of the meeting that included copies of proposed district boundaries, proposed design, estimated cost and property assessments, and time period for financing the assessment. The information provided to property owners in the cost estimations included three methodologies: equal shares, frontage foot, and benefitted area. Seven property owners attended the meeting.

Following the neighborhood meeting, Clerk's office staff prepared the mail out with the public hearing notice and notice of right to object. The equal shares methodology was used in the preliminary assessment roll that was included with the notice based on the code language in 17.02.040 (3) that reads, "The Public Works Director shall use the equal area method in calculating the assessment amount unless another method is specified in the improvement plan."

Because the deadline to submit written objections doesn't close until the day before the public hearing per HCC 17.02.050 (d), Resolution 21-056 and 21-057 have been provided in the packet. Staff isn't able to determine if there is sufficient interest to proceed with the district until the objection period closes. HCC 17.02.050 (c) directs that at the noticed date and time, Council shall hold a public hearing and shall adopt a resolution approving the assessment if Council finds, via resolution, that the improvement is necessary and benefits the properties that will be assessed. Council must also approve the proposed improvement plan. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

The estimated costs differ between what was provided for the neighborhood meeting and what was provided as backup to Resolution 21-057.

Attachments:

Neighborhood Meeting Notice Packet
Notice of Public Hearing and Right to Object Packet
HCC 17.02.040 and 17.02.050



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

May 12, 2021

Dear Property Owner,

At their May 10, 2021 Regular Meeting, the Homer City Council adopted Resolution 21-030 initiating the Bunnell Avenue/Charles Way Water & Sewer Improvements Special Assessment District (SAD) for Water and Sewer improvements in your area. You are receiving this notice because you're a record owner of real property in the proposed district.

Pursuant to HCC 17.04.040(b) a meeting of record owners of real property in the proposed district, more commonly referred to as a neighborhood meeting, is scheduled for **Thursday, May 27, 2021 at 5:30 p.m.** and will be held virtually through Zoom from the City Hall Cowles Council Chambers at 491 E. Pioneer Avenue.

To join the Zoom meeting on your device, go to www.zoom.us and select Join A Meeting. From there follow the prompts to enter the meeting ID and password below. If you prefer to participate by phone only, you may dial any of the numbers below and enter the same meeting ID and password.

Meeting ID: 975 4202 5902 Password: 475776

By Phone- 1-669-900-6833, 1-253-215-8782 or Toll Free 888-788-0099 or 877-853-5247

I will open the meeting by 5:20 p.m. so attendees will have time to log in and test audio before the start time. Please email me at rkrause@ci.homer.ak.us if you'd like an email link to the meeting information.

The proposed improvement plan is included for your review prior to the meeting. City staff will be available at the neighborhood meeting to answer questions on the proposed project, so please plan to attend. Please contact the City Clerk's Office at 235-3130 if you have questions.

Sincerely,

Renee Krause, MMC
Deputy City Clerk

Enclosures: Resolution 21-030 and Memorandum 21-070
Conceptual Cost Estimates - Water & Sewer
Proposed Water & Sewer Improvement District Maps
Property Owner Assessment Projections - Water & Sewer
Resolution 21-023 and Memorandum 21-052

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

3 City Manager/
4 Public Works Director

5 **RESOLUTION 21-030**

6
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
8 INITIATING A SPECIAL ASSESSMENT DISTRICT FOR THE CHARLES
9 WAY/BUNNELL AVENUE WATER AND SEWER IMPROVEMENTS.

10
11 WHEREAS, A Property owner on Charles Way/Bunnell Avenue filed a Special Assessment
12 Petition Application with the City Clerk in February 2021 with the prescribed filing fee; and
13

14 WHEREAS, The City reviewed the application and notified the applicant in writing that
15 the application was sufficient; and
16

17 WHEREAS, The City Clerk prepared a petition and distributed it by certified mail to all
18 record owners of property in the proposed district no more than 30 days after the petition
19 application was approved; and
20

21 WHEREAS, The City investigated the feasibility of extending water to the neighborhood
22 and distributed information regarding possible assessment district boundaries to the property
23 owners; and
24

25 WHEREAS, Signatures from 11 of the 21 property owners were required to initiate the
26 districts and signatures were received from 10 of the property owners; and
27

28 WHEREAS, One petition signature was receive late for a parcel held by a trust where the
29 letter was mailed to a trustee who had passed and the beneficiary of the property didn't see
30 the information until the deadline passed; and
31

32 WHEREAS, There are compelling public health reasons for serving this neighborhood
33 with City water and sewer; and
34

35 WHEREAS, The AK Department of Environmental Conservation (ADEC) has notified the
36 City that the water project would be eligible for a \$225,000 grant; and
37

38 WHEREAS, The next step in the process involves the City hosting a neighborhood
39 meeting at which the City will provide more information that may secure more support for the
40 water and sewer districts.

41 NOW THEREFORE BE IT RESOLVED that the City Council of Homer, Alaska hereby
42 initiates a Special Assessment District for the Charles Way/Bunnell Avenue water and sewer
43 improvements.

44

45 PASSED AND ADOPTED by the Homer City Council this 10th day of May, 2021.

46

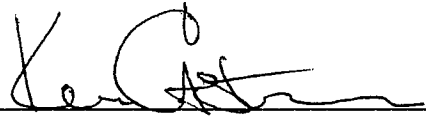
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CITY OF HOMER

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KEN CASTNER, MAYOR

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53 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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Fiscal note: Staff time and advertising costs





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 21-070

TO: City Council

THROUGH: Rob Dumouchel, City Manager

FROM: Janette Keiser, PE, Director of Public Works

DATE: May 3, 2021

SUBJECT: Charles Street/Bunnell Ave Water & Sewer Special Assessment Districts

Issue: We received an application from a property owner in the Charles St/ Bunnell Ave neighborhood for Special Assessment Districts for City water and sewer. The deadline to respond was April 19th and the petition process was one signature short. On Thursday, April 29th City Clerk Jacobsen received a call from Kathrin Pereira, a trustee of the Mary Joanne Hillstrand Living Trust, who explained Ms. Hillstrand had passed in November and in dealing with the estate she had just read the petition information. Ms. Pereira is interested in the property improvements and asked if there was a way her signature could be accepted. City Clerk Jacobsen suggested that she sign and submit the petition with an explanation of the situation, which is included with this memorandum for Council's consideration with the resolution to initiate the district.

We recommend the City Council initiate the districts so we can go to the next step; hosting a neighborhood meeting to provide information and hopefully, gain support.

Background:

The properties involved in the proposed special assessment districts currently rely on on-site sewage disposal systems, hauled water and/or spaghetti lines. There are 27 properties, owned by 21 different property owners. One of the property owners filed a petition to create special assessment districts. The process involves collecting signatures from the property owners; to move the process forward, signatures of at least 50% of the properties (11 signatures) are required. We received 10 signatures by the April 19th deadline and one was received after the deadline.

The City Council can initiate the special assessment district process and has done so before, such as the pending Tasmania Court Sewer Assessment District. We recommend the City take this step with the Charles Street/Bunnell Ave. water/sewer districts for multiple reasons:

- a. We've received word from the AK Dept. of Environmental Conservation (ADEC) that the water project is eligible for "Principal Forgiveness"; that is, a grant in the amount of \$225,000.

- b. This neighborhood is partially developed with businesses and residents, most of whom don't have access to water or sewer service. This raises serious concerns about the public health risks.
- c. This district would serve Bishop's Beach, allowing new plumbed restroom to be built. The benefit of this to the district is that the City would, as a property owner, pay an assessment fee, defraying a portion of the cost to the other property owners.

Action Recommended: Adopt the resolution initiating the Special Assessment District process for the Charles Street/Bunnell Avenue neighborhood for the purpose of extending City water and sewer service.

