

# **HOMER CITY COUNCIL OPERATING MANUAL**



December 2016

## **POLICIES OF THE HOMER CITY COUNCIL**

In 1983 the Homer City Council directed that policy directives be drafted to promote routine handling of various categorical business practices. Personnel policies were amended in accordance with policy directives dealing specifically with personnel matters and are found in the City of Homer Personnel Regulations Manual. The balance of these policies are as follows and will be updated regularly.

### **General Statements**

The City of Homer is a first class general law city incorporated March 31, 1964. Homer has a City Manager form of government.

Mayor and Council are elected officials. The Mayor is not a member of the Council and may vote only in the case of a tie vote.

The Mayor of the City of Homer presides over meetings of the City Council, has the power to veto action of the Council (which may be overridden with a 2/3 vote of the Council), and acts in an official capacity to the City Clerk.

The City Council is a body of six elected officials empowered by State Statute and Homer City Code to represent the citizenry in decisions on their behalf. Four members of the Council constitute a majority for quorum and voting purposes.

### **Policy Directives**

#### **Council Relations with Employees & Department Heads:**

"The Council acts as a whole, not as individuals, when interacting with employees regarding City business."

#### **Council Relation with City Attorney**

"Contact with the Attorney by individual Councilmembers is expected to be judicious, always considering the fiscal impact. Specific information requested from the City Attorney by an individual must be in writing to the City Attorney and copied to each Councilmember. Legal opinions on sensitive, controversial, or potentially costly matters will be brought before the full Council for action and should be in written form whenever possible. "Legal Opinions" are defined as paper products and not intended to include advice/information provided verbally. Legal opinions will be given to all members at the same time it is given to the individual member."

"When more than one solicited legal opinion exists on the same subject, the City Attorney's opinion overrides."

#### Council Conduct - Statement of Mayor and Council on Behalf of the City of Homer

"Statements of the Mayor and Council on behalf of the City are based on consensus and resolve of the Council body and substantiated by official record."

#### Councilmember/Mayor Absences

"Every effort should be made to give advance notice of absences. Absences should be coordinated in order to provide the highest possible attendance at Council Meetings."

#### City Council and Commission and Board Minutes

"It is a general consensus that the official record of proceedings, the minutes of City Council and Commission meetings, will be in the "action" format which state clearly the subject considered and the action. Points made in deliberation shall be reflected only. Individual comments of the Council, Commissions and Board are summarized under "Council Comments", "Commission Comments" or "Board Comments". Statements for the record are prefaced with a directive that the comment "is for the record." Public Comments, Public Testimony on Public Hearing Items and Audience Comments shall reflect the subject of the comment or testimony, whether the commenter/testifier is for or against the subject of his/her comments/testimony and shall reflect, in synopsis format, any historical perspective. (Reso 06-115(A), 08/28/06).

#### CITY COUNCIL AND COMMISSION, BOARD MEETING PUBLIC COMMENT/TESTIMONY AND AUDIENCE COMMENT TIME LIMITS

The meeting chairperson shall note for the audience's benefit that there is a three minute time limit each time there is a place in the agenda for public comment/testimony or audience comments. Any individual wishing to address the City Council or any of its Advisory Bodies shall adhere to a three minute time limit. It is the responsibility of the Chair to announce under Public Comments, Public testimony on public hearing items and Audience Comments that there is a 3 minute time limit. Time limits may be adjusted by the 2 minutes up or down with the concurrence of the body in special circumstances only such as agenda content and public attendance. (Reso 06-115(A), 08/28/06).

#### City Council and Commission, Board Agenda Guidelines

Agenda and Meeting Conduct Guidelines are as illustrated in Section 6.

### City Council Meetings

It is the policy of the City Council to avoid holding regular or special meetings on State and Federal holidays. It is the custom of the Homer City Council to cancel the second regular meeting in December.

### Mayor Pro Tem

A Mayor Pro Tem shall be elected by the majority of the Homer City Council. The term of the Mayor Pro Tem shall be until the call for election by the Homer City Council of a New Mayor Pro Tem. The Mayor Pro Tem shall, in the absence of the Mayor, act as Mayor of the City of Homer as though they themselves had taken the Oath of Office of Mayor with all duties, responsibilities and powers of the Office of the Mayor of the City of Homer.

By tradition the Council has elected a New Mayor Pro Tem at the same annual meeting when newly elected officials are sworn in. The Mayor Pro Tem, when acting in that capacity, does not lose the privilege or duty to vote as a Councilmember.

### Appointment to Board & Commissions

City Advisory board and commission appointments are made by the Mayor upon confirmation by the Council. Appointment of a City representative on a board, commission, etc., that is not advisory to the City is made by the Council. The Mayor will notify Council of vacancy and appointment at the next regular meeting if not sooner. Data information sheets will be on file in the City Clerk's office for those considered for appointment. The Mayor will submit a list the names of those considered to the City Council. Representation of a wide community cross-section is desirable on the commissions and boards. Replacements for vacancies may be recommended by the appropriate Commission or Board. Economic Development Commissioners are nominated by the Mayor and confirmed by the Council for appointment.

### Orientation of New Councilmembers

"A general orientation to municipal government, Council conduct and expectations will take place in close proximity to being sworn into office." The Mayor is responsible for providing the orientation program.

### Release of Telephone, Mailing Address and Location of City Council and Commissions

"It is the policy of the City of Homer to release all available information on any official unless otherwise directed by the individual official."

### New Liquor License Applications

"All applications for new liquor licenses will be subject first to a public hearing, duly notified and that issuance of the license may be protested for cause pursuant to AS 4.11.480."

### Fiscal Notes

December 10, 1990 via Memorandum 90-239, to begin January 1, 1991 every action item on Council's Agenda is to include both negative and/or positive financial impact. If a fiscal note is not required or not applicable the action item is to be so marked.

### Use of City Letterhead

"Any letter being sent out from the Council, using City letterhead, should first come before the Council."

### Political Endorsement

"The Homer City Council takes no position in the endorsement of any political race." "Since the Mayor is not a member of the voting body and is an elected official, there is nothing to prohibit his using his title to endorse a political candidate."

### Decorum at Meetings

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.

### Lobbying Activities

Pursuant to Resolution 96-10, the City Manager will create and deliver to Councilmembers' and the Mayor's mailboxes an initial list of legislation and issues important to the City.

Each Council member and the Mayor will choose the issue(s) and the bill(s) s/he wishes to be responsible for and will indicate how much time s/he is willing to spend on those items.

Where necessary, City Council will develop formal, written positions on issues to be voted on outside the CIP list.

When working with a contract lobbyist or lobbying on behalf of the City, the Mayor, City Manager and Council will be guided by the above-mentioned process. Toward the end of the

session, when legislation moves quickly, the City Manager, Mayor or Council members responsible for specific issues may draft a position document and send it to the appropriate players. In that case, a hard copy of the transmittal will be distributed to Council, Mayor, and City Manager immediately thereafter in their mailboxes, with a copy placed in Council packets under Announcements/Presentations/Borough and Commission Reports, thereby ensuring public involvement. (Reso 06-54, 05/22/06).

Upon returning from travel on City business, including lobbying trips or other trips made on behalf of the City, the City Manager, Council members and Mayor will file written reports for inclusion in the next Council meeting packet under Announcements/Presentations/Borough and Commission Reports using the attached format. Each entry describing the activity and subject(s) discussed will be followed by a recommendation. In this way, Councilmembers, the Mayor, or the City Manager following up will have a clear direction to follow. (Reso 00-08, 1/10/00; Reso 06-54, 05/22/06).

Each Councilmember, the Mayor, and City Manager are expected to share his/her lobbying activities with the public in oral and written form under the agenda section marked Announcements/Presentations/Borough and Commission Reports. (Reso 06-54, 05/22/06).

Travel Report Narratives are required for all travel under Announcements/Presentations/Borough and Commission Reports. Finance verifies expenses and prepares check, less advance, (if applicable) after receipt of check request from City Clerk. (Reso 00-08, 01/10/00; Reso 95-78(A), 10/07/95).

### Committee of the Whole

The Committee of the Whole may meet prior to every Regular Council Meeting at 5:00 p.m. to not run past 5:50 p.m.

This is a device to enable the full Council to give detailed consideration to a matter under conditions of freedom approximating those of a committee. The results of any votes taken are not the final action of the Council and are recommendations.

The Mayor shall be the presiding officer.

No text may be altered in any agenda item for Council's Regular meeting; however, amendments may be recommended.

The agenda shall be noticed the same as a Council's Regular meeting. Only those matters on the noticed agenda shall be considered; however, other items not on the Council's Regular meeting agenda may be considered if the agenda item is received by the City Clerk no later than the Wednesday prior to the meeting. "Old business" shall be added to the Committee of

the Whole agenda and shall be those items that are not on Council's Regular Meeting agenda and that were not discussed at the previous Committee of the Whole meeting due to insufficient time. (Reso 09-116(A), 11/23/09; Reso 03-118 08/25/03; Reso 01-24, 04/09/01; Reso 01-08(S), 02/26/01).

**PROCEDURES**  
**GENERAL INFORMATION - (HOW TO'S)**

Introduction: Robert's Rules, Homer City Code (HCC) and Alaska State Statues (AS) govern powers and operations of the Council. Title 29 specifically deals with municipalities; however, other State Statutes can affect specific subjects of consideration. The following is a quick reference for Councilmembers confronted with the first exposure as an elected government official.

**ABSENCES** (To be excused from meeting)

HCC 2.08.040(l)(5) By-laws for Council procedure provides that unexcused absences from three consecutive meetings is adequate basis for declaring the seat vacant. Notification of intent to be absent is the primary prerequisite to being excused.

Notification of future absences can be made at any Council meeting under Comments of the Council.

Notification of absence between meetings is accomplished by advising the Mayor, City Clerk or City Manager.

During opening remarks, the Mayor, or designated presiding officers declares the status of any absence for the record.

Councilmembers may state objections to absences either when authorization for an absence is required by a Councilmember or declared excused by the Mayor.

**EXECUTIVE SESSION** - Call for...

State law pertaining to public agency meetings is applied in the absence of specific City Code. AS 44.62.310(c)(1)-(3) state legal reason for executive sessions. The law is as follows:

"The following excepted subjects may be discussed in an executive session:

- (1) Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;
- (2) Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

- (3) Matters which by law, municipal charter, or ordinances are required to be confidential."
- (4) Confidential records, matters involving consideration of government records, that by law are not subject to public disclosure. HCC 2.80.030
- (5) Attorney-client privilege.
- (6) Exemption for adjudicatory deliberations and decision-making.
- (7) Organizational votes.

