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CITY OF HOMER
HOMER, ALASKA

ORDINANCE 95-27

Public Works
City Attorney
Planning Director
Finance
City Clerk

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF HOMER, ALASKA, AMENDING TITLE 17 OF THE
HOMER CITY CODE BY REPEALING CHAPTER 17.20
AND AMENDING CHAPTER 17.04.

WHEREAS, Chapter 17.20, Water Improvement District refers to a specific assessment district that was created in the early years of the City of Homer and is no longer a required part of the Homer City Code. The City Attorney has recommended deletion thereof; and

WHEREAS, Homer City Code Section 17.20.080, Alternative methods of payment--Deferred payments, should have been added to Chapter 17.04 in 1987; and

WHEREAS, Homer City Code Sections 17.20.090, 17.20.100 and 17.20.110, "In lieu of assessment" are contained within Chapter 17.20 and in that there needs to be provision for additional services required beyond an assessed area and computation of "in lieu of" amounts, these sections are therefore added to 17.04; and

WHEREAS, Chapter 17.04 does not specifically deal with the payment terms and procedures, therefore, a section is added from 17.20.070 and reference to the procedure setting Resolution.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. That Homer City Code Chapter 17.04 is hereby amended by adding § 17.04.095, Terms of payment, to read as follows:

17.04.095 Terms of payment. a. Procedures for handling initial assessment payments, annual payments on assessments financed by the City or other institution and setting of penalties and interest shall be set by Resolution of the City Council.

b. In the event a landowner subdivides a tract originally assessed as one entire parcel, a pro rata portion of the total amount of the assessment may be allocated to each individual lot

abutting the improvement; road, waterline and/or sewer line. As individual lots are sold, the purchasers may elect to assume and pay assessment for that lot in installments as set by Council Resolution under section 17.04.090. Full payment shall be made within the same period as the number of years remaining on the installment plan for the specific assessment district.

c. The seller and purchaser of a subdivided lot shall execute an agreement providing for the assignment of the installment plan by the original landowner and an assumption of the terms and conditions of the installment plan by the purchaser. This agreement shall be executed on the date of closing or within five days thereafter. This agreement shall take effect only upon approval thereof by the City and after payment of a transfer fee to the City in the amount of twenty-five dollars. Subsequent purchasers of lots may also elect to assume the balance of any installment plan in the same manner as set forth in this section above. (Prior code §24-400.7)

Section 2. That Homer City Code Chapter 17.04 is hereby amended by adding § 17.04.165, Alternative methods of payment--Deferred payments, to read as follows:

17.04.165 Alternative methods of payment--Deferred payments.

A property owner meeting certain requirements as hereinafter set forth, may defer payment of assessments, including principal and interest under the following conditions:

a. Criteria for Eligibility. The property owner must:

1. Be at least sixty-two years of age within twelve months from the date of adoption of the assessment roll.

2. Have an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region.

3. Actually reside within the boundaries of the property assessed on which is located only his permanent abode which is a single-family residence.

4. Own or have a life tenancy in the assessed real estate.

5. No real property may be exempted which the City determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of

obtaining the exemption.

b. Availability of funds. Deferred assessments shall be funded by specific appropriations made by the City Council from available City funds. To determine availability of funds, the Director of Finance shall provide the City Council a financial report as to the availability of funds for appropriation in accordance with criteria outlined in this subsection. This report will accompany the application for deferment:

1. Water and sewer deferred assessments shall be funded by the appropriate utility operating fund.

2. Road improvement deferred assessments shall be funded from the Accelerate Roads Program funds.

3. In the event that funds are not available in the appropriate utility or program funds, the City Council may elect to loan either the utility or program funds from the General fund to cover the applicable deferred assessments.

c. Application for deferment. A person seeking a deferment of assessment shall file an application with the Director of Finance on or before the first payment is due and furnish suitable proof that the applicant meets the criteria set forth in subsection (a) of this section. Based upon the availability of funds, the City Council shall approve or disapprove the application at a regular Council meeting. A claimant receiving the exemption must file with the City by April 15th of each subsequent year a separate application proving eligibility as of January 1st in order to retain the exemption. Within the same year the City for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

d. Security Required. Every property owner who qualifies and obtains a deferment of assessment under this section shall execute a mortgage, deed of trust or other appropriate security agreement in favor of the City, together with a promissory note payable on demand, to secure the eventual payment of an assessment deferred hereby.

e. Immediate Payment in case of sale or other transfer. If any property or interest therein, given as security under subsection d. Of this section is sold, leased or otherwise transferred or conveyed, then the balance of any deferred assessment including principal and interest shall become due and payable within thirty days from the date of such sale lease or

transfer.

f. Probate Proceedings. Upon the decease of any person whose assessment has been deferred, the deferral will remain in effect in the event that there is a surviving spouse. Otherwise, the entire balance of any assessment including principal and interest shall immediately become due and payable from the decedent's estate. This preference shall exist whether or not probate or intestacy proceedings are opened.

g. Preemption by State Law. If as some future date legislation is passed by the state to exempt person meeting some of all of the criteria set forth in subsection a of this section, from assessments for water and/or sewer improvements and the state agrees therein to reimburse municipalities for such assessments, then any mortgage or other security agreement required under subsection d of this section shall become null and void and of no further effect. (Ord. '87-30 §1, 1988).

Section 3. That Homer City Code Chapter 17.04 is hereby amended by adding § 17.04.170, In lieu of assessments, to read as follows:

17.04.170 "In lieu of assessments"--determination of amount-terms. a. "In lieu of assessments" will be required if any property requires additional service(s) within or beyond an assessed area.

b. "In lieu of assessments" shall be computed on the actual cost of service(s).

c. Terms of payment for such "in lieu of assessments" shall be levied in accordance with section 17.04.095.

Section 4. That Homer City Code Chapter 17.04 is hereby amended by adding § 17.04.175, "In lieu of assessments" not to prevent inclusion of property in future district, to read as follows:

17.04.175, "In lieu of assessments", not to prevent inclusion of property in future district. Any property receiving a water and/or sewer service and/or "in lieu of assessment" in accordance with section 17.04.170 may be included in an water and/or sewer improvement district at a future date and may be assessed for that district at that time. Any amount paid "in

Page Five
Ordinance 95-27
City of Homer

lieu of" shall be a credit toward such assessment. If, however, the assessment levied in the future shall be less than the "in lieu of assessment" no refund shall be allowed. (§24-400.13).

Section 5. This ordinance is of a permanent and general character and shall be included in the City Code.

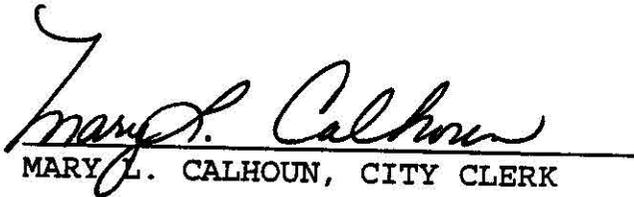
ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,
this 23rd day of October, 1995.

CITY OF HOMER



HARRY E. GREGOIRE, MAYOR

ATTEST:



MARY L. CALHOUN, CITY CLERK

AYES: 5
NOES: 0
ABSENT: 1
ABSTAIN: 0

First Reading: 09/25/95
Public Hearing: 10/09/95
Second Reading: 10/23/95
Effective Date: 10/24/95

Reviewed and approved as to form and content:

Page Six
Ordinance 95-27
City of Homer



Patti J. Whalin, City Manager
Date: 10-24-95



Gordon J. Tans, City Attorney
Date: 10-27-95

Fiscal Note not required.