

CITY OF HOMER,
ALASKA
ORDINANCE 80-9

AN ORDINANCE amending Sec. 13.200.20 of the Homer City Code to provide details of form, content and redemption for special assessment bonds to be issued by the City; establishing a guarantee fund of the City; providing for necessary funding of said guarantee fund; and repealing Ordinance 79-20 of the Council.

WHEREAS, Section 13A.200.20 of the City Code of the City of Homer Alaska (the "City") presently authorizes the issuance of special assessment bonds by the City to pay all or part of the cost of an improvement in a special assessment district, and the City intends to issue such special assessment bonds; and

WHEREAS, Alaska Statute 29.63.085 requires a City to create a guarantee fund prior to authorizing the issuance of its special assessment bonds for Bay Drive Water Local Improvement District 78-2, Bay Drive Sewer Local Improvement District 78-2, Lakeshore Drive Water Local Improvement District 78-3, and Lakeshore Drive Sewer Local Improvement District 78-3; and

WHEREAS, the Council City deems it reasonable and necessary that provisions relating to form, content, and redemption of special assessment bonds be adopted not only for special assessment bonds now intended to be issued for the above named Local Improvement Districts, but also for special assessment bonds which may be issued, in the future by the City.

NOW, THEREFORE, THE CITY OF HOMER ordains as follows:

Section 1. This ordinance is of a permanent nature and is intended to become a part of the Homer City Code.

Section 2. Sec. 13A.200.20 of the Homer City Code which now reads as follows:

"SPECIAL ASSESSMENT BONDS

(a) The City Council may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefitted. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefitted may be pledged by the Council to secure payment.

(b) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

(c) Before the Council may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. Interest on the guarantee funds shall be a cost of the improvement district."

is hereby amended to read as follows:

13A.200.201 Authority.

Special assessment district bonds to be designated by the name of the special assessment district for which they are issued, may be authorized and issued to provide funds to pay any part or all of the costs of improvements in any special assessment district, provided that such bonds shall not be issued in a total principal amount in excess of such costs of improvement, nor shall they be issued prior to the expiration of the time period allowed for the payment of assessments without penalty or interest.

Such bonds shall be issued pursuant to ordinance and shall be made payable on a date not sooner than two years earlier than the date upon which the last installment of the assessments securing such bonds becomes due and not later than three years after the date upon which the last installment of the assessments securing such bonds becomes due.

13A.200.202 Form, Content, Coupons.

Such bonds shall bear interest payable annually or semiannually, shall be in such denominations as may be provided in the ordinance authorizing their issuance, and shall be numbered from one upward consecutively.

Each bond shall:

A. Be signed with the manual or facsimile signature of the Mayor of the City and attested by the manual signature of its City Clerk;

B. Shall have the seal of the City impressed or reproduced thereon;

C. Refer to the improvement, the payment for which the bonds are being issued, and the ordinance ordering said improvement;

D. Provide that the principal amount thereof and the interest thereon shall be payable out of the special assessment district fund of such district or out of the special assessment district guarantee fund of the City and not otherwise;

E. Provide that the bondholders' remedy in case of any nonpayment shall be confined to the enforcement of the special assessments levied for the improvements in such special assessment district and to such guarantee fund; and

F. Have attached thereto interest coupons for each interest payment which coupons may have printed or reproduced thereon the facsimile signatures of such Mayor and City Clerk; provided, however, that any such bond or bonds issued pursuant to a loan contract with the United States Government or agency thereof may be issued with privilege of registration as to principal or as to both principal and interest.

13A.200.203 Sale.

Such special assessment district bonds may be issued to the contractor or contractors constructing and installing the improvements in such district, or may be sold by the City at public or private sale, but at not less than par and accrued interest to the date of delivery thereof. The proceeds of sale of such bonds shall be deposited in the applicable special assessment district fund and be applied in payment of the costs of improvement either in cash or by the redemption of warrants or other obligations of the City issued to pay such costs.

13A.200.204 Redemption.

The City Treasurer may call in and redeem the principal of one or more bonds of any issue in their inverse numerical order whenever there is sufficient money in the special assessment district fund against which the bonds have been issued, over and above the amount needed for the payment of current annual interest and the annual interest next to fall due on all unpaid bonds of that issue. Such call shall be made by publication of a notice thereof in a newspaper of general circulation throughout the City as soon as practicable after the day of delinquency of any assessment installments, and in any other manner as may be deemed necessary to advise the holder of the bonds being called of such call. The notice of call shall state the serial number or numbers of the bonds being called, that they will be paid on the date the next interest coupons on the same become due, and that interest thereon will cease on such call date.