On the Council's Agenda only the Statute number and section are required to be listed as the reason for Executive Session. The issue to be discussed is to be listed in parenthesis after the reason for executive session.

This section is not applicable to quasi-judicial bodies, i.e. Boards of Adjustment.

A regular or special meeting may be recessed or adjourned to executive session. Future times for executive sessions may be set by motion. A duly constituted, called meeting with a quorum present is required for consideration of an executive session motion. Vote on the motion is taken by roll call.

Any Councilmember, the Mayor or City Manager may place consideration of an executive session on the agenda. When placed before agenda closing, the question is decided by 2/3 vote. Request falls under the By-Law requiring unanimous consent for additions or deletions to the agenda.

During Executive Session:

- (1) Stick to the issue
- (2) No action; limited exceptions
- (3) Decision-making in adjudicatory proceeding

Reconvene in public, make a statement, and take action if necessary. (Reso 03-140, 10/27/03; Reso 01-61, 09/10/01).

### **CONFLICT OF INTEREST - When to Express**

Council business may present a conflict. It is important to recognize and state the conflict, immediately disqualifying yourself from participation. A conflict of interest is considered to exist when the Councilmember has a substantial financial interest in the matter under consideration. A Councilmember may move to disqualify another member if he does not disqualify himself. It is recognized that from time to time local government officials cannot avoid the circumstance of conflict of interest or appearance thereof. How these possible conflicts are handled is of prime importance to the official and the municipality.



Key Steps are 1) notification of substantial financial interest which then leads to 2) Mayor or Presiding Officer determination of whether financial interest is substantial.

Example: City Council Agenda Item - "Resolution to create an improvement district." A potential conflict may exist, for instance, when a Councilmember owns property in an area for which improvements would increase the value or development potential of the land.

(Notification): Councilmember Landowner states he/she is a property owner in the proposed improvement district for which improvements would increase the value or may occur when the proposed utilities are in place.

(Determination of Substantial Interest and Action): "I own property in this proposed improvement. I, therefore request to be excused from participating in discussion of or voting on this matter."

To abstain from voting without giving notice may be a disservice to the other Councilmembers. An abstention counts as a negative vote (Robert's Rules of Order).

Homer City Code 1.18 reads as follows:

1.18.020 Definitions. As used in this chapter and unless otherwise provided or the context otherwise requires, the following terms shall have the meanings set forth in this section:

a. "Applicant" means any person that is applying for an official action by any official, employee, or body of the city including but not limited to:

1.) Any person authorized to act for the applicant,

2.) If the applicant is an organization, any person who has an ownership interest in the organization or serves as an officer, director or manager of the organization.

b. "Body of the city" means the City Council and the boards, commissions, committees and task forces appointed by the City Council or the Mayor.

c. "City manager" means the person who is hired by the City Council to manage the City of Homer.

d. "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.

e. "Financial interest" means:

1. an interest currently held by that person or an immediate family member including:

i.) involvement or ownership in a business or,

ii.) property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person receives a financial benefit; or

- iii.) an affiliation with an organization in which the person holds a position of management, or is an officer, director, trustee, employee, or the like; or
- 2. financial interest does not include:
  - i.) affiliation as unpaid volunteer with a legally recognized non-profit organization or,
  - ii.) financial interests of a type which are generally possessed in common with all other citizens or a large class of citizens.
- f. "Gratuity" means a thing having value given voluntarily or beyond lawful obligation.
- g. "Hired consultants and contractors" means a person or organization hired by the city as an independent contractor and not as an employee.
- h. "Immediate family member" means:
  - 1. the spouse of the person;
  - 2. a life partner or person cohabiting with the person;
  - 3. a child, including a stepchild and an adoptive child, of the person;
  - 4. a parent, sibling, or grandparent of the person; and
  - 5. a parent or sibling of the person's spouse.
- i. "Large class of citizens" means a substantially large group of citizens as decided by official decision of the City Council made prior to the official action in question.
  - "Large class of citizens" does not include:
    - a. A single profession, regardless of the number of persons.
    - b. An individual business or organization regardless of the number of citizens it contains.
  - j. "Official action" means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction (when it is the equivalent of decision to take negative action), made while serving in the capacity of city official or city manager, whether such action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.
  - k. "Organization" means any business, corporation, partnership, firm, company, trust, association, or other entity, whether organized for profit or non-profit.
  - l. "Partiality" applies only in quasi-judicial proceedings and means:
    - 1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or
    - 2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, but is not limited to instances in which:
      - (i) the member has a personal bias or prejudice for or against a party to the proceeding including a party's lawyer;
      - (ii) the member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.
  - m. "Person" means a natural person or an organization.
  - n. "Political activity" means any act for the purpose of influencing the nomination or election of any person to public office, or for the purpose of influencing the outcome of any

ballot proposition or question. Informing the public about a ballot proposition or question without attempting to influence the outcome of the ballot proposition or question is not political activity.

o. "Subject of the action" means anything under consideration for official action including but not limited to:

1. Appointments to any office or position of employment,
2. Any contract, project, property, or transaction subject to the action,
3. A platting, vacation or subdivision action,
4. An application for or other consideration of a license, permit, appeal, approval, exception, variance, or other entitlement,
5. A rezoning, and
6. Appeals and quasi-judicial proceedings.

p. "Substantial financial interest" means a financial interest that would result in a pecuniary gain or loss exceeding \$1000 in a single transaction or more than \$5000 in the aggregate in 12 consecutive months. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.025 Scope and Duration.

a. Except as otherwise provided in this chapter, this chapter applies to the conduct of city officials and the City Manager.

b. Enforcement proceedings may be commenced and continue to completion after a person is no longer a city official or City Manager for conduct that occurred during the time the person was serving or engaged in such a capacity for the city. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.030 Standards and Prohibited Acts.

a. City officials, the City Manager, and City hired consultants and contractors, while acting in such capacity, shall not knowingly make false statements to influence official action.

b. Official Action. No City official or the City Manager shall participate in any official action in which:

1. The person is the applicant, a party or has a substantial financial interest in the subject of the official action.
2. Within a period of one year after the action the person will have a substantial financial interest in the subject of the official action.
3. The person resides or owns land within a 300-foot periphery of any property that is the subject of any action.
4. The person does or will recognize a substantial financial interest as a result of the action.
5. Exceptions.

a. This subsection does not prohibit a person from acquiring a substantial financial interest in the subject of the action after the longer of 12 months after the official action is approved, or 12 months after the person's term or employment ends.

b. This section does not prohibit any gain or loss that would generally be in common with all other citizens or a large class of citizens.

c. This section does not prohibit any gain or loss that would generally be in common with other property owners on property that is further than 300 feet from the periphery of any property that is the subject of an action.

c. City officials and the City Manager acting in the course of their official duties are allowed to participate in official actions on behalf of the City or when the City itself is the applicant or subject of the action.

d. Undue Influence. No City official or the City Manager shall attempt to influence the City's selection of any bid or proposal, or the City's conduct of business, in which the City official or the City Manager has a substantial financial interest. This subsection does not prohibit a City official or the City Manager from being an applicant while holding City office or City position, if the person takes no official action concerning his or her own application. A City official or City Manager may give testimony and make appearances before City bodies on his or her own behalf.

e. Participation in Appointments. No City official shall participate in, vote on, or attempt to influence the selection of an appointee to any board, commission or committee (1) having authority to take official action on any pending matter or application in which that official has a substantial financial interest or (2) if that official has a substantial financial interest with a nominee for the appointment.

f. No official shall participate in, vote on, or attempt to influence the selection of an appointee to the Homer Advisory Planning Commission if that official has, or could reasonably be expected to have within one year after the date of the appointment:

1. A rezoning, quasi-judicial or platting action pending before the Commission; or
2. An application that would require approval by a quasi-judicial or platting action of the Commission.

In the case of the reappointment of an incumbent to another term, the prohibition above also applies to an official who had such a matter pending before the Homer Advisory Planning Commission within one year before the date of the reappointment. The Board of Ethics may,

upon written request, grant an exception to this one-year period when it determines the public interest does not require continuing enforcement of the prohibition.

g. Use of Office for Personal Gain. No City official or the City Manager shall seek office or position or use their office or position for the purpose of obtaining anything of value for themselves, an immediate family member or a business that they own or in which they hold an interest, or for the purpose of influencing any matter in which they have a financial interest. This subsection does not prohibit the receipt of authorized remuneration for the office or position.

h. Inappropriate Use of Office Title or Authority. No City official or the City Manager shall use the implied authority of office or position for the purposes of unduly influencing the decisions of others, or promoting a personal interest within the community. City officials and the City Manager will refrain from using their title except when duly representing the City in an authorized capacity. Unless duly appointed by the Mayor or Council to represent the interests of the full Council, Council members shall refrain from implying their representation of the whole by the use of their title.

i. Representing Private Interests. No City official shall, for compensation, represent or assist those representing private business or personal interests before the City Council, administration, or any City board, commission or agency. Nothing herein shall prevent an official from making verbal or written inquiries on behalf of constituents or the general public to elements of City government or from requesting explanations or additional information on behalf of such constituents. No official may solicit or accept a benefit or anything of value from any person for having performed this service.

j. Confidential Information. No City official or the City Manager may disclose information they know to be confidential concerning employees of the City, City property, City government, or other City affairs, including but not limited to confidential information disclosed during an executive session, unless authorized or required by law to do so.

k. Outside Activities. A City official or the City Manager may not engage in business or accept employment with, or render services for, a person other than the City or hold any office or position where that activity, office, or position is incompatible with the proper discharge of the official's or City Manager's City duties or would tend to impair the official's or the City Manager's independence of judgment in performing City duties. This prohibition shall include but not be limited to the following activities:

1. A person who holds an appointed City office on a board or commission shall not be eligible for employment with the City in the department related to the board or commission during the official's term of office and until one year has elapsed following the period of service. An exception may be made on a case-by-case basis with the express authorization of the City Council.