Property Owner Share \$212,608
 City (HAWSP) Share \$70,869

	Legal Description	KPB Parcel ID #	Owner	Frontage (ft)	Lot Area (SF)	Benefitted Area*	Proposed Assessment Based On Assessment Method		
							Equal Share	Frontage Foot	Benefitted Area
1	WR Benson Subd Amended, Lot 131	17716229	US Fish & Wildlife	50	7500	7500	\$7,874	\$4,262	\$4,814
2	WR Benson Subd Amended, Lot 132	17716228	US Fish & Wildlife	50	7500	7500	\$7,874	\$4,262	\$4,814
3	WR Benson Subd Amended, Lot 154	17716418	Dam Revocable Trust	50	7500	7500	\$7,874	\$4,262	\$4,814
4	WR Benson Subd Amended, Lot 153	17716417	Guetschow	50	7500	7500	\$7,874	\$4,262	\$4,814
5	WR Benson Subd Amended, Lot 152	17716416	Logan	50	7500	7500	\$7,874	\$4,262	\$4,814
6	WR Benson Subd Amended, Lot 151	17716415	Long	50	7500	7500	\$7,874	\$4,262	\$4,814
7	WR Benson Subd Amended, Lot 150	17716414	Connolly	50	7500	7500	\$7,874	\$4,262	\$4,814
8	WR Benson Subd, Soul Sisters Addh, Lot 148-B	17716450	Soul Sisters Inc.	100	15000	15000	\$7,874	\$8,525	\$9,629
9	WR Benson Subd Amended, Lot 5	17716302	Sonneborn	50	5000	5000	\$7,874	\$4,262	\$3,210
10	WR Benson Subd Amended, Lot 4	17716303	Spencer	50	5000	5000	\$7,874	\$4,262	\$3,210
11	WR Benson Subd Amended, Lot 3	17716304	Spencer	50	5000	5000	\$7,874	\$4,262	\$3,210
12	WR Benson Subd, 2006 Replat, Lot 1-A	17716307	Miller	100	10000	10000	\$7,874	\$8,525	\$6,419
13	WR Benson Subd, 2006, Lot 161-A	17716454	Porter	100	14164	14164	\$7,874	\$8,525	\$9,092
14	WR Benson Subd Amended, Lot 162	17716444	Lindsey/Savidge	50	7500	7500	\$7,874	\$4,262	\$4,814
15	WR Benson Subd, 2008 Replat, Lot 165-A	17716452	Mary J Hillstrand Living Trust	100	15000	15000	\$7,874	\$8,525	\$9,629
16	WR Benson Subd Amended, Lot 167	17716439	Larson/Raup	50	7500	7500	\$7,874	\$4,262	\$4,814
17	WR Benson Subd Amended, Lot 168	17716438	Baughter	50	7500	7500	\$7,874	\$4,262	\$4,814
18	WR Benson Subd Amended, Lot 169	17716437	Baughter	50	7500	7500	\$7,874	\$4,262	\$4,814
19	WR Benson Subd Amended, Lot 171	17716435	Vernon	50	7500	7500	\$7,874	\$4,262	\$4,814
20	WR Benson Subd Amended, Lot 172	17716434	Vernon	50	7500	7500	\$7,874	\$4,262	\$4,814
21	WR Benson Subd Amended, Lot 173	17716433	Logan IRA LLC	50	7500	7500	\$7,874	\$4,262	\$4,814
22	WR Benson Subd Amended, Lot 174	17716432	Logan IRA LLC	50	7500	7500	\$7,874	\$4,262	\$4,814
23	WR Benson Subd Amended, Lot 175	17716431	Hillstrand	50	7500	7500	\$7,874	\$4,262	\$4,814
24	WR Benson Subd Amended, Lot 176	17716430	Hillstrand	50	7500	7500	\$7,874	\$4,262	\$4,814
25	Bishop's Beach Park	17714010	City of Homer	494	150718	65340	\$7,874	\$42,112	\$41,943
26	Portion of Government Lot 2, T 6S R 13W S 20	17714009	Mary J Hillstrand Living Trust	200	108464	30000	\$7,874	\$17,050	\$19,257
27	Portion of Government Lot 2, T 6S R 13W S 20	17714008	Vann Revocable Trust	400	54450	39204	\$7,874	\$34,099	\$25,166
				2494	510296	331208	\$212,608	\$212,608	\$212,608

* benefitted area is the usable front 150 feet of the lot.

20 yr financing, interest rate 2%,
 Equal Share annual payments =

\$482

Concept Cost Estimate
BUNNELL/CHARLES WAY SAD WATER IMPROVEMENT
 2/23/2021

Construction Cost

	quantity	unit	unit price	cost
Mobilization	1	LS	\$11,000	\$11,000
Clearing/Grubbing	1	LS	\$1,900	\$1,900
8" HDPE Main	2100	LF	\$90	\$189,000
8" Valve	8	EA	\$5,000	\$40,000
Fire Hydrant	5	EA	\$7,500	\$37,500
1" water service	27	EA	\$1,750	\$47,250
Connect to Existing	2	EA	\$1,750	\$3,500
Type II Gravel	1000	CY	\$30	\$30,000
Pipe Bedding	100	CY	\$27	\$2,700
Seeding	200	MSF	\$70	\$14,000
Construction Survey	1	LS	\$4,500	\$4,500
SWPP Plan	1	LS	\$2,000	\$2,000
Geotextile Fabric	3500	SY	\$8	\$28,000
Utility Relocation	1	LS	\$6,000	\$6,000

\$417,350

Construction	\$417,350
Design (10%)	\$41,735
Inspection (4%)	\$16,694
City Administration (3%)	\$12,521
Contingency (5%)	\$20,868

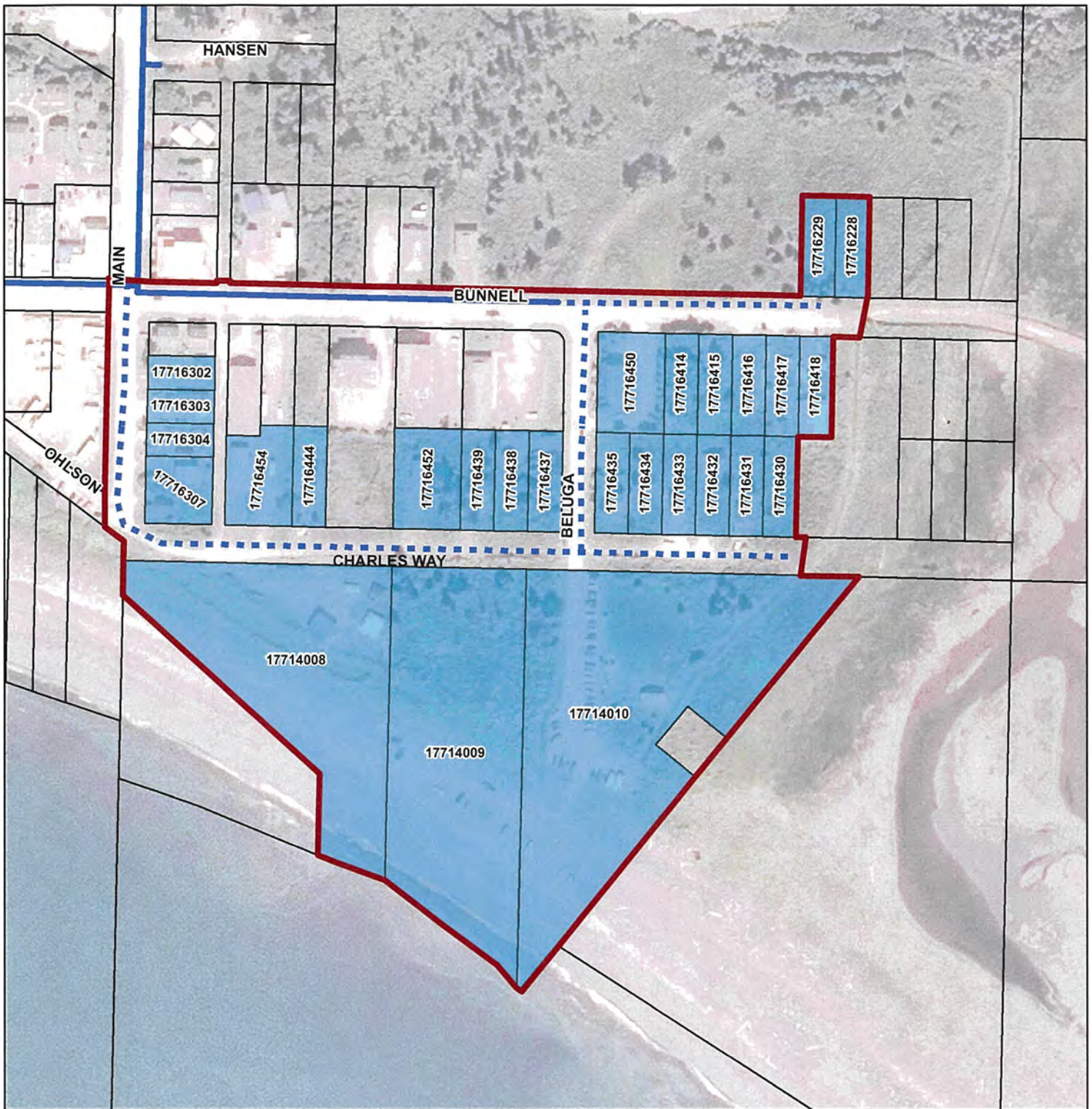
Subtotal Project Cost \$509,167

Less: ADEC Principal Forgiveness \$225,690

Total Project Cost \$283,477

Property Owner Share \$212,608

City (HAWSP) Share \$70,869

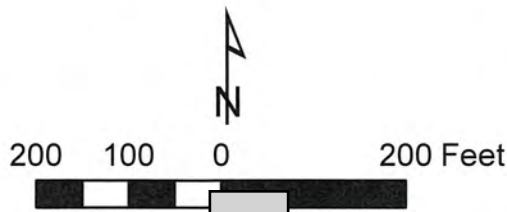


Legend

- Water SAD
- Water Parcels Concerned
- Existing Water
- Proposed Water

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

CHARLES WAY/EAST BUNNELL WATER EXTENSION SPECIAL ASSESSMENT DISTRICT



DEPT. OF PUBLIC WORKS
 JANUARY 27, 2021

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

Conceptual Cost Estimate
BUNNELL/CHARLES WAY SAD SEWER IMPROVEMENT
 2/23/2020
Construction Cost