13A.200.205 Nonliability of the City.

Neither the holder nor the owner of any special assessment district bond, interest coupons or warrant issued against a special assessment district fund shall have any claim therefor against the City except for payment from the special assessments made for the improvements for which such special assessment district bond was issued and except for payment from the special assessment district guarantee fund of the City. The remedy of the holder or owner of such special assessment district bond shall be confined to the enforcement of such assessments and to said guarantee fund. The City shall not be liable to the holder or owner of any such bond, interest coupon or warrant for any loss to the guarantee fund occurring in the lawful operation thereof.

A copy of the foregoing part of this section shall be plainly written, printed or engraved on each special assessment district bond.

13A.200.206 Remedy of Bondholders.

If the City fails to pay any bonds, interest coupons or warrants issued against an special assessment district fund or to collect promptly any assessments when due, the owner or holder of any bond may enforce payment of the principal thereof or interest thereon and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property. Any number of owners or holders of bonds of any single special assessment district may join as plaintiffs, and any number of owners or property upon which the delinquent assessments are liens may be joined as defendants in the same suit. Such owners and holders shall also have recourse against the special assessment district guarantee fund.

13A.200.207 Investment for Surplus City Funds.

Special assessment district bonds which are within the protection of the special assessment district guarantee fund of the City shall be considered legal investments for any available surplus funds of the City which now or hereafter may be authorized by the council to be invested in such bonds.

13A.200.208 Payment by City for City-Owned Lots.

Where City-owned lots are included in a special assessment district, the City shall levy and collect taxes sufficient to pay the assessments against the City-owned lots when due and the full faith and credit of the City shall be pledged in each ordinance issuing special assessment bonds to the effect that such assessments against City-owned lots will be paid when due into the applicable special assessment district fund.

13A.200.209 Fund Established.

There is hereby established a special assessment district guarantee fund of the City (herein at times called the "guarantee fund") for the purpose of guaranteeing the payment of the principal of all special assessments bonds, interest coupons pertaining thereto, and warrants issued upon any special assessment district funds. The money in the guarantee fund shall be kept separate from all other money and funds of the City, shall be held in trust for the use and purposes herein provided.

Within five years from the date of delivery of any special assessment fund warrants or bonds, the City shall deposit in the guarantee fund a sum, which when added to existing moneys in the guarantee fund, shall be not less than five percent (5%) of the then outstanding special assessment bonds and/or warrants including the warrants or bonds of that issue. Such deposit may be from the proceeds of an interfund loan or other funds legally available therefor. After the expiration of five years from the date of delivery, the City shall

maintain an amount of not less than five percent (5%) of such bonds and warrants then outstanding. Any moneys paid out of the guarantee fund to redeem special assessment district bonds, coupons pertaining thereto, or warrants, shall be replaced by the City as soon as possible out of any legally available sources.

13A.200.210 Use of Fund.

Defaulted special assessment bonds, interest coupons pertaining thereto, and special assessment fund warrants shall be purchased out of the guarantee fund, and as between the several issues of bonds, coupons or warrants no preference shall exist, but they shall be purchased in the order of their presentation.

Whenever any sum is paid out of the guarantee fund on account of principal or interest on a special assessment district bond or warrant, the City as trustee of such fund shall be subrogated to all the rights of the holder of such bond, interest coupon or warrant so paid, and the proceeds thereof or of the underlying assessment shall become a part of the guarantee fund.

All interest and earnings derived from the investment of moneys in the guarantee fund shall be credited to such fund.

If special assessment district bonds have been issued, all moneys remaining in any special assessment district fund or of any special assessment district fund after all costs of improvements in such district including the redemption of all warrants and bonds of such district have been paid, shall also be paid into the guarantee fund.

Should the council, after determining that the amount in the guarantee fund meets all required guarantee requirements plus foreseeable future requirements, find there are excess moneys in the guarantee fund, it may authorize transfer of the excess to the general fund or any current expense fund of the City.

Section 3. Ordinance 79-20 of the City Council passed and approved on its second reading on December 10, 1979 is hereby repealed and revoked.

CITY OF HOMER, ALASKA


MAYOR

ATTEST:


CITY CLERK

First Reading 2/11/80

Public Hearing 2/25/80

Second Reading 2/25/80

Effective Date 2/26/80