2. A person who holds or has held an elective City office shall not be eligible for appointment to an office or for employment with the City during the official's period of service and until one year has elapsed following the period of service. An exception may be made on a case-by-case basis with the express authorization of the City Council.

l. Gratuities. No City official or the City Manager shall accept a gratuity from any person engaging in business with the City or having a financial interest in a decision pending with the City. No City official or the City Manager shall give a gratuity to another City official for the purpose of influencing that person's opinion, judgment, action, decision or exercise of discretion as a City official. This subsection does not prohibit accepting:

1. A meal of reasonable value;
2. Discounts or prizes that are generally available to the public or large sections thereof;
3. Gifts presented by an employer to its employees in recognition of meritorious service, or civic or public awards;
4. A lawful campaign contribution made to a candidate for public office;
5. An occasional nonpecuniary gift insignificant in value;
6. Any gift which would have been offered or given to them if they were not a City official or the City Manager.

m. Use of City Property. No City official, the City Manager, or City hired consultant or contractor may use, request or permit the use of City vehicles, equipment, materials or property for any non-City purpose, including but not limited to private financial gain, unless that use is available to the general public on the same terms or unless specifically authorized by the City Council. This subsection does not prohibit de minimis personal use.

n. Political Activities – Limitations of Individuals. A City official may not take an active part in a political campaign or other political activity when on duty. Nothing herein shall be construed as preventing such officials from exercising their voting franchise, contributing to a campaign or candidate of their choice, or expressing their political views when not on duty or otherwise conspicuously representing the City.

o. Influencing Another City Official's Vote. A City official may not attempt to influence another City official's vote or position on a particular item through contact with the City official's employer or by threatening financial harm to another City official.

p. City officials or the City Manager shall not participate in public testimony before any City body in any matter in which they have a substantial financial interest unless:

1. They or the City is the applicant; or

2. They fully and publicly disclose the nature of their interest in the subject of the action.

q. No City official may violate HCC 2.04.030. [Ord. 16-48(S)(A) § 1, 2016; Ord. 08-24(S-2)(A), 2008].

#### 1.18.040 Business dealings with city.

a. Not less than ten days before the date when official action may be taken by the council or by any officer, the City Manager, commission or other agency of the city upon business dealings between the city and a city official or an organization in which the city official has a substantial financial interest, the city official shall file a statement with the city clerk. The statement shall set forth the nature of such business dealings and the city official's interest therein. This statement is only required when the person receives a beneficial substantial financial interest. If all other provisions of this chapter are complied with, the statement shall be sufficient for continuing transactions of a similar or like nature for one year from the date of its filing. However, if an official has violated any of the provisions of this chapter, he shall be precluded from engaging in business with the city on that particular matter for one year.

b. Upon taking office or upon subsequently acquiring the interest, an official shall, within ten days, file with the city clerk a statement disclosing any substantial financial interests of the official or the City Manager in any existing business with the city, including those of any organization in which the official or the City Manager has a substantial financial interest.

c. The City Manager shall not engage in business with the city outside the duties of City Manager. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.043 Public Disclosure.

a. City officials and the City Manager must annually file the following financial interest disclosure on forms prepared by the City Clerk:

1. For each City official and the City Manager the information that is required on the following selected schedules from the Alaska Public Offices Commission Public Official Financial Disclosure Statement: Schedules B (business interests), C (real property interests/rent to own), E (the portion relating to natural resource leases only), F (government contracts and leases) and G (close economic associations); and

2. For each elected City official a list of each business in which an immediate family member is a partner, proprietor or employee to the extent not provided in response to subsection (a)(1) of this section.

b. The financial interest disclosure must be filed by November 1st each year. A newly appointed official must file a statement within 30 days after taking office. Each candidate for elected City office must file a disclosure statement at the time he or she files a declaration of candidacy, except an incumbent seeking reelection with a current disclosure statement on file. Refusal or failure of a candidate to file the required disclosure statement before the end of the time period for filing declarations of candidacy shall require that the candidate's declaration of candidacy be rejected and the candidate disqualified.

c. The disclosure statement must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury. Not filing a statement within the stipulated period is a violation of this chapter.

d. The disclosure statement shall be filed with the City Clerk and shall be open to public inspection and copying at the office of the City Clerk. The disclosure statement will not be sent to the Alaska Public Offices Commission. [Ord. 16-26 § 1, 2016; Ord. 08-24(S-2)(A), 2008].

#### 1.18.045 Procedure for declaring potential conflict of interest-city officials.

a. A city official who has or may have a substantial financial interest in an official action shall disclose the facts concerning that interest to the body of the city of which the official is a member prior to the body taking any official action. Any member of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

b. If the official is a city council member, the mayor, or the mayor pro tem in the absence of the mayor, shall rule on whether the council member must be excused from participation or must vote. The ruling may be immediately overridden by a majority vote of the city council. There is no appeal from the action or inaction of the city council to override or not override the ruling of the mayor.

c. If the official is not a city council member, the official may excuse themselves without a vote for conflict of interest, otherwise the board, commission, or other body of which the official is a member shall by majority vote rule on whether the member must be excused from participation, which must be the ruling when the body determines the official has a substantial financial interest in the official action. There is no appeal from the ruling of the body.

d. The official shall abide by the ruling. If the official is not a city council member, the ruling applies (without the need for further disclosures and rulings) to all subsequent occasions on which the same official action comes before the same body, unless there has



been a material change of circumstances. On each such subsequent occasion, the presiding officer shall note for the minutes that the ruling previously made continues in effect.

e. An official who is ruled to be excused from participation shall leave the official table and not vote, debate, testify, or otherwise take part in the official action, except an official who is an applicant may testify on his or her own behalf from the public testimony area.

f. Rule of necessity; Exceptions to a ruling excusing a member from participation shall be made in cases where

(1) by reason of being excused for conflicts of interest the number of members of the council or other body eligible to vote is reduced to less than the minimum number required to approve the official action,

(2) no other body of the city has jurisdiction and authority to take the official action on the matter, and

(3) the official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for conflicts of interest.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.047 Procedure for declaring potential conflicts of interest – City Manager.

The City Manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the manager's financial interests to the City Council prior to taking any official action. If the City Council determines the manager has a substantial financial interest in the action, the City Council shall excuse the manager and assign another city employee to the matter. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.

a. A city official or the City Manger who has partiality concerning a quasi-judicial matter shall not advise on matter, adjudicate the matter or serve as a member of a body adjudicating the matter.

b. A city official who is a member of a quasi-judicial body and who has or may have partiality concerning a matter to be adjudicated shall disclose the facts concerning the official's possible partiality to the body to the parties to the matter prior to the commencement of proceedings by the body. Any member of the body, and any party to a matter before the body, may raise a question concerning a member's partiality, in which case the member in question shall disclose facts concerning the official's possible partiality in the matter.

c. After such disclosure, the city official may excuse themselves for partiality without a vote of the body, otherwise the body (including a body comprised of city council members when serving in a quasi-judicial capacity) shall by majority vote, rule on whether the member

must be excused from participation, which must be the ruling when the body determines the official has partiality concerning the matter.

d. Rule of necessity; Exceptions to a ruling excusing a member from participation shall be made in cases where

(1) by reason of being excused for partiality the number of members of the council or other body eligible to vote is reduced to less than the minimum number required to approve the official action,

(2) no other body of the city has jurisdiction and authority to take the official action on the matter, and

(3) the official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for partiality.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action.

e. The City Manager who has or may have partiality concerning a quasi-judicial matter over which the manager has decision-making authority shall either (i) appoint another city employee to make the decision or (ii) disclose the facts concerning the possible partiality to the City Council and to the parties to the matter prior to taking any official action. If referred to the City Council and the City Council determines the manager has partiality concerning the matter, the City Council shall excuse the Manager and cause another city employee to be assigned to decide the matter. (Ord 08-24(S-2)(A) §1, 2008).

#### 1.18.050 Procedures for violation reporting.

a. Any person who believes that a violation of any portion of this chapter has occurred may file a written complaint of potential violation with the city clerk's office.

b. All written complaints of potential violation submitted under this chapter shall be signed by the person submitting the complaint. A written complaint of potential violation shall state the address and telephone number of the person filing the complaint, identify the respondent, affirm to the best of the person's knowledge and belief the facts alleged in the complaint of potential violation signed by the person are true. The person filing the complaint of potential violation shall identify the section of this chapter the person believes was violated, state why the person signing the complaint of potential violation believes the facts alleged constitute a violation of that section, and identify any documentary or testimonial evidence the person filing the complaint believes are in support of the notification of potential violation.

c. Written complaints of potential violations filed with the City Clerk's office shall be forwarded to the Board of Ethics under Chapter 1.79. The Board of Ethics has sole jurisdiction to decide the merits of the complaint filed under this chapter. (Ord 08-24(S-2)(A) §1, 2008).

1.18.060 Advisory opinions.

a. Where any city official or the City Manager has a doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein, he may apply in writing to the city attorney for an advisory opinion. The city official or City Manager shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the chapter before such advisory opinion is made. The request must clearly state it is a request for an advisory opinion under this section of the ethics code.

b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. An advisory opinion shall be applicable and binding only to the particular set of facts and instances of conduct for which it was requested and shall have no force or effect for purposes of general application. Such opinion shall not be binding or admissible in evidence in any action initiated by any private citizen. (Ord 08-24(S-2)(A) §1, 2008).

1.18.070 Violation and penalty. Any official who violates any of the provisions of this chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16. (Ord 08-24(S-2)(A) §1, 2008).

1.18.090 Distribution of Code. The city clerk shall cause a copy of this chapter to be distributed to each city official elected or appointed before entering upon the duties of his office and to the City Manager upon employment. (Ord 08-24(S-2)(A) §1, 2008).

1.18.100 Application of state statutes.

a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

b. All municipal officers as defined by Alaska Statutes Chapter 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord 08-24(S-2)(A) §1, 2008).

**STANDARD OPERATING PROCEDURE - Motions**

Liquor Licenses - Application for new, renewal, or transfer of the liquor licenses within the City are reviewed by the Council. The Alcoholic Beverage Control Board allows municipalities the opportunity to protest all such applications before their final consideration and disposition. Status of taxes is checked with the Borough and comment is solicited from the Homer Department of Public Safety by the City Clerk's Office as standard course of action. Any negative reports are stated in informational memoranda about the liquor license. Liquor license applicants are notified of the report given to Council.

Liquor Licenses are normally placed on the consent agenda, and can be removed for discussion by any Councilmember. The memoranda from the Clerk will clearly state a recommendation to "approve", "object" or "voice no objection" to the action on the license.

Games of Chance and Skill Permit - These permits are not transferable, so applications are either new or for a renewal. Alaska Department of Revenue issues the permit. All permits requiring acknowledgment of proof of filing shall be executed upon receipt by the City Clerk's Office, with a Report Memorandum from the Clerk's Office through the City Manager under the City Manager's Report. All permits requiring approval by the local government unit, shall not be executed by the City Clerk until Council has taken action, generally via Consent Agenda at a Regular Meeting. The memoranda from the Clerk will clearly state a recommendation to "approve", "object" or "voice non objection". A simple motion for approval or non objection of the permit advances the application to the State for issuance. Protest is limited to the lack of qualification of the applicant. (Reso 96-110, 12/16/96)

Vacations of Right-of-Way - AS 29.40.070 governs dedication of right-of-way; vacation thereof. The Council is allowed thirty days following the decision of the platting board to veto that decision. No action on the agenda item constitutes approval. To disapprove, the motion must be to "veto the vacation". This item is generally placed on the Consent Agenda.