	quantity	unit	unit price	cost
Mobilization	1	LS	\$9,500	\$9,500
Clearing/Grubbing	1	LS	\$1,900	\$1,900
8" Ductile Iron Main	1555	LF	\$85	\$132,175
3" HDPE Force Main (in exist. trench)	280	LF	\$80	\$22,400
3" HDPE Force Main (in new trench)	365	LF	\$50	\$18,250
Sanitary Sewer Manhole	7	EA	\$6,500	\$45,500
4" sewer service	23	EA	\$1,900	\$43,700
Connect to Existing	1	EA	\$750	\$750
Sewer Lift Station	1	EA	\$155,000	\$155,000
Lift Station Telemetry	1	EA	\$30,000	\$30,000
Type II Gravel	500	CY	\$30	\$15,000
Pipe Bedding	100	CY	\$27	\$2,700
Seeding	75	MSF	\$70	\$5,250
AC Removal/Disposal	1067	SY	\$3	\$3,200
2" AC Pavement	1067	SY	\$22	\$23,467
2" Leveling Course	119	TON	\$49	\$5,807
Traffic Control	1	LS	\$8,000	\$8,000
Construction Survey	1	LS	\$4,500	\$4,500
SWPP Plan	1	LS	\$1,800	\$1,800
Geotextile Fabric	400	SY	\$8	\$3,200
Exist. Utility Protection	1	LS	\$4,500	\$4,500

\$536,599

Construction	\$536,599
Design (8%)	\$42,928
Inspection (3%)	\$16,098
City Administration (5%)	\$9,379
Contingency (5%)	\$26,830

Total Project Cost \$631,834

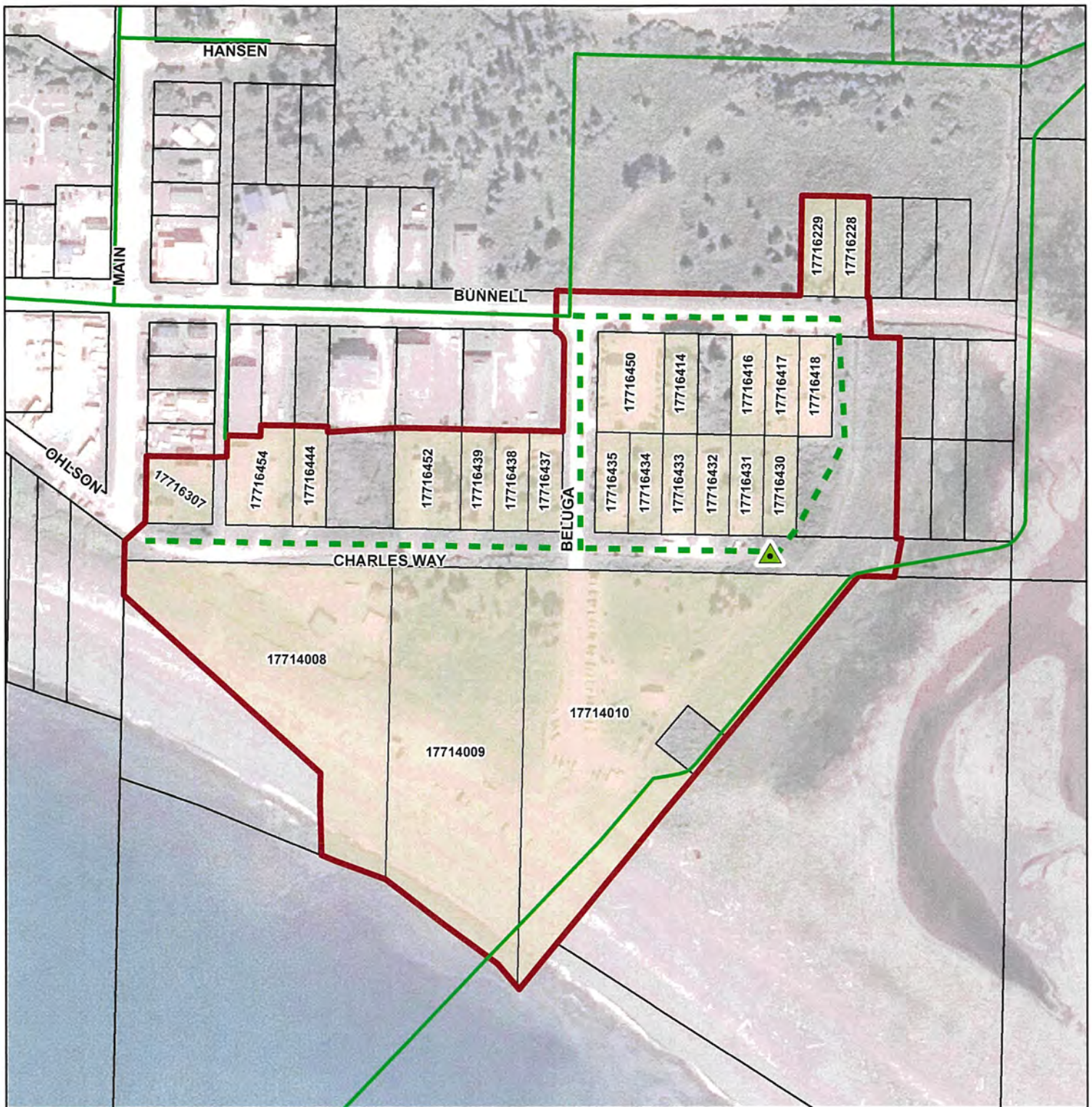
Property Owner Share	\$473,875
City (HAWSP) Share	\$157,958

	Legal Description	KPB Parcel ID #	Owner	Frontage (ft)	Lot Area (SF)	Benefitted Area* (acres)	Equal Share	Frontage Foot	Benefitted Area
1	WR Benson Subd Amended, Lot 131	17716229	US Fish & Wildlife	50	7500	7500	\$20,603	\$10,329	\$11,513
2	WR Benson Subd Amended, Lot 132	17716228	US Fish & Wildlife	50	7500	7500	\$20,603	\$10,329	\$11,513
3	WR Benson Subd Amended, Lot 154	17716418	Dam Revocable Trust	50	7500	7500	\$20,603	\$10,329	\$11,513
4	WR Benson Subd Amended, Lot 153	17716417	Guetschow	50	7500	7500	\$20,603	\$10,329	\$11,513
5	WR Benson Subd Amended, Lot 152	17716416	Logan	50	7500	7500	\$20,603	\$10,329	\$11,513
6	WR Benson Subd Amended, Lot 150	17716414	Connolly	50	7500	7500	\$20,603	\$10,329	\$11,513
7	WR Benson Subd, Soul Sisters Addn, Lot 148-B	17716450	Soul Sisters Inc.	100	15000	15000	\$20,603	\$20,657	\$23,025
8	WR Benson Subd, 2006 Replat, Lot 1-A	17716307	Miller	100	10000	10000	\$20,603	\$20,657	\$15,350
9	WR Benson Subd, 2006 , Lot 161-A	17716454	Porter	100	14164	14164	\$20,603	\$20,657	\$21,742
10	WR Benson Subd Amended, Lot 162	17716444	Lindsey/Savidge	50	7500	7500	\$20,603	\$10,329	\$11,513
11	WR Benson Subd, 2008 Replat, Lot 165-A	17716452	Mary J Hillstrand Living Trust	100	15000	15000	\$20,603	\$20,657	\$23,025
12	WR Benson Subd Amended, Lot 167	17716439	Larson/Raupp	50	7500	7500	\$20,603	\$10,329	\$11,513
13	WR Benson Subd Amended, Lot 168	17716438	Baughter	50	7500	7500	\$20,603	\$10,329	\$11,513
14	WR Benson Subd Amended, Lot 169	17716437	Baughter	50	7500	7500	\$20,603	\$10,329	\$11,513
15	WR Benson Subd Amended, Lot 171	17716435	Vernon	50	7500	7500	\$20,603	\$10,329	\$11,513
16	WR Benson Subd Amended, Lot 172	17716434	Vernon	50	7500	7500	\$20,603	\$10,329	\$11,513
17	WR Benson Subd Amended, Lot 173	17716433	Logan IRA LLC	50	7500	7500	\$20,603	\$10,329	\$11,513
18	WR Benson Subd Amended, Lot 174	17716432	Logan IRA LLC	50	7500	7500	\$20,603	\$10,329	\$11,513
19	WR Benson Subd Amended, Lot 175	17716431	Hillstrand	50	7500	7500	\$20,603	\$10,329	\$11,513
20	WR Benson Subd Amended, Lot 176	17716430	Hillstrand	50	7500	7500	\$20,603	\$10,329	\$11,513
21	Bishop's Beach Park	17714010	City of Homer	494	150718	65340	\$20,603	\$102,046	\$100,299
22	Portion of Government Lot 2, T 6S R 13W S 20	17714009	Mary J Hillstrand Living Trust	200	108464	30000	\$20,603	\$41,314	\$46,051
23	Portion of Government Lot 2, T 6S R 13W S 20	17714008	Vann Revocable Trust	400	54450	39204	\$20,603	\$82,629	\$60,179
				2294	487796	308708	\$473,875	\$473,875	\$473,875

