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**CITY OF HOMER
HOMER, ALASKA**

Burgess

ORDINANCE 15-27

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, PROVIDING A PROCEDURE FOR THE COUNCIL TO CONSIDER WHETHER TO EXCLUDE CERTAIN PROPERTIES FROM THE HOMER NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT.

WHEREAS, By Ordinance 13-02, adopted February 11, 2013, the City created the Homer Natural Gas Distribution Special Assessment District ("District"); and

WHEREAS, By Resolution 12-076, adopted August 27, 2012, the City previously had adopted criteria for excluding from the District properties that would not receive any benefit from the improvement in the District; and

WHEREAS, By Resolution 13-090, adopted September 9, 2013, Resolution 14-092(A), adopted September 8, 2014, Resolution 15-005, adopted January 12, 2015, Resolution 15-012, adopted March 9, 2015, and Resolution 15-016, adopted March 16, 2015, the City amended the preliminary assessment roll for the District to exclude certain properties from the District under the criteria in Resolution 12-076; and

WHEREAS, By Resolution 15-017, adopted March 23, 2015, the City confirmed the assessment roll for the District, and from the date of the adoption of Resolution 15-017, a property owner that objected to an assessment had 30 days to appeal the assessment to the Superior Court under HCC 17.04.130; and

WHEREAS, Notwithstanding the expiration of the appeal period under HCC 17.04.130, the Council finds that it would be equitable to allow an additional time period in which properties may be excluded from the District under the criteria and the procedure in this ordinance.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Procedure for exclusion from District.

A. Either a person who owns property in the District or a Council member may apply to the City to have the property excluded from the District under either of the following grounds:

1. The property does not benefit from the improvement under the criteria in Resolution 12-076; or

43 2. ENSTAR has informed the owner of the property owner that under the terms
44 of the ENSTAR Tariff a main extension will be required to provide natural gas service to
45 the property.

46 The Council will not consider applications to exclude property from the District on any
47 grounds other than those stated above. Grounds for exclusion that the Council will not
48 consider include without limitation that the assessment imposes economic hardship on the
49 property owner, that the property owner has no present plan to develop the property, and
50 that the property owner has no present plan to obtain natural gas service to the property.

51 B. To obtain an exclusion of property from the District, the property owner or Council
52 member must submit a written application for the exclusion of the property to the City Clerk
53 no later than the date specified in Section 3 of this ordinance. The application must state the
54 name, address and telephone number of the property owner, identify the property by legal
55 description, street address and Kenai Peninsula Borough tax parcel number, and include a
56 statement of the specific facts that the applicant believes would support exclusion of the
57 property from the District under either of the grounds for exclusion in subsection A of this
58 section.

59 C. The City Clerk will return an incomplete application under subsection B of this
60 section to the applicant, with a description of the missing information. If the City Clerk finds
61 that an application has all of the information required by that subsection, the City Clerk will
62 schedule a public hearing on the application before the Council on a first come, first served
63 basis. The hearing shall be at a regular Council meeting on a date that will allow the City
64 Clerk to give at least 15 days' written notice of the hearing by mail to the applicant, and the
65 property owner if the property owner is not the applicant. At the hearing, the applicant will
66 have the burden of proving that the property satisfies either of the grounds for exclusion from
67 the District in subsection A of this section.

68 D. In addition to the property satisfying one of the grounds for exclusion in subsection
69 A of this section, approval of an exclusion of property from the District is subject to the
70 Council's determination that after the exclusion there will be sufficient funds available from
71 the assessment of properties in the District and other sources to satisfy the City's obligations
72 to the Kenai Peninsula Borough ("Borough") under the Loan Agreement between the City and
73 the Borough for the financing of the cost of the improvement in the District.

74 E. At the conclusion of the hearing, the Council will take one of the following actions,
75 in its sole discretion:

- 76 1. Adopt or reject a resolution excluding the property from the District; or
77 2. Continue the hearing to allow the applicant time to provide additional
78 information in support of the application.

79 F. The decision of the Council on an application is final and non-appealable.
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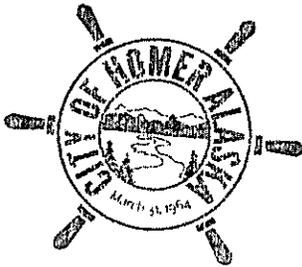
81 Section 2. Assessment payments must be current; refund. The City Clerk will not
82 accept an application, and the Council will not consider or act on an application, unless the
83 property that is the subject of the application is, and remains, current in the payments on its
84 assessment in the District. If the Council adopts a resolution excluding a property from the

85 District, the City shall refund all payments made for the property on its assessment in the
86 District [without interest] to the record owner of the property as of the effective date of the
87 resolution.
88

89 Section 3. Limitation on time to apply for exclusion. The City Clerk will not accept an
90 application, and the Council will not consider or act on an application, to exclude property
91 from the District unless the application is complete and submitted to the City Clerk on or
92 before the date that is 18 months after the effective date of this ordinance.

93
94 Section 4. This ordinance is not permanent in nature, and shall not be codified.

95
96 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 10th day of August, 2015.



CITY OF HOMER

Francie Roberts

FRANCIE ROBERTS,
MAYOR PRO TEMPORE

ATTEST:

[Signature]
JO JOHNSON, MMC, CITY CLERK

YES: 6
NO: 0
ABSTAIN: 0
ABSENT: 0

First Reading: 7/27/15
Public Hearing: 8/10/15
Second Reading: 8/10/15
Effective Date: 8/11/15

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127 Reviewed and approved as to form.

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129 Mary K. Koester

130 Mary K. Koester, City Manager

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132 Date: 8.12.15

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134 Fiscal Note: Unknown at this time.

Thomas F. Klinkner

Thomas Klinkner, City Attorney

Date: 8-14-15