

## ORDINANCE 96-07(S) (A)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA AMENDING TITLE 1 OF THE HOMER CITY CODE BY REPEALING SUBSECTION 1.24.040(g) AND AMENDING CHAPTER 1.12, CONFLICT OF INTEREST.

WHEREAS, Section 1.24.040 of the City Code contains the Council's Bylaws and subsection g. addresses Conflict of Interest; and

WHEREAS, Chapter 1.12 of the City Code more precisely addresses Conflict of Interest; and

WHEREAS, at Council's Training Session on March 11, 1996 the City Attorney, Mayor and Council discussed these portions of the code and agreed that 1.24.040(g) should be deleted and some changes made to 1.12.

NOW THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code § 1.24.040(g) is hereby repealed in entirety and the following subsections are renumerated:

1.24.040 By-laws for Council procedure. The following by-laws shall govern the procedures of the City Council of the City:

a. To abide by existing Alaska State laws pertaining to cities of the first class;

b. To abide by the current edition of Robert's Rules of Order insofar as this treatise is consistent with these by-laws, other provisions of the Homer City Code, or unwritten standing rules adopted by the City Council. In all other cases, by-laws, the Code or the standing rule shall prevail;

c. The Council's agenda format specified in the City of Homer City Council Operating Manual is incorporated herein by reference.

1. The manual may be revised with Council approval;

2. A copy of the manual shall be available to the public during regular business hours at the Homer City Hall and be available during City Council meetings.

d. Regular meetings:

1. Second and fourth Mondays of each month at seven-thirty p.m., unless otherwise provided by two-thirds vote of the City Council;

2. The agenda shall be provided to each Councilmember thirty-six hours prior to meeting, by City Clerk;

3. Adding items to or removing items from the agenda will be by unanimous consent of the Council;

4. Public notice of a regular meeting shall be made as provided in chapter 1.14.

e. Special meetings:

1. Called by Mayor or majority of the Council;

2. If a majority of members are given at least thirty-six hours oral or written notice and reasonable efforts are made to notify all members, a special meeting may be held at the call of the presiding officer or at least one-third of the members.

3. Agenda shall be as per subsection c.;

4. Public notice of a special meeting shall be made as provided in chapter 1.14.

f. Emergency meetings:

1. By unanimous consent of quorum;

2. Required justifiable reason;

3. Informal agenda--limited to emergency;

4. Public notice shall be made as provided in chapter 1.14.

~~g. Conflict of interest:~~

~~A member of the Council shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter. The Mayor or other presiding officer shall rule on the request; however, the decision may be overridden by the majority vote of the Council. Should a Councilmember fail to declare a substantial financial interest and ask to be excused from voting on the matter, after it has been established that they have a substantial financial interest, the Council may move to disqualify that member from voting by a majority vote of the body. A Councilmember with a conflict of interest regardless of whether excused from voting shall not be allowed to participate in discussion about the matter. "Substantial financial interest" and "Official action", for the purpose of this section, shall have the meaning set forth in §1.12.010 a. and b. Of this title.~~

— h.g. Quorum; Voting:

Four Councilmembers shall constitute a quorum. For affirmative votes are required for the passage of an ordinance, resolution, or motion. A member of the Council acting as Mayor pro tem shall not lose his vote as the result of serving in such office. The mayor is not a Councilmember and may vote only in the case of a tie. The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote;

i.h. Motions to reconsider:

A member of the Council who voted with the prevailing side on any issue may move to reconsider the Council's action at the same meeting or at the next regular meeting of the body. Notice of reconsideration shall be given to the Mayor or City Clerk within forty-eight hours from the time the original action was taken;

j.i. Abstentions:

All Councilmembers present shall vote unless abstention is required by law (AS 29.20.160(d)).

k.j. Consensus:

The Council may, from time to time, express its opinion or preference concerning a subject brought before it for consideration. The statement, representing the will of the body and a meeting of the minds of the members, may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

~~l.~~ k. Vacancies:

An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the Council. The Council shall declare an elective office vacant when the person elected:

1. Fails to qualify or take office within thirty days after his election or appointment;
2. Resigns and his resignation is accepted;
3. Is physically or mentally unable to perform the duties of the office as determined by two-thirds vote of the Council;
4. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the Council concur in expelling the person elected;
5. Misses three consecutive regular meetings unless excused;

6. Is convicted of a felony or of an offense involving a violation of the oath of office;

7. Is convicted of a violation of AS 15.13 concerning Alaska Public Offices Commission reporting requirements;

8. No longer physically resides in the municipality and the City Council by two-thirds vote declares the seat vacant; and

9. Is physically absent from the municipality for ninety consecutive days unless excused by the City Council.

~~m.~~ l. Salaries of elected officials

The Council may fix by ordinance the salaries of elected officials. The Homer City Council shall received an expense allowance of \$50 per month. An elected official may not receive any other compensation for service to the municipality unless specifically authorized to do so by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section. (Ord. 95-16(S), 1995).

~~n.~~ m. Any person making personal, impertinent, threatening or slanderous remarks or who shall become boisterous while addressing the Council, shall be forthwith, by the presiding officer barred from further audience at the meeting before the Council, unless permission to continue be granted by a majority vote of the Council. (Ord. 92-28(S), 1992; Ord. 91-12, 1991; Ord. 90-22, 1990)

Section 2. Homer City Code Chapter 1.12, Conflict of Interest, is hereby amended to read as follows:

Chapter 1.12

CONFLICT OF INTEREST<sup>2</sup>

Sections:

- 1.12.010 Definitions.
- 1.12.020 Councilmember conflict of interest.
- 1.12.030 Procedure for declaring.

