



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum

TO: PARKS AND RECREATION ADVISORY COMMISSION  
FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK  
DATE: JANUARY 22, 2015  
SUBJECT: SUPPLEMENTAL PACKET/PUBLIC COMMENTS

---

PUBLIC COMMENTS ON ITEMS ON THE AGENDA

Recommendation:

No Action Requested. Informational Only.



TO: Parks and Rec. Commission  
Homer, AK

FROM: Lani Raymond  
41640 Gladys Ct  
Homer, AK

DATE: 1-16-15

I am very glad that you are going to look into the problems at Bishop's Beach in the coming months, and I am hoping that you will find effective solutions.

The existing plan, ordinances, enforcement level, and signage are not working. Many problems have developed since the past plan was put into effect, and it is obvious that this situation is getting worse each year. Something must be done.

The solution needs to include adequate ordinances and enforcement, in other words, a plan "with teeth" so the plan will work. Education on this issue is important, good signage is important, but without major changes and some of those "teeth", the problem will not be solved and will continue to worsen.

Something must be done.



## Renee Krause

---

**From:** Jo Johnson  
**Sent:** Tuesday, January 20, 2015 9:13 AM  
**To:** Renee Krause  
**Subject:** FW: Please send this one--I forgot the comment in the P.S.

Renee, please forward this too.

Jo Johnson

-----Original Message-----

**From:** Nina Faust [<mailto:aknina51@gmail.com>]  
**Sent:** Tuesday, January 20, 2015 8:37 AM  
**To:** Department Clerk  
**Subject:** Please send this one--I forgot the comment in the P.S.

P.O. Box 2994  
Homer AK 99603

Parks and Recreation Commission  
City of Homer

Dear Commission Members:

I have reviewed the response to the questions posed in the letter sent by Jack Wiles and the current regulations and Beach Policy. The issue is complex but the need for change is clear to me. The current approach is not satisfactorily working. Status quo is not going to solve the level of problems occurring on Bishops Beach.

Education and outreach are still needed. Signs may need redesign and perhaps a slightly different location. Barriers can be very effective, if for no other reason than that they are a much clearer message to the public that a certain area is off limits. Tasteful signs posted within the barrier at either end of the zone, one facing east and one west could declare pedestrian zone or wildlife zone, or whatever is decided as the most effective message.

Enforcement will be helpful. But there must be a regulation with a penalty to bring the message to the offender. Most people do not cause problems, so enacting a regulation to place consequences on violating closures, littering or whatever is decided is needed, will not be a problem for the majority of beach users. It will provide a means to drive the message home to beach abusers that we do care about this area.

There are many ways to solve the problems, so I hope we can look at a variety of solutions to make Bishops Beach a safe, clean recreation area but also safeguard the berm habitat, wetlands, and nesting habitat. This is a very rich area that is a huge asset for the community. The wildlife viewing, particularly of birds in the wetlands, is a big draw during Shorebird Festival and throughout the year. Offshore there are frequently birds or marine mammals. I hope the City, USFWS, the Chamber, local non-profits, and interested citizens will craft a plan that not only solves the people management issues, but also looks toward planning how best to use this area for science education and recreation.

Thanks for your time,  
Nina Faust

P.S. I forgot one comment--I think it is important to protect the tide pools. They should be off limits to vehicles. Consider adopting guidelines for public use as recommended by the Center for Alaskan Coastal Studies.

## Renee Krause

---

**From:** Jo Johnson  
**Sent:** Tuesday, January 20, 2015 8:12 AM  
**To:** Renee Krause  
**Subject:** FW: Homer Parks and Recreation Commission

Renee,  
Please send this to the commission.

Jo Johnson

-----Original Message-----

**From:** Nina Faust [<mailto:aknina51@gmail.com>]  
**Sent:** Tuesday, January 20, 2015 7:07 AM  
**To:** Department Clerk  
**Cc:** Nina Faust  
**Subject:** Homer Parks and Recreation Commission

P.O. Box 2994  
Homer AK 99603

Parks and Recreation Commission  
City of Homer

Dear Commission Members:

I have reviewed the response to the questions posed in the letter sent by Jack Wiles and the current regulations and Beach Policy. The issue is complex but the need for change is clear to me. The current approach is not satisfactorily working. Status quo is not going to solve the level of problems occurring on Bishops Beach.