* benefitted area is the usable front 150 feet of the lot.

20 yr financing, interest rate 2%,

Equal Share annual payments = \$1,260



Legend

-  Sewer SAD
-  Sewer Parcels Concerned
-  Existing Sewer
-  Proposed Sewer
-  Proposed Lift Station


Coordinate System: NAD 1983 StatePlane Alaska 4 FIPS 5004 Feet
 Projection: Transverse Mercator
 Datum: North American 1983
 False Easting: 1,640,416.6667
 False Northing: 0.0000
 Central Meridian: -150 0000
 Scale Factor: 0.9999
 Latitude Of Origin: 54.0000
 Units: Foot US

**CHARLES WAY/EAST BUNNELL
SEWER EXTENSION
SPECIAL ASSESSMENT DISTRICT**

N

200 100 0 200 Feet

242


 DEPT. OF PUBLIC WORKS
 JANUARY 27, 2021

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

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director

RESOLUTION 21-023

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
DECLARING THE CITY'S INTENDED DISTRIBUTION OF A FEDERAL
CAPITALIZATION GRANT IN THE AMOUNT OF \$500,000 FROM
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR
PRINCIPAL FORGIVENESS OF WATER MAIN EXTENSIONS.

WHEREAS, The City has been notified by the Alaska Department of Environmental
Conservation (ADEC) that three of our water main Special Assessment Districts qualify for
"principal forgiveness" from a Federal Capitalization Grant in the amount of \$500,000; and

WHEREAS, This is a competitive process in which the ADEC ranks projects based on
information submitted on a questionnaire and they're ranked using pre-established criteria;
and

WHEREAS, The City received notification of this opportunity March 15th and ADEC asked
for a declaration of intended distribution within 7 to 10 days; and

WHEREAS, The City could qualify for up to \$500,000 in grant funds through this Federal
Capitalization Grant.

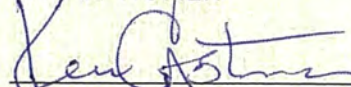
NOW THEREFORE BE IT RESOLVED that the Homer City Council approves the City
submitting a questionnaire regarding projects to be considered for a Federal Capitalization
Grant.

BE IT FURTHER RESOLVED the distribution of funds is proposed as follows:

• Tasmania Court Water District	24.6%	\$122,822
• Tasmania Court Water District Betterment	7.9%	\$ 39,259
• Alder Lane Water District	22.4%	\$112,229
• Charles/Bunnell Water District	<u>45.1%</u>	<u>\$225,690</u>
	100 %	\$500,000

PASSED AND ADOPTED by the Homer City Council this 22nd day of March, 2021.

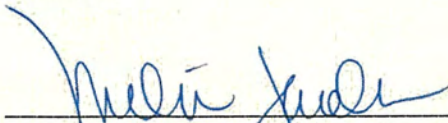
CITY OF HOMER



KEN CASTNER, MAYOR

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ATTEST:



MELISSA JACOBSEN, MMC, CITY CLERK





Memorandum 21-052

Through: Robert Dumouchel, City Manager
FROM: Janette Keiser, PE, Director of Public Works
DATE: March 16, 2021
SUBJECT: “Principal Forgiveness” Grant from ADEC for water main extensions

Issue: We have been notified by the ADEC that three of our water main Special Assessment Districts qualify for “principal forgiveness”, for a total of \$500,000, from a Federal Capitalization Grant program. We need to tell the ADEC how we want to distribute the money no later than March 23. The purpose of this memorandum is to make a recommendation about this.

Background:

We are working on multiple Special Assessment Districts to extend water and sewer mains to neighborhoods, which have requested them. The City typically finances such work through the AK Dept. of Environmental Conservation (ADEC), which administers loan funds from the Environmental Protection Agency. In this competitive process, we submit a questionnaire, which the ADEC ranks using pre-established criteria. The ADEC uses this ranking to develop a prioritized list of eligible projects, for which the ADEC recommends loan funding. Thus, getting “in line” for this funding starts with the initial questionnaire.

We submitted questionnaires for the following Special Assessment Districts;

- Tasmania Court Water District including the Betterment – Fully Formed
- Tasmania Court Sewer District – Held Neighborhood Meeting – no objections
- Alder Lane Water District – Fully Formed
- Charles/Bunnell Street Water District – Initiating petition still being collected.
- Charles/Bunnell Street Sewer District – Initiating petition still being collected.

The ADEC notified us today that not only will our projects be listed as potential loan recipients, the water main extension projects are eligible for something called “Principal Forgiveness”, as part of the Federal Capitalization Grant program, up to \$500,000. We are being offered a grant of \$500,000, for water projects!

There are some strings attached to this money:

1. It can only be spent on water main extension projects.

2. Each project may receive a maximum of 50% of the anticipated water infrastructure costs in loan forgiveness.
3. The money may only be directed to projects, currently in the ADEC loan program queue.

The question now is this: How do we want to distribute these funds? There is no prescribed formula – we can spread the money between the various water projects as we see fit. We recommend the grant be applied to each project in proportion to the project’s share of the overall program costs. For example, costs for the Tasmania Water District, \$277,090, not including the 12-inch Betterment, comprise 24.6% of the total program costs of \$1,128,019. We recommend applying 24.6% of the \$500,000 grant to the Tasmania Water District. A chart illustrating the impact of the recommended distribution is shown below.

The ADEC asked that we declare our intended distribution with 7-10 days, from today. They would probably be willing to wait until March 23, so we would have an opportunity to address this at the March 22 Council meeting.

Recommendation:

We recommend asking the ADEC to distribute the \$500,000 as follows:

• Tasmania Court Water District	24.6%	\$122,822
• Tasmania Court Water District Betterment	7.9%	\$ 39,259
• Alder Lane Water District	22.4%	\$112,229
• Charles/Bunnell Water District	<u>45.1%</u>	<u>\$225,690</u>
	100 %	\$500,000

The chart below illustrates the impact of this:

Project	Cost of Project	% Share of Total Project Costs	Share of Grant \$	Remaining Project Costs	City Share - 25%	Property Owner Share - 75%
Tasmania Water	\$ 277,090.00	24.6%	\$ 122,821.51	\$ 154,268.49	\$ 38,567.12	\$ 115,701.37
Tasmania Water Betterment	\$ 88,569.00	7.9%	\$ 39,258.65	\$ 49,310.35	\$ 88,569.00	\$ -
Alder Water	\$ 253,193.00	22.4%	\$ 112,229.05	\$ 140,963.95	\$ 35,240.99	\$ 105,722.96
Charles / Bunnell Water	\$ 509,167.00	45.1%	\$ 225,690.79	\$ 283,476.21	\$ 70,869.05	\$ 212,607.16
Totals	\$ 1,128,019.00	100.0%	\$ 500,000.00	\$ 628,019.00	\$ 233,246.16	\$ 434,031.49



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

CITY OF HOMER

NOTICE OF RIGHT TO OBJECT

BUNNELL AVENUE/CHARLES WAY WATER & SEWER IMPROVEMENT
SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT:

BUNNELL AVENUE/CHARLES WAY WATER & SEWER IMPROVEMENT SPECIAL ASSESSMENT DISTRICT, affecting the property described on the Preliminary Assessment Roll.

