Chapter 14.08 Water Rules and Regulations

14.08.010--14.08.020(a)

Chapter 14.08

WATER RULES AND REGULATIONS
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14.08.010 Purpose. It is the intent of this chapter to establish rules and regulations for the operation of the Homer Water System, and to provide a means for obtaining funds for the operation, repair, maintenance, replacement and indebtedness payments from revenues produced by the system. (Ord. 00-02 '2, 2000; Ord. 90-24(A), 1990).

14.08.020 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings set forth below:
a. ABulk water" means water purchased from the City and supplied to the customer by means of fire hydrant, tanker truck, or by any other
means other than through a direct connection from the City water main to the premises where the water is consumed.

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

c. "Certificated service area" means the authorized service area for the Homer Water System described in the certificate of public convenience and necessity issued to the City by the Alaska Public Utilities Commission.
d. "Reseller" or "reseller of water" means a person who purchases water from the City and, for valuable consideration provides any quantity of such water to another person, but it shall not include any eating or drinking establishment that provides its customers City water only by the glass.
e. "Standard service account" means an established City water utility account for metered water service through a direct connection from the City water main to the premises served.
f. AWater connection@ means that part of the water system between the water main and the abutting property.
g. AWater extension@ means that part of the water distribution system extending from the water connection into the premises served.
h. AWater main@ means that part of the water distribution system intended to serve more than one water connection. (Ord. 98-4 '1, 1998; Ord. 96-13, 1996; Ord. 90-24(A), 1990).

14.08.030 Water connections and extensions. a. Water connections to the City water mains shall be installed only by a City-approved contractor and then only upon payment of fees as prescribed by the City.
b. No person shall install a water extension or connection without first obtaining a written permit from the City.
c. All work and materials must meet the standards and specification s as described in Title 13 of this Code, and the State of Alaska Department of Labor Occupational Safety and Health Standards.
d. The customer requesting a new water connection or water extension shall provide all materials, labor and equipment for the excavation, connection and installation of the water line. (Ord. 90-24(A), 1990).

14.08.037 Water meters. a. All water shall be metered. The one time meter lease fee shall be the actual cost of the water meter installed plus fifteen percent as determined by the Public Works Director.
b. Only one meter shall be issued to each lot, except that multiple meters may be issued for lots on the Spit. (Ord. 11-43 §1, 2011; Ord. 11-26 §2, 2011).

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14.08.040 Private water systems--Connection permits--Fees. a. No person shall construct any private water main which will be served directly or indirectly by the City water distribution system without first obtaining a written permit form the City under and outlining conditions prescribed by the City. The fee for such permits shall be as prescribed by the City.
b. No person shall install any water connection to any private water main which will be served directly or indirectly by the City water distribution system without first obtaining a written permit from the City under and outlining conditions prescribed by the City. The fee for such permit shall be as prescribed by the City.
c. No person shall install any water extension from a water connection of any private water main which will be served directly or indirectly by the City water distribution system without first obtaining a written permit from the City under and outlining conditions prescribed the City. The fee for such permit shall be as prescribed by the City. (Ord. 90-24(A), 1990.)

14.08.050 Condition of service--Rule making authority. a. No person shall be served directly or indirectly by the City water distribution system unless the person so served, or his authorized representative, has first entered into a contract with the City for such services.
b. The collector of revenue for the City is empowered to discontinue water service for non payment of any utility service charges, connection fees and related charges. (Ord. 97-12 3, 1997; Ord. 90-24(A), 1990.)

14.08.055 Rule making authority. a. The City Manager is empowered , subject to approval of the Council, to make rules and regulations not inconsistent with law, for the administration of the City water system; relating to water treatment, mains, connections, extensions, and other facilities of the utility; relating to billings, collections, and enforcement; for the protection of public health, safety, and welfare; governing the sale and use of water service provided by the City; and as otherwise may be necessary for the safe, efficient, and proper operation of the City water system.
b. No person shall fail to comply with any rule or regulation adopted under the authority of this section.
c. A copy of all rules and regulations adopted under the authority of this section, together with current utility rates, shall be made available for public inspection during business hours at City Hall. (Ord. 97-12 2, 1997.)

14.08.060 Frozen pipes--City not liable. Customers will be responsible for all frozen water connections and extensions, and the City will not be responsible therefor. The City will maintain all water connections, except for

damages resulting from freezing. (Ord. 90-24(A), 1990.)