Education and outreach are still needed. Signs may need redesign and perhaps a slightly different location. Barriers can be very effective, if for no other reason than that they are a much clearer message to the public that a certain area is off limits. Tasteful signs posted within the barrier at either end of the zone, one facing east and one west could declare pedestrian zone or wildlife zone, or whatever is decided as the most effective message.

Enforcement will be helpful. But there must be a regulation with a penalty to bring the message to the offender. Most people do not cause problems, so enacting a regulation to place consequences on violating closures, littering or whatever is decided is needed, will not be a problem for the majority of beach users. It will provide a means to drive the message home to beach abusers that we do care about this area.

There are many ways to solve the problems, so I hope we can look at a variety of solutions to make Bishops Beach a safe, clean recreation area but also safeguard the berm habitat, wetlands, and nesting habitat. This is a very rich area that is a huge asset for the community. The wildlife viewing, particularly of birds in the wetlands, is a big draw during Shorebird Festival and throughout the year. Offshore there are frequently birds or marine mammals. I hope the City, USFWS, the Chamber, local non-profits, and interested citizens will craft a plan that not only solves the people management issues, but also looks toward planning how best to use this area for science education and recreation.

Thanks for your time,  
Nina Faust



## Renee Krause

---

**From:** Jack Wiles <wilesmichaud@msn.com>  
**Sent:** Thursday, January 22, 2015 7:56 AM  
**To:** Julie Engebretsen  
**Cc:** Jack Wiles; Michelle Michaud; Lani Raymond; Rika Mouw; Louise Ashmun; George Matz; Nina Faust; Renee Krause  
**Subject:** City of Homer Beach Policy Review  
**Attachments:** Response.to.BeachPolicyQuestions.docx

Julie,  
Thanks for your good review of the questions we posed. Questions we feel help shape the analysis of the beach policy.

The interpretation of existing ordinances that apply to the beach policy is a good starting point for the first meeting of the Parks and Recreation Advisory Commission.

Attached is our review of your initial analysis of the questions we posed.

Thanks.  
Jack

## City of Homer – Beach Policy Review

---

Understanding existing conditions, existing ordinances, and limitations of management options is important in crafting a review of the current Beach Policy.

Our take-away understanding of the response to questions posed:

### **City Code:**

1. Title 19.20 'could' apply - however the tideland and beach are not designated as park land therefore Title 19.20 does not apply unless the City designates the tideland and beach as a park?
2. Tidelands are not zoned - so the Open Space Recreation designation does not apply?
3. Enforcement codes used by City of Homer Police Department – unknown for now.
4. Existing Zoning – if zoned Open Space Recreation then can Title 19.20 apply?  
Apparently not.  
Zoning defines development but also use – e.g. management options for beach/tideland use.
5. Comp Plan - the comp plan calls for a Conservation designation – that identifies resource values and therefore protection of those values.

Management Implications of City Code: If the beach/tidelands are not designated as park land then the decision for their inclusion for park management and application of Title 19.20 is relevant or seek to define use of the beach/tidelands under Title 19.16.

### **Partnership with USFWS:**

1. Co-op Agreement – Dogs off-leash along the boardwalk and within Beluga Slough to the Bay is a major concern for disturbance to migrating and nesting birds and survival of flightless chicks. Destruction of habitat is also a significant concern. A coop agreement would allow the City to enforce any USFWS rule.
2. City code and zoning apply to USFWS land? - You say yes but federal lands are not generally subject to local jurisdictions, thus the benefit of a co-op agreement.
3. USFWS regulatory authority – our understanding is the the USFWS can establish their own regulations that may be more restrictive than the City ordinance. It is important to know how the City of Homer Police can enforce either city ordinances or federal rules on federal land.
4. USFWS boundaries – an important point as to the application of any USFWS regulation and subsequent signage.

Management Implications of a Partnership with the USFWS: USFWS may enact regulations to address concerns affecting wildlife. If the City and USFWS can enter into a cooperative agreement for rule enforcement on federal land then that would be beneficial to the protection of the resource.