On May 10, 2021 the City Council approved Resolution 21-030 initiating the Bunnell Avenue/Charles Way Water and Sewer Improvement Special Assessment District. If the assessment district is approved and project construction is approved, the cost of the improvements will be assessed against and become a lien on the property benefited by the improvements.

On May 27, 2021, a neighborhood meeting were conducted via Zoom webinar and the proposed improvement plan options were presented by City staff.

PUBLIC HEARINGS:

A Public hearing on the assessment, necessity of the improvements, and on the proposed improvement plan are scheduled before the Homer City Council at **6:00 p.m. on August 9, 2021** in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. Any person may testify at the public hearing.

NOTICE OF RIGHT TO OBJECT:

The owner of property to be assessed may file a written objection to the improvement plan no later than **the day before the date of the scheduled public hearing**. Non-responses during the objection period shall be deemed to be non-objections.

If owners of real property that would bear 50 percent or more of the assessed cost of the improvement file timely written objections, the Council may not proceed with the improvement unless it revises the improvement plan to reduce the assessed cost of the improvement that is borne by objecting record owners to less than 50 percent of the assessed cost of the improvement. If the resolution changes the district boundary in the improvement plan, the City Clerk shall notify all record owners of property included in the district under the improvement plan of the change.

At the noticed date and time, the Council shall hold a public hearing on the necessity of the improvement and proposed improvement plan. After the public hearing, the Council shall act upon a resolution determining to proceed with the proposed improvement. The resolution shall find that

the improvement is necessary, of benefit to the properties to be assessed, and if the district is initiated by petition, that the petition is in proper form and bears sufficient signatures. The findings of the Council are conclusive. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

RIGHT TO WAIVE NOTICE, PROTEST PERIOD, AND PUBLIC HEARING:

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

OBJECTIONS MUST BE IN WRITTEN FORM AND FILED AT THE OFFICE OF THE CITY CLERK NO LATER THAN THE DAY BEFORE THE DATE OF THE SCHEDULED PUBLIC HEARING

City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603
Phone: 907-235-3130; Fax: 907-235-3143
Email: clerk@ci.homer.ak.us

Dated this 3rd day of June, 2021



Renee Krause, MMC, Deputy City Clerk

Enc: Notice of Public Hearing
Preliminary Assessment Roll
Statement of Objection
Waiver of Notice Protest Period and Public Hearing

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

Bunnell Avenue/Charles Way Water & Sewer Improvements Special Assessment District

A **public hearing** is scheduled for **Monday, August 9, 2021** during the Regular City Council Meeting. The meeting begins at 6:00 p.m. via a Zoom webinar at zoom.us or Telephone Dial 1-669-900- 6833 or 1-253-215 8782; (Toll Free) 888-788-0099 or 877- 853-5247; use Webinar ID: 205 093 973 and Password: 610853

The City Council adopted Resolution 21-030 to initiate a district to create the Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District.

OBJECTIONS

Objections to the formation of this district must be in written form and filed at the Office of the City Clerk no later than the day before the date of the scheduled public hearing. Non-responses during the objection period shall be deemed to be non-objections.

**Request forms to submit public comment telephonically are available on the City Clerk's webpage.

Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us

Dated this 3rd day of June, 2021



Renee Krause, MMC, Deputy City Clerk

Publish Homer News July 29, 2021 and August 5, 2021

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District DATE: June 3, 2021

TOTAL ESTIMATED PROJECT WATER: \$509,167 TOTAL ESTIMATED PROJECT SEWER: \$631,834
 Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District.
 HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: \$212,608 SEWER: \$473,875
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: \$225,690

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
1 US FISH & WILDLIFE 1011 E TUDOR RD ANCHORAGE, AK 99503-6119	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 131 #17716229	\$59,000.00	Water \$7874 Sewer \$20603
2	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 132 #17716228	\$42,600	Water \$7874 Sewer \$20603
250 DAM REVOCABLE TRUST 2019 1477 BAY AVE HOMER AK 99603-7941	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 154 #17716418	\$52,600	Water \$7874 Sewer \$20603
4 GUETSCHOW RUBEN PO BOX 1071 PAHOA HI 96778-1071	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 153 #17716417	\$47,900	Water \$7874 Sewer \$20603
5 LOGAN CHRISTINA ARLYNE LOGAN CHRISTINA 2303 TULIK DR ANCHORAGE AK 99517-1132	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 152 #17716416	\$45,900	Water \$7874 Sewer \$20603
6 CONNOLLY NANCY C 303 TORQUAY CT UNIT B RIDGE NY 11961-8358	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 150 #17716414	\$49,600	Water \$7874 Sewer \$20603
7 SOUL SISTERS INC 233 E BUNNELL AVE HOMER AK 99603-7827	T 6S R 13W SEC 20 Seward Meridian HM 2002032 W R BENSON SUB SOUL SISTERS ADDN LOT 148-A #17716450	\$390,300	Water \$7874 Sewer \$20603
8 SONNEBORN DAVID W SONNEBORN ALEXANDRA H 2548 DISCOVERY CT ANCHORAGE AK 99517-1237	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 05 #17716302	\$51,000	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District:

HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$212,608** SEWER: **\$473,875**
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
9 SPENCER J A 1930 E END RD # B HOMER AK 99603-7305	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 04 #17716303	\$62,200	Water \$7874 Sewer \$0
10 SPENCER JAMES A & DOLLY N 3005 BAY CREEK DR DICKINSON TX 77539-3916	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 03 #17716304	\$49,500	Water \$7874 Sewer \$0
11 MILLER DONALD STAFFORD PO BOX 1000 HOMER AK 99603-1000	T 6S R 13W SEC 20 Seward Meridian HM 2006041 W R BENSON SUB 2006 REPLAT LOT 1 A #17716307	\$73,700	Water \$7874 Sewer \$20603
12 PORTER JEANNIE N PORTER JEANNIE N 3758 FAA RD STE B HOMER AK 99603-8031	T 06S R 13W SEC 20 Seward Meridian HM 2016010 W R BENSONS 2016 LOT 161A #17716454	\$113,100	Water \$7874 Sewer \$20603
13 LINDSEY RONALD J SAVIDGE BARBARA A PO BOX 1867 HOMER AK 99603-1867	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 162 #17716444	\$85,900	Water \$7874 Sewer \$20603
14 MARY J HILLSTRAND LIVING TRUST 1741 BURLINGTON ST ANCHORAGE AK 99508-5153 JOHNSON PAUL MATTHEW 124 E 23 RD AVE ANCHORAGE, AK 99503-2010	T 6S R 13W SEC 20 Seward Meridian HM 2008066 W R BENSON'S SUB 2008 REPLAT LOT 165-A #17716452	\$186,200	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**
 Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District: WATER: **\$212,608** SEWER: **\$473,875**
 HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$70,869** SEWER: **\$157,958**
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
JOHNSON KATHRIN MARIE 3476 S HORSESHOE LAKE RD. WASILLA, AK 99623			
15 LARSON BJORN & RAUUP SASHA H PO BOX 1435 HOMER AK 99603-1435	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 167 #17716439	\$51,500	Water \$7874 Sewer \$20603
16 BAUGHER TINA M 209 W DIMOND BLVD STE 4 ANCHORAGE AK 99515-1932	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 168 #17716438	\$50,700	Water \$7874 Sewer \$20603
17	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 169 #17716437	\$43,300	Water \$7874 Sewer \$20603
18 VERNON ROBERT GORDON PO BOX 3 HOMER AK 99603-0003	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 171 #17716435	\$157,400	Water \$7874 Sewer \$20603
19	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 172 #17716434	\$41,300	Water \$7874 Sewer \$20603
20 LOGAN IRA LLC 2303 TULIK DR ANCHORAGE AK 99517-1132	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 173 #17716433	\$175,200	Water \$7874 Sewer \$20603
21	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 174 #17716432	\$58,100	Water \$7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: **Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District** DATE: **June 3, 2021**

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**

Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District:

