Chapter 11.20 Construction Procedures Within City Rights-of-Way and Subdivisions (Streets and Utility Mains)

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11.20.010 Intent. The intent of this chapter is to establish procedures for constructing streets and utility mains in existing rights-of-way or public rights-of-way or easements to be dedicated by plat. (Ord. 87-6(S) 1(part), 1987).

11.20.020 Scope and applicability. This chapter governs all street and utility main construction in public rights-of-way which are greater than twenty-two feet in width, excepting those rights-of-way which are specifically claimed for ownership and maintenance by the State of Alaska. It shall further govern such construction of streets and utility mains in rights-of-way or easements proposed to be dedicated as part of pending subdivision plats, as required in Chapter 22.10 of the Homer Municipal Code. (Ord. 87-6(S) 1(part), 1987).

11.20.030 Definitions. In this chapter, unless otherwise provided or the context otherwise requires, the following definitions shall have the meanings set forth below:
a. "As-built drawings" means plan and profile drawings of the improvements as constructed, drawn to the same level of detail as the design drawings.
b. "City" means the City of Homer, a municipal corporation acting through the City Manager and/or his designee.
c. "City Inspector" is an individual employed by the City of Homer, who shall monitor construction progress and quality to the satisfaction of the City of Homer, who shall record whether the project is proceeding according to the plans and specifications and who shall receive change requests and documentation related to the project, including "as-built"drawings, inspection field books and copies of the surveyor's field notes.
d. "City Public Works Engineer" means the individual carrying such title, who is employed by the City of Homer Department of Public Works.
e. "Contractor" means the person or company providing labor, materials and other services necessary to construct and install street and utility improvements for the developer, according to the plans and specifications.
f. "Design Criteria Manual" means a publication issued by the City of Homer entitled "Design Criteria Manual for Streets and Storm Drainage," dated April 1985, readopted April 1987.
g. "Design engineer" means a professional civil engineer, registered in the State of Alaska, who shall perform the project design for the developer.
h. "Developer" means the party proposing to install an improvement or improvements in existing public rights-of-way or subdivision developments, and assuming accountability for compliance with all City regulations pertaining to construction of such improvements; said party shall appoint or designate an individual, known as the project manager, to conduct its interactions with the City and to be responsible for developer's adherence to all pertinent City regulations.
i. "Erosion control plan" means a plan, submitted to the City for preventing erosion onsite and/or sedimentation offsite during construction.
j. "Field change" means a change in the design of a project, made in the field by the contractor under the approval of the project engineer, which is inconsequential in nature and which does not impact the integrity of the design of the intent of the project, and does not cause violation of city ordinances or design standards.
k. "Inspector" is an individual employed by the developer who shall monitor construction progress and quality on a

daily basis, and who shall prepare daily inspection reports for submittal to the City.
l. "Major change" means a change in the design which, if executed, would lead to a consequential deviation in its intent or integrity or to a violation of city standards or ordinances, in the opinion of the City Public Works Engineer.
m. "Project engineer" is a professional civil engineer, registered in the State of Alaska, who shall be employed by the developer and whose responsibilities shall include, but not be limited to, the following:
1. Verify that all work is accomplished in accordance with the plans and specifications;
2. Supervise the Inspector, Surveyor, and Testing Firm;
3. Authorize and document minor deviations in the design, known as "field changes";
4. Submit proposals for major design deviations, known as "major changes", to the City;
5. Verify field nots and inspection reports as detailed in Section 11.20.080;
6. Sign and stamp "as-built" drawings.
n. "Project manager" is the person charged with representing the developer with regard to project work, to the City on the project.
o. "Right-of-way" means land, property, or interest therein, usually in a strip, acquired for or dedicated to the public for transportation purposes.
p. "Road" is a general term denoting a public way or track, or any segment thereof, used for purposes of vehicular travel.
q. "Site" means the area of construction, as defined on the project plans.
r. "Street" is a general term denoting a public way or track, or any segment thereof, and of any length and location within the City, used for purposes of vehicular travel. For the purposes of this ordinance, it is synonymous with the term "road".
s. "Street construction" includes all clearing, grubbing, compaction, grading and drainage improvement work involved in building a new street.
t. "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, including any subdivision, and when appropriate to the context, the process of subdividing or the land subdivided. A "new subdivision" is a subdivision in which a plat is recorded after the effective date of this chapter.
u. "Surveyor" is a professional land surveyor, registered in the State of Alaska.
v. "Traffic control plan" is the plan showing signage and traffic management on-site or entering/exiting the site during construction.
w. "Pre-existing conditions" are the streets identified on the Official Maintenance Map, as platted or existing on the date of adoption of the ordinance codified in this chapter.
x. "Permit" is required from anyone working within the public right-of-way. Such permit shall be obtained from the Director of Public Works or his designee.
Other key terms are as defined in the text of following regulations or, where no such definitions are found, as defined in Chapter 11.04 of this Code. (Ord. 87-6(S) 1(part), 1987).