**STATEMENTS/COMMENTS FOR THE RECORD:** Certain statements for the record are SOP; 1) Councilmember qualifying potential conflict, Council." For other statements to be included remarks are prefaced by the directive "For the Record..."

**APPEALS, COUNCIL AS BOARD OF ADJUSTMENT;** Occasionally the City Council convenes as a Board of Adjustment on appeals from the Planning Commission. HCC 21.91 outlines requirements and board procedures. Essentially, the Council becomes a quasi-judicial body when hearing appeals. Discussion of appeals' subject matter with circumstance. Evidence and testimony should be weighted on its own merit and only as it is presented in written or oral form. No effort should be made to discuss the matter with staff or the parties involved.

## **TELECONFERENCE PROCEDURES**

Teleconference participation in meetings.

a. Sections 2.08.100 through 2.08.120 govern the telephonic participation of the Mayor and members of the Council at all meetings of the City Council, including all other bodies that are comprised of the Mayor and members of the Council, such as, but not limited to, the Board of Adjustment and an ethics board.

b. The preferred procedure for City Council meetings is that the Mayor and all Council members should be physically present at the designated time and location within the City for the meeting. However, physical presence may be waived and the Mayor and any member(s) may participate in a Council meeting by teleconference, subject to the procedures and limitations provided in sections 2.08.100 – 2.08.120.

c. A person participating by teleconference shall, while actually on the teleconference, be deemed to be present at the meeting for all purposes. The person shall make every effort to participate in the entire meeting.

d. If the Mayor participates telephonically the Mayor Pro Tem, or the senior Council member in the Mayor Pro Tem's absence, shall preside over and perform all functions of the Mayor at the meeting.

e. "Teleconferencing" means a means used for remote participation by an official for a meeting of the city council which must enable the remote official for the duration of the meeting, to clearly hear the mayor, all councilmembers, the city clerk and public testimony and to be clearly heard by the mayor, all councilmembers, the city clerk and the public in attendance. (Ord 07-45(A)(S)§1, 2007).

#### Teleconference procedures.

a. A Mayor or Council member who cannot be physically present for a regularly scheduled Council meeting shall notify the City Clerk at least five days prior to the scheduled time for the meeting of his or her request to participate in the meeting by telephonic means of communication.

b. Three days prior to the scheduled time for the Council meeting, the City Clerk shall notify the Mayor and Council of the person's request to participate by teleconference.

c. At the commencement of the Council meeting a telephonic connection will be established with the person or persons intending to participate telephonically. After a telephonic connection is established the Mayor shall call for a vote of the council on whether the person(s) may or may not participate by telephone. Prior to the vote, the Mayor or Council members may make such inquiries as necessary to make a decision. Only the council members physically present may vote on the question. The Council's determination is final and not subject to veto or appeal. If a person participates in the meeting telephonically without a ruling from the Council, it shall be deemed to be with the approval of such participation by the Council, and all actions taken by the Council with the participation of all such persons are valid.

d. Sections a. and b. of this section do not apply to special meetings or emergency meetings of the City Council called under §§ 1.14.030 and 1.14.050 of the Homer City Code. A Council member or Mayor who requests to participate in a special or emergency meeting of the City Council must notify the City Clerk before the time scheduled for the start of the meeting. The Clerk will notify the Mayor and Council no later than the commencement of the meeting. After a telephonic connection is established with the person or persons requesting to participate telephonically, a ruling shall be made on the person's participation in the meeting as provided in subsection c. of this section.

e. The means used for a teleconference meeting of the City Council must enable each member appearing telephonically to clearly hear the Mayor, all other Council members, and public testimony at the meeting as well as be clearly heard by all other Council members and members of the public in attendance.

f. The City Clerk shall note in the journal of the proceedings of the City Council all

members appearing telephonically.

g. To the extent practicable, materials to be considered by the council shall be made available to those attending by teleconference. (Ord 07-45(A)(S)§2, 2007).

Teleconference - limitations.

a. All Council members and the Mayor should make all reasonable effort to be physically present for every meeting. Teleconference procedures may not be used as a regular means of attendance at meetings.

b. Participation by teleconference may be denied whenever the physical presence of the individual is considered essential to effective participation in the meeting or to the proper conduct of the business to be addressed at the meeting.

c. If teleconference is denied the individual will be listed as absent.

d. Each Council member and the Mayor may attend a maximum of three City Council meetings by teleconference during the 12 month period commencing November 1 each year.

e. Each Council member and the Mayor may attend additional teleconferences as a special exception if expressly approved for good cause in each instance by a vote of the Council. Good cause may include, but is not limited to absence required for extended medical care needed for the individual or the individual's immediate family.

f. No Council member or the Mayor shall attend by telephonic means:

1. an executive session of the City Council.
2. a hearing on an ethics charge under Chapter 1.18. (Ord 07-45(A)(S)§3, 2007; Ord 08-31(S) §1, 2008).

**HOMER CITY COUNCIL**  
**BYLAWS**

2.08.040 By-laws for Council procedure. The Original By laws were passed by resolution of the Common Council on the thirty-first day of March, 1964. The present bylaws were codified and have been revised through Ordinances 90-22, 91-12, 92-28(S) and 96-7(S)(A); and shall be in effect and govern the procedures of the Common Council of the City:

- a. To abide by existing **Alaska State Law** 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 written standing rules adopted by the City Council. In all other cases, the 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, as the same may be amended from time to time, 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 p.m.,
  2. Agenda to each Councilman 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;
- 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. Teleconference meetings.
  1. By determination of the Council, pursuant to chapter 2.08.
- h. Quorum; Voting:

Four Council persons shall constitute a quorum. Four 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 or her vote as the result of serving in such office. The Mayor is not a Council member and may vote only in case of a tie. The final vote on each ordinance, resolution or substantive motion may be a roll call vote or may be done in

accordance with 2.08.040(h);

i. 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. Abstentions:

All Council persons present shall vote unless abstention is required by law (AS 29.20.160(d));

k. 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. 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 his 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, or
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. Salaries of Elected Officials:

The Council may fix by ordinance the salaries of elected officials. The Councilmembers will receive a \$50.00 non wage stipend per month during their term of office as a reimbursement for expenses and the Mayor at \$75.00 per month. The City shall not spend any funds for elected officials' membership in the Public Employees Retirement System. 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.



n. 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. 10-51(A), 2011; Ord. 10-45, 2010; Ord. 09-54, 2009; Ord 07-45(A)(S), 2007; Ord 05-58(S)(A), 2005; Ord 03-48(A), 2003; Ord 01-30, 2001; Ord 99-17(A) section 2, 1999; Ord 96-07(S)(A) section 1 part, 1996; Ord 95-16(S), 1995; Ord 92-28(S), 1992; Ord 91-12, 1991; Ord 90-22, 1990; Code 1981 §1.24.040).

## **CITY COUNCIL AGENDA & MEETING CONDUCT GUIDELINES**

### **1. CALL TO ORDER, PLEDGE OF ALLEGIANCE**

HCC 2.08.040(h) (Bylaws)

Four council members (quorum) is required.

Pledge of Allegiance will be said for all Regular and Special Meetings.

### **2. APPROVAL OF THE AGENDA**

The agenda closes at 11:00 a.m., Wednesday before the Council meeting. HCC 2.08.040(d)(3) requires unanimous consent of the Council to add (or remove) business items from the agenda. Tentative agenda items, type of enactment and subject only, need to be to the City Clerk by Thursday of the week proceeding Council packet week. The final packet ready document(s) need to be to the City Clerk as soon as possible prior to 11:00 a.m. on the Wednesday for packet review. Any late agenda item not meeting the tentative agenda deadline and/or not meeting the packet deadline shall be discussed with the Mayor by the submitter if a Councilmember. All other late items, unless of an immediate nature, shall be placed on the next tentative agenda. (Reso 03-84, 2003; Reso 03-81, 2003).

### **3. MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS**

Mayoral recognitions and mayoral proclamations must be approved by the Mayor. A request must be made timely for inclusion in the City Council packet. Official action of the City Council is not taken under this agenda item. (Reso 16-122, 2016).

4. **PUBLIC COMMENTS REGARDING ITEMS ALREADY ON THE AGENDA**

No prior arrangement is required. The public may have unrestricted access to the City Council for comments regarding matters already on the agenda with the exception of matters listed under Public Hearings or questions on presentations given under Visitors section of the agenda; these should be held until Comments of the Audience. Those giving testimony are requested to preface remarks with their name & address for the record. The Mayor will provide time limitations on presentations based on the volume of business before the Council. No official action will be taken by the Council under this business item. Any comments regarding Board of Adjustment hearings must be on procedure only. No comments that contain any argument or new evidence are acceptable and are subject to being cut short by the Mayor and/or Council.

5. **RECONSIDERATION**

When a Councilmember has issued notice of reconsideration on an item, the reconsideration is acted upon at this point in the meeting. The Item to be reconsidered is placed under Pending Business, Ordinances or Resolutions - depending on the item.

6. **CONSENT AGENDA**

The following business items are appropriate for the consent agenda. These items are acted upon by one motion for approval of the Consent Agenda. If discussion is requested on an item that item may be removed from the Consent Agenda and placed on the Regular Agenda.

- 1) Minutes approval
- 2) Liquor license renewals and transfers
- 3) Any gaming permit requiring approval of the local government unit.
- 4) Confirmation of Commission & Board Appointments
- 5) Resolutions (of a general nature required for normal business operations of the City)
- 6) Requests to hold Executive Session. (Executive Session will typically be conducted at the end of business, just prior to Audience Comments, unless the Mayor calls for the Executive Session to be held at another point in the agenda.) (Reso 03-140, 10/27/03).
- 7) Change Orders
- 8) Travel Authorization (Reso 00-08, 1/10/00).
- 9) Ordinance introduction and first reading and setting the public hearing date and second reading date. (Reso 00-82, 8/28/00).

The Mayor or any Councilmember, whether a/the sponsor or not, may remove an item and place that item on the Regular Agenda during the Tentative Agenda period and up until the printing and distribution of the packet. The City Clerk shall notify the sponsor(s) of said change. The Mayor and Council shall have agendas with blank lines under Consent Agenda, Ordinances, New Business and Resolutions for the purposes of keeping track of changes to the Consent Agenda, Ordinances, New Business and Resolutions.

This format shall be utilized as much as it reasonable for the Standing Committees, Committees, Task Forces and the like. (Reso 06-132, 09/25/06).