WATER: **\$212,608** SEWER: **\$473,875**
 HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$70,869** SEWER: **\$157,958**
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT
22 HILLSTRAND NANCY PO BOX 7 HOMER AK 99603-0007	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 175 #17716231	\$102,100	Water \$7874 Sewer \$20603
23	T 6S R 13W SEC 20 Seward Meridian HM 0670365 W R BENSON SUB AMENDED LOT 176 #17716430	\$36,000	Water \$7874 Sewer \$20603
24 HOMER CITY OF 491 E PIONEER AVE HOMER AK 99603-7624	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN S 1/16 CORNER SECS 19 & 20 & NW CORNER LOT 2 TH S 89 DEG 57'30" E 600 FT ALONG N BOUND LT 2 TO POB TH S 0 D EG 2' E 391 FT TO CORNER 2 ON MHW KACHEMAK BAY TH S 59 DEG 30' E 150 FT TO CORNE R 3 TH N 38 DEG 0' E 592.6 FT TO CORNER 4 TH N 89 DEG 57'37" W ALONG N BOUNDRY O F GL 2 494.3 FT TO POB SAVE & EXC THAT PTN DESCRIBED IN W/D 88 @ 820 #17714010	\$593,900	Water \$7874 Sewer \$20603
25 HILLSTRAND MARY JOANNE LIVING TRUST 1741 BURLINGTON ST ANCHORAGE AK 99508-5153 JOHNSON PAUL MATTHEW 124 E 23RD AVE ANCHORAGE, AK 99503-2010 JOHNSON KATHRIN MARIE	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN 400 FT E OF 1/16 CRNR COMMO N TO SEC 19 & 20 TH E 200 FT ALONG N BOUND OF GL 2 TH S TO BEACH LINE TH W 200 F T TH 339 FT N TO POB #17714009	\$4,300	Water \$ 7874 Sewer \$20603

PRELIMINARY ASSESSMENT ROLL

PROJECT NAME: Bunnell Avenue/Charles Way Water & Sewer Improvement Special Assessment District DATE: June 3, 2021

TOTAL ESTIMATED PROJECT WATER: **\$509,167** TOTAL ESTIMATED PROJECT SEWER: **\$631,834**
 Districts shall be assessed 75% property owner share of the project. Benefitted property owners will be required to pay that portion of the cost through the formation of a Special Assessment District.
 WATER: **\$212,608** SEWER: **\$473,875**
 HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) SHARE: WATER: **\$70,869** SEWER: **\$157,958**
 ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION PRINCIPAL FORGIVENESS GRANT: WATER PROJECTS ONLY: **\$225,690**

PROPERTY OWNER NAME & ADDRESS	LEGAL DESCRIPTION & PARCEL NUMBER	ASSESSED PROPERTY VALUE	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT	ASSESSED ESTIMATED PROPERTY OWNER SHARE OF ASSESSMENT ASSESSMENT METHOD
3476 S HORSESHOE LAKE RD. WASILLA, AK 99623				
26 VANN REVOCABLE TRUST PO BOX 561 KASILOF AK 99610-0561	T 6S R 13W SEC 20 Seward Meridian HM PTN GL 2 BEGIN INTERSECTION OF N BOUNDARY LT 2 & RR ROW TH E TO PT 400 FT FROM 1/16 CRNR TH S TO BEACH TH NW 100 FT TH N T O NORTH SIDE OF OLD RR ROW TH NW TO POB #17714008	\$248,000	Water \$7874 Sewer \$20603	

CITY OF HOMER
PROPERTY OWNER'S
STATEMENT OF OBJECTION
TO SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT: **Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District**

I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District
(give legal description):

I/We object to the Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District.

Reasons/Comments: _____

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

_____ (Print Name)	_____ (Signature)	_____ (Date)
_____ (Print Name)	_____ (Signature)	_____ (Date)
_____ (Print Name)	_____ (Signature)	_____ (Date)

NOTE: PLEASE MAKE SURE THAT ALL THE PROPERTY OWNERS OF RECORD PRINT, SIGN, AND DATE THIS DOCUMENT. IF YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT. OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM.

TO FILE AN OBJECTION COMPLETE THIS FORM AND RETURN IT TO THE OFFICE OF THE CITY CLERK NO LATER THAN THE DAY BEFORE THE DATE OF THE SCHEDULED PUBLIC HEARING.

City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603

CITY OF HOMER
PROPERTY OWNER'S

**WAIVER OF NOTICE, PROTEST PERIOD
& PUBLIC HEARING**
TO SPECIAL ASSESSMENT DISTRICT

SPECIAL ASSESSMENT DISTRICT: **Bunnell Ave/Charles Way water & Sewer Improvement Special Assessment District**

I/we affirm that I/we are the owner(s) of the following lots in the Special Assessment District
(give legal description):

I/We are hereby waiving our right to Notice, Protest Period and Public Hearing as outlined in Homer City Code 17.02.050
(d) for the **Bunnell Ave/Charles Way Water & Sewer Improvement Special Assessment District**.

PROPERTY OWNER'S PRINTED NAME, SIGNATURE, AND DATE:

<hr/>	<hr/>	<hr/>
(Print Name)	(Signature)	(Date)
<hr/>	<hr/>	<hr/>
(Print Name)	(Signature)	(Date)
<hr/>	<hr/>	<hr/>
(Print Name)	(Signature)	(Date)

NOTE: PLEASE MAKE SURE THAT ALL THE PROPERTY OWNERS OF RECORD PRINT, SIGN, AND DATE THIS DOCUMENT. IF YOU HAVE MORE THAN ONE LOT PLEASE NOTE THIS ON THIS FORM WHEN YOU RETURN IT. OBJECTIONS WILL APPLY ONLY TO THOSE LOTS NAMED ON THIS FORM.

FILING THIS WAIVER WILL REMOVE THE REQUIRED 60 DAY NOTICE PERIOD, RIGHT TO OBJECT TO THE ASSESSMENT AND PUBLIC HEARING FOR THIS SPECIAL ASSESSMENT DISTRICT. ALL RECORD OWNERS OF PROPERTY IN THE DISTRICT MUST SUBMIT A WAIVER IN ORDER TO HAVE THE QUESTION TO FORM THE DISTRICT SUBMITTED TO CITY COUNCIL EARLIER THAN AUGUST 9, 2021.

City of Homer
Office of the City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603

17.02.040 Initiation of special assessment district.

a. A special assessment district may be initiated by:

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

b. A benefitted property owner proposing a special assessment district by petition must file a complete special assessment petition application with the City Clerk. Special assessment petition applications are available at the City Clerk's office.

Upon receipt of a completed application and special assessment district filing fee, the City Clerk shall within 10 days:

1. Submit the application to the Public Works Director and Finance Director for review; and
2. Notify the applicant in writing that the application is either sufficient or insufficient and identify the insufficiencies.

Upon approval of an application, the Clerk shall then prepare the petition and distribute it by certified mail to all record owners of property in the proposed district no more than 30 days after the petition application is approved. Petition signatures of the record owners of real property in the district to be benefitted must be received by the City Clerk within 60 days after the mailing of the petition.

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

1. Schedule a meeting of record owners of real property in the proposed district, notify the record owners by mail of the date, time and location of the meeting, and include a copy of the notice in the City's regular meeting advertisement;
2. Refer the proposed district to the Public Works Director, who shall prepare an improvement plan for the proposed district, to be provided at the neighborhood meeting. The proposed district improvement plan shall include:
 - a. The boundaries of the proposed district;
 - b. The design of the proposed improvement;
 - c. A cost estimate for the improvement;
 - d. The assessment allocation method used to calculate the amount owed by each record owner in the proposed district;
 - e. The percentage of the improvement cost to be assessed against properties in the district;
 - f. The time period over which assessments will be financed; and
 - g. Preliminary assessment roll for the proposed district.
3. The Public Works Director shall use the equal area method in calculating the assessment amount unless another method is specified in the improvement plan. [Ord. 20-12 § 1, 2020; Ord. 19-23(S-2)(A) § 5, 2019].

17.02.050 Creation of a special assessment district.

a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at

least twice in a newspaper of general circulation in the City, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.

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

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

d. If record owners of all real property in the proposed assessment district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to Council without such notice, protest period or public hearing. [Ord. 19-23(S-2)(A) § 5, 2019].

44 boundaries because they would receive no new benefits from being connected to the
45 new water/sewer main connections.

- 46
- 47 • **Re: Properties that would be at the “end of the line” who didn’t want to be served**
48 **with City water/sewer.** That properties located at the end of the proposed
49 water/sewer line who did not want City water/sewer service would be deleted from the
50 proposed district boundaries because they would receive no perceived benefit.

51

52 NOW THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, does hereby adopt
53 the recommendations of the Public Works Department set forth above.