11.20.040 Development permit process. No street or utility main construction shall be permitted within public rights-of-way prior to the developer's receipt of a development permit, notice of design approval, and notice to proceed with construction. (Ord. 87-6(S) 1(part), 1987).

11.20.050 Permit application. Prior to issuance of the development permits, the developer must submit an application for development permit to the City. This application shall contain the following details at minimum:
a. Design concept and preliminary layout showing location and extent of proposed improvements;
b. Written scope of work, to consist of the type of improvements to be installed and approximate quantities;
c. Identification of the design engineer, who shall be a professional civil engineer registered in the State of Alaska and who shall perform the project design for the developer;
d. Identification of the project manager, who shall be the developer's representative authorized to contact and negotiate with the City;
e. Estimated project completion date or duration;
f. A waiver of the development permit may be granted by the Public Works Engineer on a case-by-case basis for extension or upgrading of preexisting platted rights-of-way; however, such temporary waiver on extension or repair shall not qualify the road for City maintenance unless the pre-existing platted rights-of-way or roadway are designed and reconstructed to City standards in accordance with the Design Criteria Manual. All requests for waiver shall be made in writing and shall indicate the scope of work and the estimated date of completion.
Upon acceptance of the application, a development permit shall be issued by the City Public Works Engineer. This permit shall be a notice to proceed with design, based on approval of design concept and the preliminary layout, as required in subsection a. of this section. (Ord. 87-6(S) 1(part), 1987).

11.20.060 Design phase procedures. After receipt of the development permit, the developer shall prepare and submit to the City a design of the proposed utility or street extensions. This design (consisting of plans, specifications, and supporting material including, but not limited to, soil test data, survey notes, and design criteria reports) shall adhere to the following requirements:
a. Design must conform to all pertinent City of Homer standards for street and utility construction, and shall be stamped and signed by the design engineer;
b. Survey and soils data shall be obtained, and plans and specifications shall be prepared, in conformance with the standards of the Design Criteria Manual.
c. Design must be accompanied by a statement from the design engineer that he has personally inspected the site, and must be accompanied by the design report. Design report requirements are as specified in the Design Criteria Manual.
d. Design must also be accompanied by a signed and notarized statement from the developer that the developer has reviewed the design, and shall enforce adherence to the design during construction, excepting changes made in conformance with Section 11.20.080.
e. If the developer's proposed improvements include a water and/or sewer line extension, the design shall in all cases be accompanied by a design from reconstruction of the existing roadway to city standards, in accordance with this chapter; and reconstruction shall be required as part of the project work. This section may be waived by the Public Works Engineer on a case-by-case basis if the right-of-way is restored to original condition or better as determined by the Public Works Engineer. All requests for waiver shall be made in writing and shall indicate the scope of work and estimated date of completion.
f. The developer shall provide copies of the following:
1. Approval or compliance certification letter for water and sewer facilities from the State of Alaska Department of Environmental Conservation;
2. Corps of Engineers permit for construction in Wetlands as necessary;
3. Permits, where applicable, from the State Department of Transportation and Public Facilities;
4. Telephone and power installation or relocation agreements.
Upon satisfactory completion of these requirements, and approval by the City of the plans and specifications, the City shall issue a notice of design approval to the developer. (Ord. 87-6(S) 1(part), 1987.

11.20.070 Preconstruction requirements. Following receipt of the Notice of Design Approval, the Developer shall submit the following to the City:
a. A construction schedule;
b. Erosion control plan and traffic control plan for the area of the development project, if determined necessary by the Public Works Engineer.
c. Identification of the following personnel, who shall be required to perform their respective duties during the construction of the project:
1. Contractor,
2. Project engineer,
3. Inspector,
4. Surveyor,
5. Testing firm (a firm employed by the developer to perform soils, compaction, and other tests deemed necessary by the project engineer to ensure conformance of work to plans and specifications);
d. A development fee is required for private projects to cover costs of inspection and administration of the projects. The fee shall be generally in relation to the design engineer's construction cost estimate, according to the following schedule below:

Development Fee	Cost Estimate	Development Fee
	Less than $100,000	1.0% of cost estimate, but not less than $250
	$100,000 to $500,000	0.75% of cost estimate, but not less than $1,000
	Above $500,000	0.50% of cost estimate, but not less than $3,75