14.08.070 Discontinuance of Supply. Water may at any time be shut off from water mains without notice for repairs, extensions or other necessary purposes. The City will not be liable to the customer for any loss or damage which may be caused by failure of the City to deliver water. Whenever feasible the City shall give public notice of shutoffs, but shall not be bound to do so. (Ord. 90-24(A), 1990.)

14.08.072 Priority use of water. The first priority of use of the water produced by the Homer Water System is to provide for the human consumption, sanitation, and fire protection needs of water consumers located within the certificated service area. Water consumed outside the certificated service area is not entitled to any priority. (Ord. 98-4 2, 1998.)

14.08.074. Surplus water; sale. a. Subject to subsection (b) and, other provisions of this chapter, water, if any, may be made available for sale to bulkwater customers, resellers, and others for export or consumption outside the certificated service area.
b. Notwithstanding, any other provision of this title, the City Council may by resolution restrict, interrupt, decrease, or terminate the sale of water for export or consumption outside the certificated service area whenever the City Council determines it is in the best interests of the City to do so. Such action shall only be taken upon a legislative finding by the City Council that such action is in the best interest of the City. If practicable, the City will give thirty days notice to the public, affected bulk water customers, and resellers of action taken under this subsection, but the failure to give such advance notice will not render the restriction, interruption, decrease, or termination ineffective, nor will it give rise to any claim or action against the City.
c. As used in this section, "surplus water" is water that the City, in its sole discretion, determines is in excess of the sanitation, fire protection, and demands of water consumers for consumption within the certificated service area.(Ord. 01-16, 2001; Ord. 01-09(A), 2001; Ord. 01-09(A) 1, 2001; Ord. 98-4 3, 1998.)

14.08.076. Water shortage or emergency declaration. a. A water shortage may be declared by the City Council, in its discretion, after a public hearing and upon adoption of a finding that there is insufficient water available to meet the sanitation, fire protection, and consumption needs of water consumers located within the certificated service area, or when there is insufficient surplus water available to meet the demands of all bulk water customers, resellers, and others for export or consumption outside the certificated service area. Examples of circumstances that may justify the declaration of a water shortage include, but are not limited to, increased demand for water resulting from new development or population increases; low water levels in the reservoir or other water supply deficiencies; malfunction of the water system; increased demand from bulk water customers, resellers, or consumers located within or outside the certificated service area; or any other cause or circumstances that render the output of the Homer Water System inadequate to meet the demands.
b. The City Manager may, in his or her discretion, declare a water emergency of not to exceed 15 days, and the City Council may, in its discretion, declare a water emergency of not to exceed 30 days without a public hearing, or of any length after a public hearing, upon adoption of a finding that sudden or unanticipated causes have impaired or pose imminent threat of impairment of the City's ability to meet the ordinary current demands of all consumers or purchasers of City water. Examples of circumstances that may justify the declaration of a water emergency include, but are not limited to, disaster; actual or imminent threat of malfunction or breakdown of dams, water treatment facilities, mains, distribution lines, pumps, storage tanks, or any other component of the water system; actual or imminent threat of contamination of the water supply; or injury or imminent threat of injury to the public health, safety, or welfare. (Ord. 98-4 4 1998.)

14.08.077. Water shortage or emergency -- interruption of sale of surplus water; other measures. a. If a water shortage or water emergency is declared, the City shall first restrict, decrease, interrupt, or terminate the sale of surplus water to bulk water customers, resellers, and others for export or consumption outside the certificated service area as and to the extent the City, in its sole discretion, deems appropriate in response to the water shortage or water emergency. In addition, the City may take any other measures that the City determines, in its sole discretion, are necessary to alleviate or otherwise address the water shortage or water emergency, including, but not limited to, allocating water necessary for the first priority uses identified in Section 14.08.072 and establishing secondary priorities and allocations for the remaining water, without discrimination between consumers located within the certificated service area using water for the same purpose or purposes.
b. Any measures adopted in response to a declared water shortage or water emergency shall, for the duration of the period of the declared shortage or emergency, prevail over any conflicting provisions of law establishing rights of persons to receive specific or proportionate amounts of the water supply available for distribution within the certificated service area or otherwise.

c. Any measures adopted in response to a declared water shortage or water emergency shall be made available for public inspection and copying at the City Clerk's Office, at the City Library, and at the Department of Public Works for the duration of the period of the declared shortage or emergency. As soon as practical after the adoption of such measures, notice of the measures shall also be published once a week for two consecutive weeks in a newspaper of general circulation in the City, unless the duration of the declared shortage or emergency ends sooner.(Ord. 98-4 5, 1998.)