7. **VISITOR(S)**

These requests must be approved by the City Manager or Mayor. To be placed in the visitors category, an outline, letter, or other descriptive material must be provided (timely) for distribution in the City Council Packet. Official action of the City Council is not taken under this agenda item. NO questions from the audience will be taken until "Comments of the Audience"

8. **ANNOUNCEMENTS/PRESENTATIONS  
BOROUGH & COMMISSION REPORTS**

Announcements are made from the council table (Council Members, Mayor or City Manager). The Chair may be provided written information in advance of the meeting to announce for non-Councilmembers, at the Chair's discretion. Borough or Advisory Commission reports may also be presented at this time. No action by Council will be made here, although the Council may request a matter brought to their attention in a report be placed on an agenda for a future meeting. Travel Narrative Reports. (Reso 00-08, 1/10/00).

9. **PUBLIC HEARINGS**

This agenda item is intended to provide for formal hearing testimony regarding ordinances, resolutions, or as directed by the Chair or majority of City Council. Those giving testimony are requested to preface remarks with their name and address for the record.

Public Hearing testimony may be time limited by the Chair. Council may make inquiries of those giving testimony. After the public has finished testifying the City Council may take final action, including amendments, on an Ordinance, provided that the public has been notified that such action may occur at this

time and shall follow the other procedures as outlined under Item 9. (Reso 01-36, 06/11/01; Ord 01-18, 06/12/01).

10. **ORDINANCES**

For first and subsequent readings including the final reading of ordinances, and all formal votes on motions of amendment, adoption or other disposition of ordinances. Votes are taken by roll call. Placement of an ordinance is limited to the City Manager, Mayor or Council Members. However, introduction/first reading of Ordinances and setting of public hearing may be placed on the Consent Agenda. Ordinances may be postponed at introduction or subsequent readings to the next regular or special meeting.

Editing form for Ordinances: Deletions are characterized strike over and may be in brackets. Additions are characterized by bold lettering and underlining.

Sponsors, authors, Directed by Council or Requested by staff may be placed at the top of the Ordinance. (Reso 01-36, 06/11/01; Ord 01-18, 06/12/01).

11. **CITY MANAGER'S REPORT**

The Manager or his designee reports to the City Council. Questions and answers between the Council and Manager are appropriate. Official action is not taken by the Council under this agenda item. A monthly report will be provided in the Council informational packet.

12. **CITY ATTORNEY REPORT**

The Attorney reports to the City Council. Questions and answers between the Council and the Attorney are appropriate. Official action is not taken by the Council under this agenda item. A monthly report will be provided in the Council informational packet.

13. **COMMITTEE REPORTS**

Reports of Council standing committees are given. Official action is not normally taken by the Council under this agenda item.

14. **PENDING BUSINESS**

Access is limited to the City Manager, Mayor and members of the City Council. Requests for items to be placed on agendas at Council meetings for future

council agendas will be subject to vote of the City Council. Voice vote or roll call vote will constitute action of the City Council. Reference HCC 2.08.040(h) for By-law provisions.

15. **NEW BUSINESS**

The same provisions as under pending business apply here.

16. **RESOLUTIONS**

A Council Member, Mayor or City Manager can direct that a resolution appear on the agenda. Notation of sponsor can appear on the face of the resolution. Formal action of the Council will be by roll call vote. HCC 2.08.040(h).

Sponsors, authors, Directed by Council or staff may be placed at the top of the Resolution.

Council Training & Informational Materials

Deleted from the Packet by Council consensus and signing of a Memorandum by the Councilmembers on June 8, 1992. Also noted was that backup up materials of any kind are not required in consecutive packets provided a reference sheet is submitted with the item denoting the backup materials previously submitted.

17. **COMMENTS OF THE AUDIENCE**

Members of the audience may address the City Council at will on any subject whether or not on the agenda. The Mayor may time limit remarks.

18. **COMMENTS OF THE CITY ATTORNEY**

Reserved for Comments of the City Attorney. Action of the Council is not taken here.

19. **COMMENTS OF THE CITY CLERK**

Reserved for comments of the City Clerk. Action of the City Council is not taken here.

20. **COMMENTS OF THE MANAGER**

Reserved for comments of the City Manager. Action of the City Council is not taken here.

21. **COMMENTS OF THE MAYOR**

Reserved for comments, reports, or notification of the Mayor. No Council action is taken here.

22. **COMMENTS OF THE COUNCIL**

Each Council Member may comment regarding any subject whether or not on the agenda. This is an appropriate place to note or bring to the attention of the Mayor, Council and Administration any miscellaneous business or point of interest. Miscellaneous announcements, notifications of absence from future Council meetings, and requests for items to appear on the agenda, are other areas appropriately covered.

Notice of reconsideration may be given, re: 2.08.040(i).

23. **ADJOURNMENT/NOTICE OF NEXT REGULAR MEETING**

Meetings will be concluded by or recessed by midnight, unless Council votes to suspend the rules. The balance of any business will be held over until call of the Chair. Notice of the next regular, and/or special meeting will appear on the agenda following "adjournment". (Reso 10-73, 09/13/10; Reso 00-82, 08/28/00; Reso 00-08, 01/10/00; Reso 98-58, 07/13/98).

The Regular Agenda format for all advisory bodies of the City Council shall utilize the following basic agenda format:

NAME OF BODY	DATE OF MEETING
PHYSICAL LOCATION OF MEETING	DAY OF WEEK AND TIME
HOMER, ALASKA	OF MEETING
	MEETING ROOM

REGULAR MEETING  
AGENDA

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS
4. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA. (3

MINUTE TIME LIMIT)

5. RECONSIDERATION
6. APPROVAL OF MINUTES or CONSENT AGENDA
7. VISITORS (Chair set time limit not to exceed 20 minutes) (Public may not comment on the visitor or the visitor's topic until audience comments.) No action may be taken at this time.
8. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS (Chair set time limit not to exceed 5 minutes.)
9. PUBLIC HEARING (3 MINUTE TIME LIMIT)
10. PLAT CONSIDERATION (Planning Commission only)
11. PENDING BUSINESS or COMMISSION BUSINESS
12. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY MAY BE DISCUSSED ONLY)
13. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY MAY BE DISCUSSED ONLY)
14. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)
15. COMMENTS OF THE CITY STAFF (not required) (Staff report may be at this time in the agenda.)
16. COMMENTS OF THE COUNCILMEMBER (If one is assigned)
17. COMMENTS OF THE CHAIR (May be combined with COMMENTS OF THE COMMISSION/BOARD since the Chair is a member of the Commission/Board.)
18. COMMENTS OF THE COMMISSION
19. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR \_\_\_\_\_ note any worksessions, special meetings, committee meetings etc. All meetings scheduled to be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. (Sometimes the meeting is scheduled for the Conference Room)

Contact info for the department constructing the agenda. Example: City Clerk's Office, [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us). 235-3130.

Audience Participation – Audience comments are acceptable when invited by a Councilmember or the Mayor. Audience comments as an agenda item is provided so that anyone wishing to speak to the Council may do so without prior arrangement. The Mayor may limit the time for “Comments Upon Matters Already on the Agenda or Audience Comments.” Comments are generally limited to 3 minutes per person unless authorization to speak longer is granted by Council action. (Reso 06-54, 05/22/06).

BASIC TIME LIMIT (Public Comments, Public Hearing Testimony and Audience Comments.) Comments are limited to three minutes per person per issue unless authorization to speak longer is granted by Council action. In the interest of time, the Council has found it necessary to place a time limit. It may be desirable to have one spokesperson for special interest groups making a statement to the Council. (Reso 06-54, 05/22/06).

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.

This is item m. of the Council's ByLaws. Any Councilmember may rise to a Point of Order regarding this issue.

## **GENERAL AGENDA AND PACKET DISTRIBUTION INFORMATION**

### **Regular City Council Meetings**

#### Tentative Agendas

1. Tentative and Preliminary agenda items, type of enactment and subject only, need to be to the City Clerk by Thursday of the week proceeding Council packet week.
2. The final packet ready document needs to be to the City Clerk as soon as possible prior to 11:00 a.m. on the Wednesday prior to the Council meeting for packet review.
3. Any late agenda item not meeting the tentative agenda deadline and/or not meeting the packet deadline shall be discussed with the Mayor by the submitter, if a Councilmember.
4. All other late items, unless of an immediate nature shall be placed on the next tentative agenda.

#### Agenda

1. Agenda closes at 11:00 a.m., Wednesday preceding the meeting. Allowances will be made for holidays. (Reso 03-81, 05/27/03).
2. The City Manager, Mayor and City Clerk review the agenda at 11:00 a.m. on Wednesday, preceding the meeting. (Reso 03-81, 05/27/03).
3. Informational packets are available for pick up and on the City's website usually on Thursdays at 5:00 p.m. but no later than 5:00 p.m. on the Friday preceding the regular meeting. Packets will be posted on the City's website and placed in the Council's mail boxes if requested.
4. Items may be added or removed from the agenda by unanimous consent of the Council.



### **Special City Council Meeting**

Called and agendas established by the Mayor or four (2/3) City Councilmembers. Adequate notice must be given to provide for materials preparation and delivery of meeting notice thirty-six (36) hours prior to the meeting.

### **Emergency City Council Meeting**

By unanimous consent of quorum, four Councilmembers, requires justifiable reason, informal agenda - limited to emergency, public notice as soon as possible and repeated at least two times prior to meeting.

### **Worksessions, Special Meetings, and Executive Sessions**

May be called at any time, including beginning at 4:00 p.m. and ending not later than 5:50 p.m. before a Regular Council Meeting, with proper notice to the public. The agenda and packet information may be handed out at the worksession depending on the nature of the session. No formal action may be taken. May be called by Mayor or four Councilmembers. Public notice requirements are relaxed but should be at least broadcast as soon as possible and repeated at least two additional times prior to the session. Reference: HCC 1.14.

### **Committee of the Whole**

The Committee of the Whole may meet prior to every Regular Council Meeting beginning at 5:00 p.m. and ending not later than 5:50 p.m. when scheduled worksessions do not exceed 4:50 p.m. This is a device to enable the full Council to give detailed consideration to a matter under conditions of freedom approximating those of a committee. The results of any votes taken are not the final action of the Council and are recommendations. The Mayor shall be the presiding officer. No text may be altered in any agenda item for Council's Regular meeting; however, amendments may be recommended.

The agenda shall be noticed the same as a Council's Regular meeting. Only those matters on the noticed agenda shall be considered; however, other items not on the Council's Regular meeting agenda may be considered if the agenda item is received by the City Clerk no later than the Wednesday prior to the meeting. "Old business" shall be added to the Committee of the Whole agenda and shall be those items that are not on Council's Regular Meeting agenda and that were not discussed at the previous Committee of the Whole meeting due to insufficient time. (Reso 09-116(A), 11/23/09; Reso 03-118(A), 08/25/03; Reso 01-24, 04/09/01; Reso 01-08(S), 02/26/01).