Municipal projects shall include an appropriate project overhead for project administration and inspection.

e. Design engineer's construction cost estimate. This cost estimate shall be accompanied by the calculations upon which the cost estimate is based. The estimate and calculations are subject to verification and concurrence by the City Public Works Engineer;
f. A performance bond or other acceptable guarantee in the amount of one hundred percent of the project cost, which bond shall be waived in the case of new subdivisions, in which right-of-way dedication, via plat filing or recordation, cannot occur until improvements are installed and accepted;
g. Proof liability insurance listing the City, as additional insured in accordance with the requirements of Section 11.20.075. The insurance may be purchased and maintained either by the developer or the contractor;
h. A notarized statement that the developer shall hold the City harmless from any claims arising from construction including, but not necessarily limited to, liability or nonpayment of subcontractors or suppliers;
i. The developer shall submit to the City, in accordance with the form specified by the City, a quality control program for the construction of the improvements. The quality control program shall provide sufficient inspection and test procedures to determine compliance with all applicable plans, specifications, and safety requirements. The program shall include at least the following:
1. The frequency and type of all tests to be performed,
2. A list of all firms or person who will perform tests and inspections,
3. Procedures for coordinating testing and inspections with the City, and for providing advance notice to the City of all inspections and tests which the City may opt to witness,
4. Procedures for reporting quality control activities, including discoveries of deficiencies in the work.
In addition, the developer must sing an performance agreement with the City that work shall be completed according to the plans and specifications, and allowing the City the right to enter upon and inspect the project, and to order work stoppage, tests, and field changes in accordance with Section 11.20.080.
Upon completion of the requirements set out in this section to the satisfaction of the City, the City shall issue a notice to proceed with construction. (Ord. 87-6(S) 1(part), 1987).

11.20.075 Public liability insurance. The developer or contractor is required to purchase, and maintain throughout the life of the project, such public liability insurance as shall protect the City and the developer and/or contractor against losses which may result from claims for damages for bodily injury, including accidental death, as well as from claims for bodily damages which may arise from any of these parties. such public liability insurance shall include coverage for the following:
a. Comprehensive general liability, bodily injury and property damage liability, promises operations including underground, products and complete operations, broad form property damage, blanket contractual, personal injury: five hundred thousand dollars combined limit, each occurrence and aggregate;
b. Comprehensive automobile liability, bodily injury and property damage, including all owned, hired and nonowned automobiles: five hundred thousand dollars combined limit per accident. (Ord. 87-6(S) 1(part), 1987).

11.20.080 Construction inspection and quality control requirements. Following receipt of the notice to proceed, the contractor shall complete the improvements under the inspection of the project engineer, the inspector and the City, according to the plans and specifications and the procedural requirements of this chapter. The inspection and quality control requirements shall be as follows:
a. The developer shall submit to the City, on the Monday of each week during construction, copies of all inspection reports, surveyor's field notes, and materials test reports of the prior week. The reports shall contain a specific listing of any changes, either field changes or major changes, made to the design in that week.
b. The City may perform, in a timely manner, any and all inspections it deems appropriate for the project; it shall, moreover, reserve the right to enter the project site at any time for purposes of inspection and to require additional tests if in the City's opinion, testing by the developer's testing firm has previously been inadequate. The developer shall pay for such tests if the tests reveal non compliance with construction or material requirements; any test which confirms compliance shall be paid for by the City. the city may also issue a notice of rejection of materials or methods to the developer, which may state that the City will not release the performance bond or other accepted guarantee, or approve the project until conditions cited in such notice are remedied. Furthermore, the City may issue an order to the developer to stop work within twenty-four hours, under conditions including, but not necessarily limited to, the following:
1. If inspection reports, field notes, and test reports are not submitted to the City when required;
2. If the project creates a condition that the City deems hazardous or detrimental to the public or public right-of-way, the City reserves the right to close the work down until such time as the problem is corrected;
3. If unauthorized deviations from the design occur which are, in the City's opinion, substantial and which the developer refuses to remedy in a timely manner after developer's receipt of notices from the City regarding these defects;
4. Construction procedures and responsibilities shall be as specified here and in Chapters 11.04 and 13.08 of the

Homer City Code;
5. Copies of applicable permits must be on the construction site. If not, the City reserves the right to close the work down until such time as the permits are present.
c. Surveyor's notes must include horizontal and vertical data for all improvements as installed, and shall include the date of installation.
d. The developer must submit to the City Public Works Engineer, and the City Public Works Engineer must approve in writing, any proposal for "major changes" in the design prior to authorizing such change and prior to such change being executed in construction.
e. The Project engineer shall authorize any "field changes" in the design prior to such change being executed in construction; if requested by the City, the Project Engineer shall be required to give written justification of any such "field change." (Ord. 87-6(S) 1(part), 1987).