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Prior ordinance history: Ords. 76-14 and 81-2.

- 1.12.040 Presiding officer to rule.
- 1.12.050 Governing body may override.
- 1.12.060 City employees and officials--conflict of interest.
- 1.12.070 Members of city boards or commissions--disclosure and participation.
- 1.12.080 City employees and officials--disclosure and testimony.

1.12.010 Definitions. In this chapter, unless otherwise provided or the context otherwise requires, the following terms shall have the meanings set forth in this section:

a. "Substantial financial interest in an official action" means a financial interest that could be affected by an official action, which might reasonably result in a pecuniary gain or loss exceeding \$300. When the pecuniary value of a Councilmember or Mayor's financial interest is not apparent on it's face or is otherwise at issue, the Mayor or other presiding officer will make the determination of whether or not it constitutes a substantial financial interest in accordance with 1.12.040.

b. A person's financial interest includes:

1. any financial interest of a member of that person's immediate family or other professional or private relationship including involvement or ownership in business or property.

2. any affiliation with an organization in which he has an ownership interest, holds a position of management, or is an officer, directors, trustee, employee, or the like.

c. A financial interest does not include:

1. affiliation with an organization solely as a volunteer, club member, or the like.

2. a personal or financial interest of a type which is shared in common with all other citizens or a large class of citizens.

d. "Immediate family" means anyone related by blood, marriage or adoption or who lives in the same household.

e. "Organization" means any business, corporation, partnership, firm, or association whether organized for profit or non-profit.

**b.e.f.** "Official action" means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a city official or employee, whether such action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.

**eg.** "City official" means a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council. (Ord. 92-49(A) (part), 1992; Ord. 86-22(S) §1(part), 1986).

1.12.020 Councilmember conflict of interest. A City Councilmember or Mayor with a substantial financial interest in an official action to be taken by the Council has a conflict of interest. (Ord. 92-49(A) §3, 1992; Ord. 86-22(S) §1(part), 1986).

1.12.030 Procedure for declaring. A City Councilmember or Mayor with a conflict of interest under section 1.12.020 shall so declare to the body as a whole and ask to be excused from voting on the matter. However, a City Councilmember or Mayor with a conflict of interest, regardless of whether excused from voting, shall not be allowed to participate in discussion about the matter. (Ord. 92-49(A) §4, 1992; Ord. 86-22(S) §1(part), 1986).

1.12.040 Presiding officer to rule. The Mayor or, in his absence, the Mayor Pro-Tem or other presiding officer, shall rule on a request by a City Councilmember to be excused from voting on a matter because of a declared conflict of interest. The Mayor Pro-tem or other presiding officer shall rule on a request by the Mayor to be excused from participating in a matter because of a declared conflict of interest. (Ord. 92-49(A) §5, 1992; Ord. 86-22(S) §1(part), 1986).

1.12.050 Governing body may override. A decision of the Mayor or other presiding officer under Section 1.12.040 may be overridden by a majority vote of the City Council. (Ord. 86-22(S) §1(part), 1986).

1.12.060 City employees and officials--conflict of interest.  
A city employee, or a city official other than a member of the City Council, may not participate in an official action in which he has a substantial financial interest, as defined in Section 1.12.010 (a) and (b). (Ord. 86-22(S) §1(part), 1986).

1.12.070 Members of city boards or commissions--disclosure and participation. A city official or employee who is a voting member of a city board or commission shall disclose any financial interest in any matter before the board or commission before debating or voting upon the matter, and may not participate in the debate or vote upon the matter unless the board or commission determine that a financial interest is not substantial as defined in § 1.12.010 (Ord. 92-49(A) §6, 1992).

1.12.080 City employees and officials--disclosure and testimony. No city official or employee may testify before the city council or a city board or commission without first disclosing any financial interest which the official or employee has in the subject of the testimony. (Ord. 92-49(A) §7, 1992).

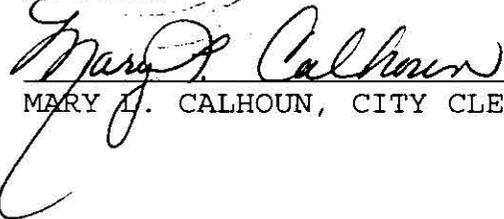
Section 3. This ordinance is of a permanent and general character and shall be included in the City Code, and shall become effective upon the City Attorney's capable review.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,  
this 22<sup>nd</sup> day of April, 1996.

CITY OF HOMER

  
HARRY E. GREGOIRE, MAYOR

ATTEST:

  
  
MARY A. CALHOUN, CITY CLERK

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City of Homer

AYES: 4  
NOES: 1  
ABSENT: 1  
ABSTAIN: 0

First Reading: 3/26/96  
Public Hearing: 4/8/96  
Second Reading: 4/22/96  
Effective Date: Determined by City Attorney review and approval  
as to form and content of amendment to section 1.12.010. a-e.

Reviewed and approved as to form and content:

  
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Patti J. Whalin, City Manager

  
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Gordon J. Tans, City Attorney

Date: 4/23/96

Date: 4-26-96

Fiscal Note not required.