## NOTICE

### ADDRESSING THE CITY COUNCIL

In order to address the City Council, please:

1. Raise your hand for the Mayor's recognition.
2. Upon recognition, take the public testimony place in front of the Council table, sign in on the sheet provided giving your name, address and indicating whether you are a resident of the City. (**please print**)
3. Address the Council as a body.

### DECORUM AT MEETINGS

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. HCC 2.08.040(n). Council Bylaws.

### CITIZEN'S DISCUSSIONS

There are four places on the agenda where citizens may address the Council.

1. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**, Item 3. This item is on the agenda so you may speak on any item on the agenda, unless the matter is listed under Public Hearings or Visitors. The Mayor will provide time limitations on presentations based on the volume of business before the Council. Changes to the agenda occur just before this item, so if any item is removed you may not address it here; if an item is added, you may. When in doubt, clarify with the Chair. (Mayor or Mayor Pro Tem)
2. **PUBLIC HEARINGS**, Item 6. Public Testimony is taken on any of the matters listed under the public hearing portion of the agenda. Agendas and public hearing information are available at the table in back of the Council Chamber. Public Hearing testimony may be time limited by the Mayor.
3. **VISITORS**, Item 8. This place is for presentations previously arranged with the City Clerk, approved by the Mayor and listed on the agenda. Comments on a visitor's presentation by the audience is restricted to Item 15, Comments of the Audience.
4. **COMMENTS OF THE AUDIENCE**, Item 15. You may address the Council regarding any matter at this point. The Mayor may time limit remarks.

**TIME LIMITATIONS:** The Mayor may limit the time for public comments, public testimony and Audience Comments. Comments are limited to no more than 3 minutes per person, per issue unless authorization to speak longer is granted by Council action. In the interest of time, the Council has found it necessary to place a time limit. It may be desirable to have one spokesperson for special interest groups making a statement to the Council.

**WRITTEN MATERIAL TO COUNCIL:** Written material presented to Council on the night of the meeting should also be given to the City Clerk to be added to the record. **TAPE RECORDING:** This meeting is being electronically recorded and amplified. Please speak up so that a clear recording of your comments can be made and others in the back of the Council Chamber can hear you.

**BOARD OF ADJUSTMENT** HCC 21.93.510(a) restricts the Council when sitting as a Board of Adjustment from considering allegations of new evidence or changed circumstances and shall make its decision based solely on the record as prepared by the Clerk.

THANK YOU, YOUR INPUT IS VALUABLE.

## RESOURCE MATERIALS

After a Councilmember has been sworn in the City Clerk's Office will issue the following items of reference to them:

- A. Homer City Code
- B. City of Homer Personnel Regulations
- C. Alaska Statutes, Title 29
- D. Elected Officials Handbook
- E. City of Homer Directory
- F. Comprehensive Plan
- G. City of Homer Procurement Policy
- H. Current Calendar Year - Line Item Budget
- I. Parliamentary Procedure at a Glance
- J. Five Year Capital Improvement Plan
- K. Comprehensive Financial Statement
- L. A.M.L. Elected Officials Handbook
- M. COUNCIL'S OPERATING MANUAL, NEWEST VERSION
- N. OPEN MEETINGS ACT BOOKLET, BY GORDON TANS

Upon expiration of term, please return these items to the City Clerk's Office so they may be updated and re-issued to the newly elected official.

A wealth of resource information, reports, studies, and city historical information is available at the City Hall Library. Contact the City Clerk's Office for assistance.

## **CODE OF ETHICS**

### **PURPOSE.**

The proper functioning of democratic government requires ethical behavior by public officials. Ethics involves the commitment to take individual responsibility in creating a government that has the trust and respect of its citizens. The purpose of this section is to set reasonable standards of conduct for elected city officials and appointed advisory commissioners and boardmembers so that the public may be assured that its trust in such persons is well placed and that the officials themselves are aware of the standards of conduct demanded of persons in like office.

However, recognizing that Homer is a small community, with a limited number of people interested in serving as community leaders, it is not the intent of this section to set unreasonable barriers that will serve only to deter aspirants from public service.

This section is also intended to establish a process which will ensure that complaints or inquiries regarding the conduct of elected city officials and appointed advisory commissioners and boardmembers are resolved in the shortest practicable time in order to protect the rights of the public at large and the rights of the elected or official, or appointed advisory commissioners and boardmembers.

The Council intends this code to be interpreted to promote fair, honest, and impartial dealings with members of the public, to ensure proper use of city resources, and to avoid conflicts of interest. It is the intent of the Council that nothing in this section be interpreted to create a private cause of action against an elected official or appointed advisory commissioner or boardmember.

### **DEFINITIONS.**

As used in this section.

"Engaging in business" or "engage in business" means submitting a written or oral proposal or bid to supply goods, services or other things of value, or furnishing goods, services or other things of value, for consideration or otherwise entering into any contract or transaction with the city including but not limited to the lease, sale, exchange or transfer of real or personal property.

"Financial interest" means a direct or indirect pecuniary or material benefit accruing to a city official or appointed advisory commissioner or boardmember as a result of a contract or transaction by or with the city except for such contract or transactions which by their terms and by substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. A financial interest

does not include city paid remuneration for official duties. A person has a financial interest in a decision if a substantial possibility exists that a financial interest of that person might vary with the outcome of the decision. A financial interest of an official includes:

1. Any financial interest of a member of that person's immediate family;
2. Any financial interest in an entity in which that person or a member of his immediate family has an ownership interest, or is a director, officer or employee;
3. Any financial interest of a person or entity with whom the official, or a member of his immediate family or an entity described in subparagraph 2 of this subsection has or is likely to acquire a contractual relationship relating to the transaction in question.

"Gratuity" means a thing having value given voluntarily or beyond lawful obligation.

"Immediate family" of a person means anyone related to that person by blood or current marriage, or adoption in a degree up to and including the fourth degree of consanguinity or affinity, or any relative or non-relative who lives in that person's household.

"City official" or "official" means the Mayor, Councilmember, advisory Commissioner or Boardmember under the ordinances of the city, or who is a member of a committee or task force of the city.

"Official act" or "action" means any legislative, administrative, appointive or discretionary act of any officer of the city or any committee or commission thereof.

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

"Political activity" means any act for the purpose of influencing the nomination or election of any person to public office, or for the purpose of influencing the outcome of any ballot proposition or question. Informing the public about a ballot proposition or question without attempting to influence the outcome of the ballot proposition or question is not political activity.

## **PROHIBITED ACTS.**

**Official Action.** A city official shall not participate in any official action in which he has a financial interest. An official who is a voting member of the council, a commission, or other agency shall identify any financial conflicts of interest in accordance with (the ordinance regarding conflict of interest).

**Business Prohibition.** No official may engage in business with the city when that person has had substantial involvement in planning, recommending or otherwise supporting the project or transaction in issue. No official shall attempt to influence the city's selection of any bid or proposal, or the city's conduct of business, in which the official has a financial interest. Newly

elected or appointed officials who have pre-existing contracts with the city may fulfill the terms and conditions of such contracts without penalty.

**Use of Office for Personal Gain.** No official shall seek or hold office or position for the purpose of obtaining anything of value for himself, his immediate family or a business that he owns or in which he holds an interest or for any matter in which he has a financial interest. This prohibition shall not apply to the receipt of authorized remuneration for the office or position.

**Inappropriate Use of Office Title/Authority.** No official, elected or appointed, shall use the implied authority of their position for the purposes of unduly influencing the decisions of others, or promoting a personal interest within the community. Councilmembers will refrain from using their title except when duly representing the city in that capacity. Unless duly appointed by the

Mayor and/or Council to represent the interests of the full council, councilmembers shall refrain from implying their representation of the whole by the use of their title.

**Representing Private Interests.** No official shall represent, for compensation, or assist those representing private business or personal interests before the city council, administration, or any city board, commission or agency. Nothing herein shall prevent an official from making verbal or written inquiries on behalf of constituents or the general public to elements of city government or from requesting explanations or additional information on behalf of such constituents. No official may solicit a benefit or anything of value or accept same from any person for having performed this service.

**Confidential Information.** No official may disclose information he knows to be confidential concerning the property, government, or affairs of the city unless authorized or required by law to do so.

**Outside Activities.** An official may not engage in business or accept employment with, or render services for, a person other than the city or hold an office or position where that activity or position is incompatible with the proper discharge of his city duties or would tend to impair his independence of judgment in performing his city duties. This prohibition shall include but not be limited to the following activities:

1. A person who holds an appointed city office shall not be eligible for employment with the city, during their term of office, in the department that the appointed commission has jurisdiction over until one year has elapsed following the term of appointment. An exception may be made with the approval of the city council.
2. A person who holds or has held an elective city office shall not be eligible for appointment to an office or for employment with the city until one year has elapsed following the term for which he was elected or appointed. An exception may be made with the approval of the city council.

Gratuities. No official shall accept a gratuity from any person engaging in business with the city or having a financial interest in a decision pending with the city. No official shall give a gratuity to another official for the purpose of influencing that person's opinion, judgment, action, decision or exercise of discretion as a city official. This subsection does not prohibit accepting:

1. A meal;
2. Discounts or prizes that are generally available to the public or large sections thereof;
3. Gifts presented by employers in recognition of meritorious service or other civic or public awards;
4. A candidate for public office accepting campaign contributions;
5. An occasional non-pecuniary gift insignificant in value;
6. Any gift which would have been offered or given to him if he were not an official.

Use of City Property. No official may request or permit the use of city vehicles, equipment, materials or property for non-city purpose, including but not limited to private financial gain, unless that use is available to the general public on the same terms or unless specifically authorized by the city council.

Political Activities, Limitations of Individuals. Appointed officials may not take an active part in a political campaign or other matter to be brought before the voters when on duty. Nothing herein shall be construed as preventing appointed officials from exercising their voting franchise, contributing to a campaign or candidate of their choice, or expressing their political views when not on duty or otherwise conspicuously representing the city.

Political Activity, Limitation on City Government. The city may prepare and disseminate general, objective information about the issues to be voted on in local elections. Such material shall be devoid of biased statements or slant and, where appropriate, may contain pro and con statements of equal weight and value.

Influencing Another Council Member's Vote. A city council member may not attempt to influence another council member's vote or position on a particular item through contact with a city council member's employer or by threatening financial harm to another city council member.

## **BUSINESS DEALINGS WITH CITY.**

Before a city official or an organization or entity in which the official has a financial interest, engages in business with the city, the official shall file with the city clerk a statement, under oath, setting forth the nature of such business dealings and his interest therein, not less than ten days before the date when official action may be taken by the council or by any officer, commission or other agency of the city upon the matter involved. If all other provisions of this

section are complied with, the statement shall be sufficient for continuing transactions of a similar or like nature for one year from the date of its filing. However, if an official has violated any of the provisions of this section, he shall be precluded from dealing with the city on that particular matter.