54

55

56 PASSED AND ADOPTED by the Homer City Council this 9th day of August, 2021.

57

58 CITY OF HOMER

59

60

61 _____

62 KEN KASTNER, MAYOR

63 ATTEST:

64

65 _____

66 MELISSA JACOBSEN, MMC, CITY CLERK

67

68



Memorandum 21-140

TO: City Council
THROUGH: Rob Dumouchel, City Manager
FROM: Janette Keiser, PE, Director of Public Works
DATE: July 28, 2021
SUBJECT: Bunnell Avenue/Charles Way Water & Sewer Special Assessment Districts

Issue: The purpose of this Memorandum is to recommend the method of assessment computation for the Bunnell Avenue/Charles Way Water & Sewer Special Assessment Districts.

Background:

On May 10, 2021, the City Council adopted Resolution 21-030 initiating the process for creating special assessment districts to bring City water and sewer to the Bunnell Avenue/Charles Way neighborhood.

A packet of information, containing proposed alignments for the water/sewer main extensions and a preliminary assessment roll were sent to property owners in the neighborhood. On May 27, 2021, a Neighborhood Meeting was held. Seven property owners participated in the meeting. Some of the comments expressed include:

- Several property owners said they already had City water & sewer service and would not benefit from the proposed main extensions. Subsequent research showed these properties were served by “spaghetti lines”, which had been installed 10+ years ago with the City’s approval, inspection and permitting.
- One property owner said they didn’t live at their property fulltime so hauling water was not a problem and thus, they would not receive any benefit from the proposed main extensions.
- Almost all of the property owners opined that Bishop’s Beach Park would be a substantial beneficiary and the City’s assessment share should reflect this reality; that is, the benefitted area method of assessment should be used, rather than the Equal Share method.

In response to these comments, we revisited the proposed boundaries as well as the method of computing the assessments, and made the following adjustments:

1. **Re: Assessment Computation Methodology.** We recommend that the Benefitted Area method of assessment be used. There are three possible methods of computing assessment: Equal Share, Frontage Foot and Benefitted Area. Usually, the Equal Share method is used, unless there is a compelling reason for a different method. For example, one of the properties in the Alder Lane

Water Assessment District was three-four times larger than the other lots. With the Equal Share method that property would have been assessed the same as the smaller lots, which wasn't equitable. So, we recommended, and the City Council adopted, the Benefitted Area method. With the Ocean Drive Seawall Special Assessment District, the benefit to each property was directly proportional to the length along the Seawall, so the Frontage Foot method was used. With the districts (water & sewer) proposed for the Bunnell Avenue/Charles Way neighborhood, the Benefitted Area method would be most equitable because it would account for the benefit to Bishop's Beach, one of the City's most popular parks. Using the Benefitted Area method would significantly reduce the projected assessment for the residential properties.

2. **Re: Properties that would not benefit from the water/sewer main extensions were dropped from the district boundaries.** Multiple properties, which are currently listed in the proposed assessment roll, are already served with city water and sewer, with installations that were permitted, approved and inspected by the City. Such properties would receive no new benefits from being connected to the new water/sewer main connections. We recommend these properties be excluded from the proposed water/sewer districts.
3. **Re: Properties that would be at the "end of the line" who didn't want to be served with City water/sewer, were dropped from the proposed district boundaries.** Several properties are located at the end of the proposed water/sewer line and did not want City water/sewer service. We recommend these properties be excluded from the proposed water/sewer districts.

The last day for property owners to object to the proposed Special Assessment Districts is August 8, 2021. The public hearing will be held at the regular City Council meeting of August 9, 2021. I believe that without assurance from the City Council that the recommendations set forth above will be adopted, the districts will fail. This would be unfortunate because the public health risks of not having access to City water and sewer have not gone away. If anything, the risks have become more acute. For example, on July 6, 2021, I was notified by the ADEC that a complaint had been received that a sewage holding tank in this neighborhood had overflowed into the wetland. The official wanted to know if the City wanted to take the lead on addressing the situation. As I researched what we could do, I found, to my surprise and dismay, the City has little regulatory means of addressing such events.

Action Recommended: That the City Council adopt the proposed resolution approving the recommendations set forth above.

From: [Renee Krause](#)
To: [Melissa Jacobsen](#)
Subject: RE: attendance at charles way SAD neighborhood meeting
Date: Thursday, August 5, 2021 8:35:00 AM

For this one we had the following:

Gordy Vernon

Kathy Pereira (She was Mary Hillstrand's niece and just inherited the property)

Chris Long

Chris Logan

Connie and Rick Vann

Ruben Guetschow

Sharony Roufa

[Renee Krause](#)

Renee Krause, MMC
Deputy City Clerk II
ADA Coordinator

From: Melissa Jacobsen <MJacobsen@ci.homer.ak.us>
Sent: Wednesday, August 4, 2021 4:48 PM
To: Renee Krause <RKrause@ci.homer.ak.us>
Subject: attendance at charles way SAD neighborhood meeting

Do you have a count of attendees at the charles way neighborhood meeting?

[Melissa Jacobsen, MMC](#)
City Clerk
City of Homer, Alaska
907-235-3130

[City of Homer City Clerk's Office](#)

PUBLIC RECORDS LAW DISCLOSURE: Most e-mails from or to [this](#) address will be available for public inspection under Alaska public records law.



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

July 28, 2021

RE: Charles Way/East Bunnell Water and Sewer Extensions

Dear Folks,

Here is some updated information about the proposed Special Assessment District:

- 1. Re: We will recommend the Benefitted Area method of computing assessments.** There are three possible methods of computing assessment: Equal Share, Frontage Foot and Benefitted Area. Usually, the Equal Share method is used, unless there is a compelling reason for a different method. For example, one of the properties in the Alder Lane Water Assessment District was three-four times larger than the other lots. With the Equal Share method that property would be assessed the same as the smaller lots, which wasn't equitable. So, the City Council adopted the Benefitted Area method. With the Ocean Drive Seawall Special Assessment District, the benefit to each property was directly proportional to the length along the Seawall, so the Frontage Foot method was used. With the districts (water & sewer) proposed for your neighborhood, we believe the Benefitted Area method would be most equitable because it would account for the benefit to Bishop's Beach, one of the City's most popular parks. Using the Benefitted Area method would significantly the projected assessment for most of your properties. The City Council makes the decision about which assessment method to use. However, we will strongly recommend the Benefitted Area method be adopted.
- 2. Re: We will recommend that properties that would not benefit from the water/sewer main extensions be dropped from the district boundaries.** Multiple properties, which are currently listed in the proposed assessment roll, are already served with city water and sewer, with installations that were permitted, approved and inspected by the City. Such properties would receive no new benefits from being connected to the new water/sewer main connections. We will recommend that these properties be excluded from the proposed water/sewer districts.
- 3. Re: We will recommend that properties that would be at the "end of the line" who don't want to be served with City water/sewer, be dropped from the proposed district boundaries.** Several properties are located at the end of the proposed water/sewer line and do not want City water/sewer service. We will recommend that these properties be excluded from the proposed water/sewer districts.

The attached documents show the practical effect these recommendations would have on proposed assessments. If you have any questions or comments, please let me know.

Sincerely,

Concept Cost Estimate

BUNNELL/CHARLES WAY SAD WATER IMPROVEMENT

2/23/2021

Construction Cost

	quantity	unit	unit price	cost
Mobilization	1	LS	\$11,000	\$11,000
Clearing/Grubbing	1	LS	\$500	\$500
8" HDPE Main	1100	LF	\$90	\$99,000
8" Valve	3	EA	\$5,000	\$15,000
2" HDPE service line to restroom	0	LF	\$35	\$0
Fire Hydrant	2	EA	\$7,500	\$15,000
1" water service	15	EA	\$1,750	\$26,250
Connect to Existing	1	EA	\$1,750	\$1,750
Type II Gravel	700	CY	\$30	\$21,000
Pipe Bedding	100	CY	\$27	\$2,700
Seeding	40	MSF	\$70	\$2,800
Construction Survey	1	LS	\$3,000	\$3,000
SWPP Plan	1	LS	\$4,000	\$4,000
Geotextile Fabric	1500	SY	\$8	\$12,000
Utility Relocation	1	LS	\$6,000	\$6,000
				\$220,000

Construction	\$220,000
Design (10%)	\$22,000
Design Survey	\$5,000
Inspection (5%)	\$11,000
City Administration (3%)	\$6,600
Contingency (5%)	\$11,000

