Chapter 19.12 Excavation of Homer Spit Beach

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19.12.010 Intent It is the intent of this chapter to protect and preserve the stability of that land area known as the Homer Spit and all the land areas within the corporate limits of the City which may require like protection. (Prior code 91-100.1).

19.12.020 Definitions. The following words, when used in this chapter, shall have the meanings respectively ascribed to them in this section:
a. "Beach area" means the zone of sand, gravel and other unconsolidated materials that extends landward from the low water line to the place where there is a marked change in material or physiographic form.
b. "Berm" means a natural, linear mound or series of mounds of sand or gravel, or both generally paralleling the water at or landward of the line of ordinary high tide.
c. “Dredge material” means earth, sand or gravel that is removed from below the low water line in City port and harbor facilities.
d. "Excavation" means the digging out and removal of gravel or other fill materials whereby any existing surface grade is altered or disturbed.
e. "Removal" means the movement, by lifting, pushing aside or taking away or off of any gravel or other fill materials from any area subject to the provisions of this chapter.
f. "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 may have more than one storm berm.
(Ord. 11-09 §1 (part), 2011; Ord. 02-14(A)1, 2002; Prior code 1-100.9).

19.12.030 Reference to materials plat--Permits. The removal or excavation of gravel, gravel fill or other fill material from any beach or from any portion of the Homer Spit shall be regulated by the City. Reference shall be made in all cases to the Materials Plat prepared jointly by the State Division of Lands and the U. S. Corps of Engineers, which is available and may be examined during business hours at the Homer City Hall. Except as provided in §19.12.050, a permit shall be required in the following instances:
a. Whenever-gravel, gravel fill or other fill material is removed from Homer Spit or from beaches elsewhere within the corporate limits, of the City;
b. Whenever such materials are removed or excavated from any naturally created berm area, or from any berm area created for the protection of the land areas. (Ord. 11-09 §2 (part), 2011; Prior code 1-100.2).

19.12.040 Guidelines. Any applicant for a permit shall comply with the following:
a. Permits shall be issued pursuant to guidelines formulated by the State Division of Lands and the U.S. Corps of Engineers, as referred to by the above-mentioned Materials Plat. Such guidelines may be altered from time to time by the Division of Lands and the Corps of Engineers as additional data is received by these agencies.
b. No permits shall be issued for excavation or removal of gravel or fill materials from area "A" as designated on the above-mentioned plat prior to review and approval of the permit application by the Corps of Engineers and the Division of Lands.
c. Permits may be issued by the City for such excavation or removal from areas "B" and "C" as designated on the

plat, without review and approval of the permit application by the Corps of Engineers or the Division of Lands.
d. No permit will be issued by the City for such excavation or removal of gravel, gravel fill or other fill materials from any area other than areas "A", "B" and "C" as designated on the Materials Plat.
e. All permit application required under this chapter shall be accompanied by a site plan showing the precise location and dimensions of the proposed excavation or removal in reasonably sufficient detail, including depth, and stating the amount of material to be excavated or removed.
f. All applications required under this chapter shall be submitted to the City Clerk, together with the request accompanying instruments, and a permit fee of five dollars.
g. No permit shall be issued that will allow gravel, gravel fill, or other fill materials to be taken off the Homer Spit. Any such materials excavated or removed anywhere on the Homer Spit shall be used only at another location on the Homer Spit.
h. Gravel for transshipment: Non-native gravel or other earthen commodities may be shipped to the Homer spit, stored on the Spit, and exported from the Spit. Gravel for transshipment must be permitted by the City of Homer. The permit shall describe the terms and timelines of the transshipment and the volumes of materials involved. (Ord. 98-2(A)(S)(A) 2, 1998; prior code 1-100.3).

19.12.050 Exceptions. a. No permit shall be required for excavation necessary for the installation of sewage lines, water lines, underground power lines, armor rock or piling, wells, oil and fuel tanks and related lines and aboveground power lines from any location other than a berm area, provided such excavated material is not removed from site of construction, nor shall a permit be required for clearing or maintaining any public road.
b. This chapter shall not apply to the removal or excavation of gravel, gravel fill or other fill material from any beach or from any portion of the Homer Spit by the City of Homer.
c. This chapter shall not apply to dredge material placed or stored on the Homer Spit by the City of Homer. The City may provide for the use and disposal of such dredge material in the following order of priority, with all proceeds from sales of dredge material being deposited in the Port/Harbor Enterprise Fund:
1. Replacement of material removed from City beaches by storms or erosion.
2. Fill to improve City port and harbor facilities on the Homer Spit.
3. Sale for use as fill on privately owned or leased property on the Homer Spit.
4. Emergency repairs of erosion.
5. Sale for use as fill material at locations off the Homer Spit.(Ord. 11-09 §3 (part), 2011; Ord. 02-14(A), 1, 2002; Ord. 98-2(A)(S)(A) 1, 1998; Ord. 6-720.2 1-100.4).

19.12.060 Review. Any person whose application is denied shall be entitled to a review of such denial by the City Council. A request for review shall be in writing and submitted to the City Clerk within ten days of such denial. The City Clerk shall, whenever feasible, thereafter place the matter of review on the agenda for the next regularly scheduled meeting of the City Council, but in any event, such review shall not be later than the second regularly scheduled meeting after such request is received. (Prior code l-100.5).

19.12.070 Nonliability. The City shall not be liable for damages accruing as a result of any excavation or removal of gravel, gravel fill or fill material pursuant to the issuance of a permit under this chapter. (prior code 1-100.6).

19.12.080 Conformance to permit. Any excavation or removal of gravel, gravel fill or fill material except by permit where required shall be considered a violation of this chapter. (Prior code 1-100.7).

19.12.090 Driftwood Removal Prohibited. No person shall tamper with, burn or remove driftwood from a storm berm. (Ord. 02-14(A), 1, 2002.)

19.12.100 Violation--Penalties. The violation of any provision contained in this chapter shall be punished under the general penalty provision, Section 1.16.010, of the City Code. (Ord. 02-14(A), 1, 2002; Prior code 1-100.8).

[i] Prior ordinance history: Ordinances 6-720.1 and 6-720.2.

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