Upon taking office, or upon subsequently acquiring the interest, and official shall file with the city clerk a statement disclosing any financial interests of the official in an organization engaging in business with the city.

## **PUBLIC DISCLOSURE.**

a. Each city official must annually file a conflict of interest disclosure using forms substantially the same as the following selected schedules from the Alaska Public Offices Commission Public Official Financial Disclosure Statement: Schedules B (business interests), C (real property interests / rent to own), E (the portion relating to natural resource leases only), F (government contracts and leases) and G (close economic associations). The city clerk shall provide the forms to each city official. The city clerk may make such alterations to the forms as may be necessary to make them applicable to the city and city officials.

b. The annual disclosures must be filed by November 1 each year. A newly appointed official must file a disclosure within 30 days of taking office. Each candidate for elected city office must file a disclosure at the time he or she files a declaration of candidacy, except an incumbent seeking reelection with a current disclosure on file. Refusal or failure of a candidate to file the required disclosure before the end of the time period for filing declarations of candidacy shall require that the candidate's declaration of candidacy be rejected and the candidate disqualified.

c. The disclosures must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury.

d. The disclosures shall be filed with the city clerk and shall be open to public inspection and copying at the office of the city clerk. The disclosures will not be sent to the Alaska Public Offices Commission. (Ord 07-35(A-2), 10/23/07).

## **BOARD OF ETHICS.**

### 2.80.010 Board of ethics established – general provisions.

a. There is hereby established a Board of Ethics.

b. The Board shall be comprised of all members of the city council and the mayor. The mayor, or the vice-mayor in the mayor's absence, will serve as presiding officer of the Board. In the absence of both, the members of the Board shall elect a presiding officer from among its members.

c. The city attorney or other legal counsel for the Board may assist the Board at every stage of the proceedings, but shall have no vote.



d. A quorum of the Board shall be a majority of all members who are not excused for cause, such as being the complainant, the respondent, a witness, having a conflict of interest, or other cause for recusal. However, in no event may a quorum be less than three.

e. Decisions of the Board shall be adopted by a majority of the members who are qualified to act on the matter, where a quorum is present.

f. Unless the Board delegates such authority to another member or decides that no one shall have such authority, the presiding officer shall have authority to make procedural decisions between Board meetings on behalf of the Board. Examples of matters that may be decided by such delegate include scheduling hearings and other matters, establishing pre-hearing requirements and filing deadlines for motions, exhibits, witness lists, hearing briefs, and deciding other procedural matters.

g. The presiding officer shall vote on every question, unless required to abstain for cause, and shall not have power to veto any action of the Board. (Ord 08-31(S) §1, 2008).

2.80.020 Function and authority. The Board of Ethics has authority to perform the following functions:

a. Investigate reported violations of Chapter 1.18.  
b. Hear and decide written complaints of violations of Chapter 1.18.  
c. Hear and decide on requests for exceptions as specified in Chapter 1.18.  
d. Make findings and recommendations concerning sanctions, civil penalties and remedies for violations as provided in the code.

e. Adopt recommended policies and procedures governing the board's conduct of business.

f. Upon application of the complainant, respondent, or at the board's discretion, compel by subpoena the appearance and sworn testimony, at a specified time and place, of a person the board reasonably believes may be able to provide information relating to a matter under investigation by the board or the production of documents, records or other items the board reasonably believes may relate to the matter under consideration.

g. Administer oaths and receive testimony from witnesses appearing before the board

h. Request city agencies to cooperate with the board in the exercise of the board's jurisdiction

i. Request the advising attorney to seek assistance of the superior court to enforce the board's subpoena

j. Conduct investigative hearings in executive session, pursuant to notifications alleging violations of matters within the authority of the board. (Ord 08-31(S) §1, 2008).

2.80.030 Confidentiality; initial review.

a. Each written complaint of a violation of Chapter 1.18 received by the city clerks office shall be assigned an identification number, which shall be used in lieu of names when referring to the complaint to maintain confidentiality. The city clerk and the board shall keep all written complaints of potential violation confidential during investigation and the board's deliberative process. Complaints of potential violation may be disclosed only to the staff

member of the city clerk's office providing administrative support to the board, members of the board, and legal counsel. Upon receipt of a notification of potential violation, the board shall, at its next scheduled meeting or earlier, as determined by the board chair, review the complaint of potential violation in executive session and determine if further action on the notification of potential violation is warranted.

b. If the board determines the facts alleged in the notification of potential violation, even if proven, do not constitute a violation, or that the board lacks jurisdiction to address the complaint of potential violation, the board shall return the complaint of potential violation to the complaining party or it may recommend to the person filing the complaint that it be amended and re-filed. Notifications of potential violation returned without further action shall remain confidential.

c. If the board determines the allegation in a complaint of potential violation, if proven, may constitute a violation of a matter within the board's jurisdiction, the board shall:

1. Request and receive assistance from legal counsel to assist the board in all further deliberative processes, investigations and reports.

2. Give the respondent a copy of the complaint of potential violation, along with a copy of the outline of the board's process under this chapter, including notice that the respondent may choose to hold the proceeding in public and may be represented by legal counsel of respondent's choosing and at respondent's own expense; and

3. Notify both the person submitting the complaint of potential violation and respondent of the date(s) on which each may be requested to meet with the board, present documentary or testimonial evidence, and assist the board in resolving the potential violation. (Ord 08-31(S) §1, 2008).

#### 2.80.040 Disclosure of complaint of potential violation prohibited.

a. A complaint of potential violation of HCC Chapter 1.18 is confidential until the board completes a written report for distribution as a public record.

1. No person, including the complainant, shall knowingly disclose to another person, or otherwise make public in violation of this chapter, the contents of a complaint of potential violation filed with the board, unless:

i. The respondent elects to proceed in public; or

ii. The written report of the board is electronically published by the city clerk.

2. Breach of confidentiality required by any provision of this chapter is a violation of this chapter subject to punishment.

3. A person filing a complaint of potential violation shall keep confidential the fact that the person has filed the complaint with the city, as well as the contents of the complaint of potential violation. If the board finds probable cause to believe that the person filing the notice of complaint violation has violated confidentiality under this chapter, the board shall immediately dismiss the complaint of violation. Dismissal under this subsection does not affect the right of the board or another person to initiate a proceeding on the same factual allegations by filing a complaint of potential violation.

4. Public disclosure resulting from corrective action under this chapter is not a violation of this subsection. (Ord 08-31(S) §1, 2008).

2.80.050 Conduct of investigation and standard of proof.

a. The board's investigation shall be conducted in executive session, unless the respondent requests to hold the board's investigation of written complaint of potential violation in public. The respondent and the person who filed the complaint, and their counsel, if any, may be present in executive session while the investigation is being conducted.

1. The respondent and the person who filed the complaint of potential violation may identify other individuals and documents that each would like the board to interview and review.

2. If an individual with information bearing on the complaint of potential violation is unwilling to come forward with information, the respondent and the person who filed the complaint of potential violation may each request the board to subpoena the person and any documentary evidence.

3. Persons appearing before the board may be represented by counsel or other person serving in a representative capacity.

4. The board may question the respondent, the person who filed the complaint of potential violation, and other persons appearing before the board.

5. The board may solicit questions and testimony from the person filing the complaint of potential violation, the respondent and other persons appearing for the purpose of providing information to the board. The board may solicit questions from counsel present to represent persons appearing before the board, but all questions during the board's investigation shall be posed through and by a member of the board. Consistent with due process, the board may limit or prohibit questions suggested to the board by or on behalf of persons appearing before the board.

6. The standard of proof to be applied by the board in determining a violation under HCC Chapter 1.18 is proof by a preponderance of the evidence.

7. Technical rules of evidence do not apply, but the findings of the board shall be based upon substantial evidence, which means reliable and relevant information presented to the board.

8. The board's finding of a violation of HCC Chapter 1.18 must be supported by substantial evidence.

9. The board's findings shall not be binding in a subsequent sanctions proceeding.

10. When the board's investigation is conducted in executive session, the public shall be excluded and the session shall be electronically recorded. The recording shall be available for access as a public record after publication by the city clerk of the proposed resolution and settlement under subsection 2.80.050. (Ord 08-31(S) §1, 2008).

2.80.055 Deliberations of the board. Deliberations of the board shall be conducted in executive session.

- a. The deliberations of the board shall not be recorded.
- b. The respondent, the person filing the complaint, and their counsel shall be excluded from the deliberations. The Board's legal counsel may attend the deliberations.
- c. The board shall reconvene in open session when deliberations are complete. (Ord 08-31(S) §1, 2008).

2.80.060 Board member disclosures. When an investigation is convened in executive session to determine whether the respondent has violated HCC Chapter 1.18, the Board members will be requested to disclose any conflict of interest, ex-parte communications, or other facts that may affect their qualification to hear the matter. After such a disclosure, the other members of the Board shall determine whether a member shall be excused for cause. (Ord 08-31(S) §1, 2008).

2.80.061 Duty of cooperation. A city official or the city manager subject to a complaint of a violation shall work cooperatively with the City Clerk to establish a hearing date and shall appear at the place and time set for the hearing, regardless of the respondent's intentions concerning defense or exercise of other rights. Failure to appear, except when failure results from a serious condition or event that prevented the respondent's appearance, is a breach of respondent's duties under this chapter and in itself may result in a summary finding of violation by the Board and imposition of remedies, penalties and disciplinary action under 2.80.070. For the purposes of this section, a "serious condition or event" may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar cause that prevents the respondent's attendance at the hearing. Nothing in this section shall prevent the rescheduling of a hearing for cause upon request of the respondent or the complainant. (Ord 08-31(S) §1, 2008).

2.80.065 Decisions on the record. Using the identification number of the complaint of potential violation to protect confidentiality, the board shall vote in open session on these questions:

- a. Whether the board finds by a preponderance of the evidence one or more violations within the jurisdiction of the board; and
- b. Whether the board recommends further administrative or remedial actions; and
- c. What specific sanctions, corrective actions or referrals, if any, the board recommends pursuant to 2.80.070.
- d. If the board does not find a violation under HCC Chapter 1.18, the board shall prepare a confidential statement of closure listing the complainant and respondent, the assigned identification number, the allegations, the hearing date, and the finding that no allegation was substantiated by the board in whole or in part, and the date of board closure. At the sole discretion of the respondent, the board may release the statement of closure as a public document. (Ord 08-31(S) §1, 2008).