14.08.078 Water shortage or emergency -- appeal. Any person aggrieved by a City Council declaration of a water shortage or water emergency under section 14.08.076, or by any action taken by the City in response to such a declaration, may appeal the declaration or action to the superior court. The appeal must be filed within 30 days from the date the declaration was adopted or action taken. The declaration or action of the City shall not be reversed except on the ground that such declaration or action was fraudulent, arbitrary, or capricious. (Ord. 98-4 6, 1998.)

14.08.079 Immunity for discretionary acts. An action for damages may not be brought against the City, or any of its agents, officers, or employees, for a claim based on the exercise or failure to exercise any discretionary function or duty granted in this chapter, whether or not the discretion was abused, including, without limitation, the exercise of discretion to restrict, interrupt, decrease, or terminate the sale of water to bulk water customers, resellers, or others for export or consumption outside the certificated service area. Nothing in this section shall be construed to limit any defenses or immunities available under AS 09.65.070 or any other provision of law. (Ord. 01-09(A) 2, 2001; Ord. 98-4 7 1998.)

14.08.080 Schedule of Rates--Rules and Regulations. a. Water utility services shall be billed according to the schedule set forth by Resolution of the Homer City Council and shall be reviewed biennially on odd calendar years and amended, as necessary, to take effect as of July 1, 2009 with the first biennial review to be in 2011. The first billing cycle is to take effect following July 1.
b. The City Manager shall have printed a sufficient number of copies of the water rate schedule approved and adopted by the City and the copies shall be available for public use upon demand at the Office of the City Clerk. (Ord. 09-22(A)(S)(A) §2, 2009; Ord. 00-02 '3, 2000; Ord. 97-17(A), 1997; Ord. 97-12 '4, 1997; Ord. 97-5(S)(A) '2, 1997; Ord. 95-7, 1995;Ord. 91-10(S) ' 1,2, 1991; Ord. 90-24(A), 1990.

14.08.090 Schedule of rates outside of the City limits. a. All rates and charges set forth by Resolution of the Homer City Council shall apply to water service provided outside the City limits. (Ord. 00-02, 2000; Ord. 91-10(S) sections 3 and 4, 199l; Ord 20-24(A), 1991.)

14.08.091 Service deposits. a. All water service users, at the time the service is established, shall pay a deposit based on meter size, as set forth by Resolution of the City Council.
b. The City shall place deposits in an interest-bearing account. The interest rate will be reviewed and set in January of each year equal to that earned from a bank savings account. Deposits shall accrue interest at the rate set for the year in which it is refunded.
c. Deposits and any accrued interest shall be refunded:
1. After one year of service provided the customer has demonstrated a good payment history with no delinquencies; or,
2. Within forty-five days after the date of disconnection, provided that the deposit and interest shall first be applied to any outstanding balance.
d. Waiving of Deposits. If a customer has had utility service with the City of Homer within the last two years and has a good credit history with the City (no late payments), the Finance Department may waive the deposit.
e. Landlord Agreement. A owner/customer who requests an Automatic Continuance of utility service between renters may enter into a Landlord Agreement with the City of Homer for this purpose. This request should be directed to the Finance Department personnel, who will fill out the agreement which will be signed by the owner and accepted by the City of Homer. (Ord. 00-02,2000; Ord. 97-5(S)(A) 3, 1997; Ord. 95-10, 1995; Ord. 91-10(S) 5, 1991; Ord. 90-39(S) 1, 1990; Ord. 90-24(A), 1990).

14.08.100 Bulk water sales. a. All rates and charges shall be set forth by Resolution of the Homer City Council.
b. The meter deposit as set by Council Resolution will be returned when the meter is returned undamaged. This deposit may be waived upon the recommendation of the Public Works Superintendent.
c. The schedule for service fees shall apply to all bulk water service requests.
d. If a bulk water customer purchases a meter from the City for measuring the quantity of water purchased it shall be exempt from the monthly meter service charge. It is the responsibility of the bulk water customer to maintain that

meter so the City can accurately determine the amount of water being purchased. In the event the meter fails, it is the bulk water customer's responsibility, at its expense, to repair it or purchase a replacement meter from the City. The City may at any time test the meter for accuracy (Ord. 00-02, 2000; Ord. 98-11 2, 1998; Ord. 97-17(A), 1997; Ord. 97-15(S), 1997; Ord. 97-5(S)(A) 4, 1997; Ord. 95-31(A), 3, 1995; Ord.91-10(S) 6, 1991; Ord. 90-24(A), 1990.)