Subtotal Project Cost \$275,600

Less: ADEC Principal Forgiveness \$137,800

Total Project Cost \$137,800

Property Owner Share - Total Project Cost \$103,350

City (HAWSP) Share \$34,450

Cost to provide water to Bishop's
Beach, without SAD \$50,049

Property Owner Share \$103,350
City (HAWSP) Share \$34,450

							Proposed Assessment Based On Assessment Method		
	Legal Description	KPB Parcel ID #	Owner	Frontage (ft)	Lot Area (SF)	Benefitted Area*	Equal Share	Frontage Foot	Benefitted Area
1	WR Benson Subd Amended, Lot 131	17716229	US Fish & Wildlife	50	7500	7500	\$3,828	\$2,072	\$3,036
2	WR Benson Subd Amended, Lot 132	17716228	US Fish & Wildlife	50	7500	7500	\$3,828	\$2,072	\$3,036
3	WR Benson Subd Amended, Lot 154	17716418	Dam Revocable Trust	50	7500	7500	\$3,828	\$2,072	\$3,036
4	WR Benson Subd Amended, Lot 153	17716417	Guetschow	50	7500	7500	\$3,828	\$2,072	\$3,036
5	WR Benson Subd Amended, Lot 152	17716416	Logan	50	7500	7500	\$3,828	\$2,072	\$3,036
6	WR Benson Subd Amended, Lot 151	17716415	Long	50	7500	7500	\$3,828	\$2,072	\$3,036
7	WR Benson Subd Amended, Lot 150	17716414	Connolly	50	7500	7500	\$3,828	\$2,072	\$3,036
8	WR Benson Subd, Soul Sisters Addn, Lot 148-B	17716450	Soul Sisters Inc.	100	15000	0	\$3,828	\$4,144	\$0
9	WR Benson Subd Amended, Lot 5	17716302	Sonneborn	50	5000	5000	\$3,828	\$2,072	\$2,024
10	WR Benson Subd Amended, Lot 4	17716303	Spencer	50	5000	5000	\$3,828	\$2,072	\$2,024
11	WR Benson Subd Amended, Lot 3	17716304	Spencer	50	5000	5000	\$3,828	\$2,072	\$2,024
12	WR Benson Subd, 2006 Replat, Lot 1-A	17716307	Miller	100	10000	10000	\$3,828	\$4,144	\$4,048
13	WR Benson Subd, 2006 , Lot 161-A	17716454	Porter	100	14164	0	\$3,828	\$4,144	\$0
14	WR Benson Subd Amended, Lot 162	17716444	Lindsey/Savidge	50	7500	7500	\$3,828	\$2,072	\$3,036
15	WR Benson Subd, 2008 Replat, Lot 165-A	17716452	Mary J Hillstrand Living Trust	100	15000	15000	\$3,828	\$4,144	\$6,071
16	WR Benson Subd Amended, Lot 167	17716439	Larson/Raupp	50	7500	7500	\$3,828	\$2,072	\$3,036
17	WR Benson Subd Amended, Lot 168	17716438	Baughner	50	7500	7500	\$3,828	\$2,072	\$3,036
18	WR Benson Subd Amended, Lot 169	17716437	Baughner	50	7500	7500	\$3,828	\$2,072	\$3,036
19	WR Benson Subd Amended, Lot 171	17716435	Vernon	50	7500	0	\$3,828	\$2,072	\$0
20	WR Benson Subd Amended, Lot 172	17716434	Vernon	50	7500	7500	\$3,828	\$2,072	\$3,036
21	WR Benson Subd Amended, Lot 173	17716433	Logan IRA LLC	50	7500	7500	\$3,828	\$2,072	\$3,036
22	WR Benson Subd Amended, Lot 174	17716432	Logan IRA LLC	50	7500	7500	\$3,828	\$2,072	\$3,036
23	WR Benson Subd Amended, Lot 175	17716431	Hillstrand	50	7500	7500	\$3,828	\$2,072	\$3,036
24	WR Benson Subd Amended, Lot 176	17716430	Hillstrand	50	7500	7500	\$3,828	\$2,072	\$3,036
25	Bishop's Beach Park	17714010	City of Homer	494	150718	65340	\$3,828	\$20,471	\$26,447
26	Portion of Government Lot 2, T 6S R 13W S 20	17714009	Mary J Hillstrand Living Trust	200	108464	30000	\$3,828	\$8,288	\$12,143
27	Portion of Government Lot 2, T 6S R 13W S 20	17714008	Vann Revocable Trust	400	54450	0	\$3,828	\$16,576	\$0
				2494	510296	255340	\$103,350	\$103,350	\$103,350

* benefitted area is the usable front 150 feet of the lot.

20 yr financing, interest rate 2%,
Equal Share annual payments = \$234

Concept Cost Estimate

BUNNELL/CHARLES WAY SAD SEWER IMPROVEMENT

2/23/2020

Construction Cost

	quantity	unit	unit price	cost
Mobilization	1	LS	\$9,500	\$9,500
Clearing/Grubbing	1	LS	\$1,900	\$1,900
8" Ductile Iron Main	1205	LF	\$85	\$102,425
3" HDPE Force Main (in exist. trench)	280	LF	\$80	\$22,400
3" HDPE Force Main (in new trench)	365	LF	\$50	\$18,250
Sanitary Sewer Manhole	4	EA	\$6,500	\$26,000
4" sewer service	17	EA	\$1,900	\$32,300
Connect to Existing	1	EA	\$750	\$750
Sewer Lift Station	1	EA	\$155,000	\$155,000
Lift Station Telemetry	1	EA	\$30,000	\$30,000
Type II Gravel	450	CY	\$30	\$13,500
Pipe Bedding	85	CY	\$27	\$2,295
Seeding	70	MSF	\$70	\$4,900
AC Removal/Disposal	1067	SY	\$3	\$3,200
2" AC Pavement	1067	SY	\$22	\$23,467
2" Leveling Course	119	TON	\$49	\$5,807
Traffic Control	1	LS	\$8,000	\$8,000
Construction Survey	1	LS	\$4,500	\$4,500
SWPP Plan	1	LS	\$1,800	\$1,800
Geotextile Fabric	350	SY	\$8	\$2,800
Exist. Utility Protection	1	LS	\$4,500	\$4,500

\$473,294

Construction	\$473,294
Design (8%)	\$37,864
Inspection (3%)	\$14,199
City Administration (5%)	\$9,379
Contengency (5%)	\$23,665

Total Project Cost \$558,400

Property Owner Share	\$418,800
City (HAWSP) Share	\$139,600

Property Owner Share \$418,800
City (HAWSP) Share \$139,600

Legal Description	KPB Parcel ID #	Owner	Frontage (ft)	Lot Area (SF)	Benefitted Area* (acres)	Proposed Assessment Based On Assessment Method		
						Equal Share	Frontage Foot	Benefitted Area
WR Benson Subd Amended, Lot 131	17716229	US Fish & Wildlife	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 132	17716228	US Fish & Wildlife	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 154	17716418	Dam Revocable Trust	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 153	17716417	Guetschow	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 152	17716416	Logan	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 150	17716414	Connolly	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd, Soul Sisters Addn, Lot 148-B	17716450	Soul Sisters Inc.	100	15000	0	\$18,209	\$18,256	\$0
WR Benson Subd, 2006 Replat, Lot 1-A	17716307	Miller	100	10000	0	\$18,209	\$18,256	\$0
WR Benson Subd, 2006 , Lot 161-A	17716454	Porter	100	14164	0	\$18,209	\$18,256	\$0
WR Benson Subd Amended, Lot 162	17716444	Lindsey/Savidge	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd, 2008 Replat, Lot 165-A	17716452	Mary J Hillstrand Living Trust	100	15000	15000	\$18,209	\$18,256	\$28,191
WR Benson Subd Amended, Lot 167	17716439	Larson/Raupp	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 168	17716438	Baugher	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 169	17716437	Baugher	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 171	17716435	Vernon	50	7500	0	\$18,209	\$9,128	\$0
WR Benson Subd Amended, Lot 172	17716434	Vernon	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 173	17716433	Logan IRA LLC	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 174	17716432	Logan IRA LLC	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 175	17716431	Hillstrand	50	7500	7500	\$18,209	\$9,128	\$14,095
WR Benson Subd Amended, Lot 176	17716430	Hillstrand	50	7500	7500	\$18,209	\$9,128	\$14,095
Bishop's Beach Park	17714010	City of Homer	494	150718	65340	\$18,209	\$90,186	\$122,798
Portion of Government Lot 2, T 6S R 13W S 20	17714009	Mary J Hillstrand Living Trust	200	108464	30000	\$18,209	\$36,513	\$56,381
Portion of Government Lot 2, T 6S R 13W S 20	17714008	Vann Revocable Trust	400	54450	0	\$18,209	\$73,025	\$0
			2294	487796	222840	\$418,800	\$418,800	\$418,800

* benefitted area is the usable front 150 feet of the lot.

20 yr financing, interest rate 2%,
Equal Share annual payments = \$1,114