2.80.067 Timely completion. The board shall complete action on a complaint of potential violation and investigations within 90 days of the filing of the complaint of potential violation. By a majority vote, the board may extend the completion date for up to an additional 90 days, or longer for good cause shown. (Ord 08-31(S) §1, 2008).

2.80.070 Sanctions, civil penalties and remedies.

a. Upon conviction for any violation of HCC Chapter 1.18 under criminal procedures or upon a determination of any violation of HCC Chapter 1.18 after an investigation conducted by the Board under this chapter, the Board may impose (or recommend in the case of subsection i.) as a sanction, penalty, or remedy any or all of the following, as appropriate to the seriousness of the violation:

i. A recommendation to the City Council that the office of a City Council member or the position of city manager be declared vacant for a serious violation that is (i) flagrant or (ii) willful and knowing. A recommendation that the office of the mayor be declared vacant may be made only if the violation justifies a declaration of vacancy under AS 29.20.280. Only the City Council may actually declare any of these positions vacant.

ii. A member of a board or commission may be removed from the board or commission.

iii. A public or private reprimand may be given to the official.

iv. The official may be ordered to refrain from voting, deliberating, or participating in any matter in violation of HCC Chapter 1.18.

v. The committee assignments of an official may be revoked.

vi. An official's privilege to travel at city expense on city business may be revoked or restricted.

vii. A contract, ~~or~~ transaction or appointment, which was the subject of an official act or action of the city that involved the violation of a provision of chapter 1.18, may be voided.

viii. The official must forfeit or make restitution of any financial benefit received as a consequence of a violation of chapter 1.18.

ix. A civil fine of not more than \$1,000 per violation may be imposed. (Ord 08-31(S) §1, 2008).

2.80.080 Record of proceedings and public record. Permanent records and minutes shall be kept of Board's proceedings. Such minutes shall record the vote of each member upon every question decided in public. Every decision or finding shall immediately be filed in the office of the City Clerk, and shall be a public record open to inspection by any person. Every finding and recommendation shall be directed to the City Council at the earliest possible date. (Ord 08-31(S) §1, 2008).

2.80.090 Settlement of complaints.

a. The respondent in any case accepted for investigation may propose a resolution and settlement of the complaint. A proposed resolution and settlement will include the admitted violation of HCC Chapter 1.18; the remedial actions agreed to by the respondent subject to the city council's concurrence; any proposed preventive actions to be undertaken to avoid similar violation by respondent or others in the future; and other matters required by the board.

b. A proposed resolution and settlement is subject to approval by the Board and has no effect unless approved by the Board. The Board will give the complaining person the opportunity to review and comment on the proposed resolution and settlement prior to approving it. Until approved by the Board, a proposed resolution and settlement must be kept confidential.

c. The proposed resolution and settlement becomes public record upon final approval by the Board. (Ord 08-31(S) §1, 2008).

#### 2.80.100 Limitation period.

a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and subject to subsection (b) of this section, the Board only may investigate or otherwise act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City Clerk's office within five years after the date of the alleged violation.

b. After the time limitation in subsection (a) of this section has expired, the Board may investigate or otherwise act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City Clerk's office within one year after the date of discovery of the alleged violation, but in no case shall this subsection extend the period of limitation in subsection (a) of this section by more than three years. [Ord. 14-14(S) § 1, 2014].

#### **ADVISORY OPINIONS.**

a. Where any official has a doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein, he may apply in writing to the city attorney for an advisory opinion. The official shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the chapter before such advisory opinion is made.

b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. An advisory opinion shall be applicable and binding only to the particular set of facts and instances of conduct for which it was requested and shall have no force or effect for purposes of general application. Such opinion shall not be binding or admissible in evidence in any action initiated by any private citizen. (Ord 06-68(S)(A), 02/13/07).

## **VIOLATION AND PENALTY.**

Any official who willfully and knowingly violates any of the provisions of this chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16. (Ord 06-68(S)(A), 02/13/07).

## **SANCTIONS, CIVIL PENALTIES AND REMEDIES.**

Upon conviction for any violation of this chapter under criminal procedures or upon a determination of any violation of this chapter after a hearing conducted pursuant to section 2.80.050, the Board of Ethics may impose as a sanction, penalty or remedy any or all of the following, as appropriate to the seriousness of the violation:

a. The Board of Ethics may declare the office of a city councilmember vacant for a serious violation that is (i) flagrant or (ii) willful and knowing. The office of the mayor may be declared vacant only by the city council and only if the violation justifies a declaration of vacancy under AS 29.20.280.

b. The Board of Ethics may remove a member of a board or commission from the board or commission.

c. The Board of Ethics may issue a public reprimand to the official.

d. The Board of Ethics may order the official to refrain from voting, deliberating, or participating in any matter in violation of this chapter.

e. The Board of Ethics may revoke any committee assignments of the official.

f. The Board of Ethics may revoke or restrict the official's privilege to travel at city expense on city business.

g. The Board of Ethics may recommend that a contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this chapter, or which involved the violation of a provision of this chapter, should be voided. If such recommendation is confirmed by the city council, the contract or transaction is voided.

h. The Board of Ethics may order the official to forfeit or make restitution of any financial benefit the official received as a consequence of a violation of this chapter.

i. The Board of Ethics may impose a civil fine of not more than \$1,000.

j. The Board of Ethics may direct the city administration (i) to pursue legal action to enforce any order of the Board of Ethics made under this section and (ii) to exercise any other legal and equitable remedies available to seek whatever relief is appropriate. (Ord 06-68(S)(A), 2007; Ord 07-35(A-2) §4, part, 2007).

## **DISTRIBUTION OF CODE OF ETHICS.**

The city clerk shall cause a copy of this chapter to be distributed to every city official within thirty days after its enactment. Each city official elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office. (Ord 06-68(S)(A), 02/13/07).

## **APPLICATION OF STATE STATUTES.**

a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

b. All municipal officers as defined by Alaska Statutes Chapter 39.50 shall be subject to the provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord 06-68(S)(A), 02/13/07; Ord 07-35(A-2) 10/23/07).

### **Homer City Council Tablet Usage Policy**

#### **1. Purpose**

- a. The City of Homer recognizes that the use of digital communications has become necessary to conduct official business. This policy strives to ensure that the Mayor and Council Members are able to be issued a device which will enable them to utilize digital communications in a manner consistent with their role as an elected official and applicable law.

#### **2. Ownership**

- a. One tablet computer and accessory package (tablet) will be issued to the Mayor and each member of Council. Tablets issued under this policy will remain the property of the City of Homer. The Mayor and members of Council will have no ownership, interest, or right to title of the tablet.
- b. Each recipient issued a tablet is responsible for the security and care of that tablet, regardless of where the tablet is used.
- c. All tablets will be covered by a hardware warranty and supplemental support plan through the manufacturer or a third party. The exact details of the coverage and remaining term will be outlined on the equipment receipt form.
- d. Upon vacating elected or appointed seat, each tablet recipient will ensure that their tablet is returned to the City Clerk, who will ensure that the tablet reimaged and will reissue the unit to the next holder of that seat.

#### **3. License Agreements**

- a. The City of Homer is the sole licensee of the software included with the tablet. Any copying, modification, merging, or distribution of the software by the recipient, including written documentation, is prohibited. The recipient is responsible for complying with any and all hardware, software and service provider licensing agreements, terms of use, and applicable state and federal



copyright and other intellectual property protections. Violation of any such licenses, terms, or laws shall constitute a violation of this policy.

#### **4. Liability**

- a. Recipients are responsible for all material sent by and/or stored on the tablet issued to them which they will knowingly and intentionally send or store/install. Recipients accept responsibility for keeping their tablet free from all inappropriate or dangerous files.
- b. The City of Homer is not liable for any inappropriate material sent by and/or stored on tablets issued under this policy outside of the scope of use expected by a city official.

#### **5. Email Usage**

- a. The recipient of a device under this policy agrees to conduct all email communications which are stored on this device through their assigned City email account. All emails sent through the City's email system are archived and retained by the City in a manner consistent with the City's Record Retention Policy.
- b. Syncing personal email accounts to the issued device, other than the recipient's assigned City email account, is prohibited.

#### **6. Acceptable Use**

- a. The City of Homer only authorizes use of its tablets in a manner that supports the recipient's role as an elected official of the City.
- b. The device may only be used for limited personal use; that does not interfere with the ability of the device to be used for official intended purposes.
- c. Use of the tablet for any political use including but not limited to campaigning is expressly forbidden.

#### **7. Privacy**

- a. All communications made via devices covered under this policy are subject to disclosure under the Open Records Act or for litigation purposes unless a privilege or exception exists that justify withholding the records.

#### **8. Installation of applications**

- a. The installation of applications is limited to applications that are consistent with the terms listed in this policy and are available through the tablet's application store.
- b. Applications will only be licensed and installed by the Information Technology Manager and his staff.

- c. Modification of the tablet's operating system to allow installation of applications not approved by the manufacturer and/or not available through the "application store" is prohibited.
- d. Applications for personal use that do not interfere with city use may be allowed by the IT Manager on a case by case basis.

**9. Care of the Device**

- a. Recipients are responsible for the general care of the device issued under this policy. The tablet must remain free of any writing, drawing, stickers, or labels that are not property of the City. Only a clean microfiber cloth, like what is used to clean eyewear, should be used when cleaning the screen.

**10. Loss and Damage**

- a. Recipients of tablets under this policy are encouraged to keep the device safe and in good working order. If a user demonstrates extreme negligence with a device, or loses a replacement device within 18 months of being issued a replacement, then he or she shall be financially responsible for the cost of the replacement.
- b. Loss of or damage to a City of Homer tablet and/or accessory must be reported immediately to City staff.
- c. Recipients must not modify, upgrade, or attempt to repair tablets and/or accessories issued under this policy without the express permission of the City of Homer Information Technology Manager. All repairs must be made through the provided protection plan. Repairs not covered by the supplied protection plan which are determined to be caused by negligence, shall be covered by the recipient. (Reso 13-035(A), 04/08/13).

## Homer City Council Off-site Equipment Receipt

I \_\_\_\_\_ agree and understand that I have received the below listed equipment in good working order.

I acknowledge having received, read, and understood the Homer City Council Tablet Use Policy.

I agree that this equipment will be used solely for the conduct of City business, and in accordance with any and all Homer City Council policies, and applicable laws.

I will return the equipment in good working order, with allowance for normal wear and tear.

I understand that I must provide an inventory of all City of Homer provided equipment used off-site annually, and sign another equipment receipt for same.

Manufacturer	Model	Serial Number	Remarks

Signed: \_\_\_\_\_  
(Equipment Recipient)

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
(Information Technology Manager)

Date: \_\_\_\_\_