14.08.105 Resale of water. a. No person shall resell water provided by the City water system unless that person has a Resale Permit issued pursuant to section 14.08.110.
b. All City water purchased by a customer for resale to others shall be charged at the rates established by Resolution of the City Council, including the surcharge and any applicable end user service charge, which shall be paid on all water resold to others, regardless of whether the customer has a standard service account. As used in this section, "end user" will be interpreted according to the definition of the term used in the applicable schedule of water utility rates established by Resolution of the City Council.
c. A reseller of City water shall submit a monthly report of the quantity of water resold to others and the number of end users for the month on a form approved by the City. The report shall be received by the City Finance Department within 15 days after the end of each month. The report shall be signed under penalty of perjury. A report is subject to audit by the City for a period of three years.
d. A reseller of City water shall keep accurate records of the quantity of water sold to others and the number of end users. Such records shall be kept for a minimum of three years. The reseller of City water shall provide such records to the City for examination and audit upon request during normal business hours.
e. If a reseller of City water fails to submit required reports or fails to keep accurate records and make them available to the City, the City may make a reasonable estimate of the quantity of water resold to others. The reseller shall pay the required rates for the quantity so estimated. In such case the City's estimate is presumed to be correct and may be overcome only by clear and convincing proof to the contrary.
f. If a reseller with a standard service account purchases a meter from the City for measuring the quantity of water purchased, it shall be exempt from the monthly meter service charge. It is the responsibility of the reseller to maintain that meter so the City can accurately determine the amount of water being purchased. In the event the meter fails, it is the reseller's responsibility, at its expense, to repair it or purchase a replacement meter from the City. The City may at any time test the meter for accuracy. (Ord. 01-03(A) 1, 2001; Ord. 00-02 7, 2000; Ord. 98-11 3, 1998; Ord. 95-19; 1995).

14.08.110 Permit for resale of water. a. A Resale Permit may be issued to authorize a person to resell water obtained from the Homer Water System. A person shall apply for a Resale Permit on a form provided by the City. The permit application must be submitted to the Public Works Director, or another official designated by the City Manager. The application must be accompanied by a permit application fee in an amount to be established by resolution of the City Council.
b. The terms and conditions for issuance of a Resale Permit will be established by rule or regulation adopted by the City Manager under the authority of section 14.08.055. (Ord. 01-03(A)2, 2001)

14.08.120 Permit for water filling station. a. No person shall establish or operate a water filling station to obtain water from the Homer Water System unless that person has first obtained a Water Filling Station Permit under this section. As used in this section, "water filling station" means a non-City facility used to supply bulk water from the Homer Water System to a tanker truck or other means of conveyance.
b. A person shall apply for a Water Filling Station Permit on a form provided by the City. The permit application must be submitted to the Public Works Director, or another official designated by the City Manager. The application must be accompanied by a permit application fee in an amount to be established by resolution of the City Council.
c. The terms of a Water Filling Station Permit and the conditions under which it will be issued will be established by rule or regulation adopted by the City Manager under the authority of section 14.08.055. Such terms and conditions may include, but are not be limited to uniform or site-specific flow rate restrictions, storage tank requirements, and other provisions required by the Public Works Department to minimize adverse effects on the Homer Water System and to promote its efficient operation.
d. No Water Filling Station may be located outside of the City of Homer. (Ord. 01-03(A)3, 2001)

14.08.130 Permit suspension, revocation. a. The City Manager may suspend or revoke any permit issued under this chapter for cause including, but not limited to:
1. the application for any permit under this chapter contained any error, misstatement, omission, or misrepresentation of material fact, either with or without intention on the part of the applicant, such as might or would have caused a denial of the permit;
2. material breach of the terms or conditions of any permit issued under this chapter;
3. violation of any applicable provision of this chapter;