11.20.090 Project completion procedure. Prior to issuance of notice of project acceptance, the following are required:
a. The developer's project manager, project engineer, and the City Public Works Engineer must conduct an inspection to determine if the project is complete and if the project has been completed in accordance with the contract documents and if the contractor has fulfilled all of his obligations. A written "punch list" shall be prepared identifying all observed defects, if any. The defects shall be remedied, to the satisfaction of the City Public Works Engineer, and a final inspection conducted to verify that these have been remedied, prior to acceptance of the improvements by the City.
b. The developer must provide the City with a final submittal on the improvements that includes triplicate copies of project as-built drawings. The as-built drawings shall contain a record of all improvements as installed and shall show all field changes and major changes. The final as-built drawings will be on three-mil mylar, twenty-four-inch by thirty-six-inch sheets, and marked "AS-BUILT" in bold letters on all sheets of the plans. The as-built drawings shall use the design plan and profile drawings as a base, unless otherwise approved or specified by the City Public works Engineer.
Included on the first sheet of the as-built drawings will be the following statement, stamped, signed and dated by the Project Engineer:
The following sheets are record drawings prepared by the Project Engineer, (insert name), based in part on information provided to use by others. We have carefully checked this information and believe it to be a reasonable and accurate representation of the work as constructed.

c. The developer shall, following completion of all public improvements, restore all disturbed or destroyed monuments or lot corners by or under the direction of a registered land surveyor.
d. The developer or contractor shall, following completion of all public improvements, install a permanent metal marker having magnetic properties at all intersections, center of cul-de-sacs and PI's where intervisible. If the PI's are not intervisible PC's and PT's shall be monumented. In paved roads, the monuments shall be a minimum of one-half inch by six inches set flush to the paving. In gravel roads, the monuments shall be a minimum of one-half inch by thirty inches with a two-and-one-half inch minimum diameter metal cap showing the year set, registration number of the surveyor and the monument identification. In accordance with AS 34.65.03, a Record of Survey shall be filed for all monuments established ans shall show the Homer Grid Coordinates for at least two monuments on the survey. (Ord. 87-6(S) 1(part), 1987).

11.20.100 Project acceptance procedure. a. After the City Public Works Engineer is satisfied that the improvements are one hundred percent complete and acceptable, he shall forward to the Homer City Council a recommendation for project approval and acceptance for maintenance.
b. The Homer City Council shall consider, and take action upon, the recommendation of project approval and maintenance prior to any formal acceptance and approval by the City administration. Acceptance for maintenance shall be as prescribed in Section 11.04.055 of the Homer City Code.
c. Within fifteen days of formal project approval and acceptance for maintenance by the Homer City Council, the City Public Works Engineer shall write a letter to the Kenai Peninsula Borough stating that the improvements are complete and accepted by the City.
1. In the case of new subdivisions, in which plat recording of filing is contingent upon improvement completion, this letter shall constitute notice of compliance with installation improvement regulations pursuant to Section 20.16.060 of the Kenai Peninsula Borough Code of Ordinances, and shall further authorize the Kenai Peninsula Borough to approve the final plat and forward the plat for filling and recording.
2. This letter shall further constitute final authorization for the City to allow operation and maintenance of water, sewer, and street improvements.
d. A one-year construction warranty on the work shall be established starting from the date the City takes over

maintenance and operations of the improvements; the developer shall correct any observed defects stemming from the design or construction methods within the one-year period, as directed by the City. To secure the developer's performance of warranty, the Developer shall provide a warranty guaranty via warranty bond, deposit in escrow, letter of credit, or deed of trust, or other security the City may deem appropriate. The minimum amount of the warranty guaranty shall be the percentage of the estimated cost of all improvement determined by the following table:

Waranty Guarantee	Estimated Cost of All Improvements	Percent to Secure Warranty
	0--$500,000.00	10
	$500,000.01--$1,000,000.00	7.5
	$1,000,000.01 and over	5

If the developer has provided a performance guaranty in accordance with Section 11.20.070(f), the developer may elect to allow the City to retain the performance of guaranty until the end of the warranty period, in lieu of a separate warranty bond. (Ord. 87-6(S) 1(part), 1987).

11.20.110 Violation--Penalty. The violation of any provision contained in this chapter shall be punished under Section 1.16.010. (Ord. 87-6(S) 1(part), 1987).

[4] Editor's Note: The provisions of this chapter were originally enacted by Ordinance 85-13, which was repealed by Ordinance 87-6(S)

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