4. violation of any other applicable law, ordinance, or regulation relating to water quality, public health, or safety governing the permittee's water related facilities or operations;
5. delinquency in payment of water utility charges or permit fees owed to the City;
6. conducting operations or maintaining facilities in such a manner that public health or safety is endangered.
b. Except as provided in subsection (c), when there is a reasonable basis to believe there is cause to suspend or revoke a permit, the City Manager shall give the permittee reasonable notice and a meaningful opportunity to be heard concerning such cause prior to suspension or revocation of the permit. If after such a hearing the City Manager finds that the permit should be suspended or revoked for cause, the City Manager will issue and promptly deliver to the permittee a written decision stating the grounds for revocation and the City Manager's findings. The City Manager may designate a hearing officer or other official to conduct the hearing and prepare a recommended decision, which will not be final until approved, with or without changes, by the City Manager.
c. The City Manager may by written order suspend any permit issued under this chapter without prior notice or opportunity to be heard when the City Manager has a reasonable basis to believe that (i) the permittee's permitted facilities or operations are endangering public health or safety, or (ii) permittee is delinquent in the payment of water charges or permit fees owed to the City. If a suspension is imposed under this subsection, the permittee must be notified at the time of suspension and in writing by the City Manager or designee of the opportunity for a hearing as provided in subsection (b). The hearing must be provided to the permittee within three business days after the date the suspension is effective. A suspension imposed under this subsection may be effective up to one business day after the hearing, or if the permittee requests and is granted a delayed hearing date, until the decision is rendered after the hearing is held.
d. Nothing in this section or in any permit issued under this chapter shall be construed to prohibit or limit the City's authority to restrict, interrupt, decrease, or terminate the sale of water under sections 14.08.074 through 14.08.077 or any other provision of law.
e. The permittee whose permit remains suspended or revoked following the hearing process as identified in 14.08.130, subsection (b) will be provided written notice by the City Manager or designee of the appeal process as stated in 14.08.140, 14.08.150, and 14.08.160. (Ord. 01-03(A)4, 2001)

14.08.140 Appeals - Board of Appeals; notice of appeal. a. A suspension or revocation of a permit under section 14.08.130 may be appealed to a Board of Appeals comprised of the Mayor and the members of the City Council.
b. An appeal to the Board of Appeals must be filed within thirty days of the order or decision appealed from, after which the order or decision is unappealable. Untimely appeals will not be accepted. A notice of appeal must be filed in writing with the City Clerk and be accompanied by the appeal fee as set forth by Council Ordinance or resolution in the City of Homer Fee schedule. The notice must contain:
1. Name and address of the permittee;
2. A copy of the order or decision being appealed;
3. A statement of the grounds for appeal that must include detailed and specific allegations of error and references to applicable provisions of the City code or other law. (Ord. 05-43(A), 2005; Ord. 01-03(A)5, 2001)

14.08.150 Appeals - procedure. a. All appeals must be heard by the Board of Appeals within sixty days from the day the appeal is filed. The appeal must be decided within a reasonable time after the hearing.
b. The City Clerk must prepare a record for the Board of Appeals consideration. The City Clerk must mail the permittee a notice when the record is complete. The record must be paginated and include the following, if they exist
1. The permittee's applicable permit file;
2. Complaints, notices and correspondence regarding the administrative hearing;
3. All exhibits and documents received at the administrative hearing;
4. Tapes or minutes of the administrative hearing;
5. Any orders or written decisions made by the administrative hearing officer.
c. The permittee must be given fifteen days' notice of the appeal hearing by first class mail to the address stated in the notice of appeal.
d. The permittee and the City Manager or other administrative official may file simultaneous written briefs not later than seven days before the appeal hearing. They may be represented by counsel. The Board of Appeals may hear oral arguments from the parties if the Board determines it will be helpful to the Board.
e. An electronic recording shall be kept of the entire appeal proceeding. The hearing will be conducted in public, but the Board of Appeals may deliberate and decide the matter in executive session.
f. The Board of Appeals will issue a written decision including its findings and reasons supporting its decision. Copies of the Board of Appeals decision shall be promptly mailed to all parties participating in the appeal. (Ord. 05-43(A), 2005; Ord. 01-03(A)6, 2001)

14.08.160 Appeal to Superior Court. A final decision of the Board of Appeals may be appealed to the Superior Court no later than thirty days following the date the decision of the Board of Appeals is first mailed or delivered to the permittee. An appeal to the court must be filed according to the applicable court rules. (Ord. 01-03(A)7, 2001)

14.08.170 Violation--Penalty. The violation of any provision contained in this chapter shall be punished under 1.16.010. (Ord. 01-03(A) 8, 2001; Ord. 90-24(A), 1990.)

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