### **Private Lands:**

1. Private land boundaries – the burden is on the private landowner to establish/mark their boundaries but how will a boundary be challenged or verified? The City has an important role in challenging beach closures or blockages.
2. Private land and restrictions to public use – legal question, dependent on the tideland boundary and any survey. Question becomes if the City can exercise any jurisdiction for public use?

3. Accretion and Erosion – complicated but may influence what the City can lay claim to.

Management Implications of Private Landownership: The City must protect public access to the beach against encroachment, blockage, or liability. The City has an important role to play in securing new access and Identifying, marking and making existing public access – whether pedestrian or vehicle. Managing public access by time and space allocation (open and closed areas) or necessary ordinances is in the public interest.

#### **Public Access:**

1. Public Access Easements – Of those easements identified, how are they defined for type of public access – e.g., pedestrian only?
2. Public Access Defined – Our point is that any management of vehicle use does not mean public access is restricted.

Management Implications: Public access to Homer beaches must be tempered by resource protection and health and safety needs.

#### **Enforcement & Safety:**

1. Questions to be addressed by Chief of Police – will be useful to know what City ordinances are available, limitations, needed additions or clarifications, management actions, and whether the State Uniform Vehicle Code can be applied to the beach.
2. “ “
3. “ “
4. Safety – We encourage you to make observations of pedestrian safety particularly at the entrance to Bishop’s Beach and along the beach.
5. Non-resident Dog Owner – not requiring registration of a non-resident makes sense but it does not relieve a person from being required to have their dog vaccinated and tagged.  
Title 20.08.010 requires: ‘Any impounded dog not wearing a City license shall not be released from the area animal shelter unless evidence of a valid license is provided or, if the animal is unlicensed, upon payment of licensing fee..’ ‘In addition, either proof of rabies vaccination or payment of rabies vaccination fees to the shelter (in exchange for a 30-day rabies vaccination voucher valid at any licensed veterinarian in the City) shall be required prior to release from impoundment...’
6. Off-Leash Law – Title 20.04 requires ‘Voice Control’ and the definition says, ‘competent voice control’ - an interesting concept when it comes to controlling the behavior of dogs...

We believe that ‘At Large’ means dogs running loose absent an owner and may not apply to dogs off-leash on the beach in the presence of its handler.

‘Code 20.04.020 At Large’ definition seems to imply that a dog may be off leash only ‘when engaged in an organized activity.’ There is no mention of establishing fenced or unfenced off-leash designated areas.

“At large” means an animal is at large when it is off the premises of the owner or keeper and is not in the company of or under the control of the owner or keeper, a member of his family or other person to which the animal has been entrusted, by leash, cord or chain; provided, however, that such animal shall be deemed to be under control when under competent voice control while actively engaged in an organized activity which requires that the animal not be physically restrained.

7. Exclusion – 20.32 allows for fees, fines, and civil penalties but no apparent means to exclude a person or animal from the beach for a flagrant infraction or health and safety.

Management Implications of Enforcement and Safety: Establishing dog off-leash and on-leash areas is an important management tool and provides options for beach users.

**Habitat:**

1. Berm - We believe there is a difference between what you may call a 'general berm' and the development of a 'secondary berm.' We believe that you should consider defining a secondary berm as a beach feature comprising an emerging habitat with the development of vegetative material and the collection of stabilizing material in which if left undisturbed a berm would be become established creating a viable habitat.
2. Tide Pools – not currently protected. Need to consider in the Beach Policy review.
3. Critical Habitat – The Critical Habitat designation is an indication of just that 'critical habitat' with an increased awareness of protection.
4. Wildlife Disturbance – Especially of concern is the metabolic stress and other risk factors to birds from disturbance. This topic will be discussed in more detail at your March 2 meeting.
5. Necessity of Vehicles on the Beach – We understand there are those who collect driftwood and coal on an opportunistic basis when it is exposed. Driving for enjoyment (often reckless) and parking for aesthetic reasons can become uncontrollable.
6. Fire on the Beach – We are unsure how the existing City code is applied to bonfires on the beach? The following ordinance seems to apply?

**5.20.020 Open burning – Permit requirement.**

a. Except as provided in subsection (c) of this section and in HCC [5.20.030](#), no person shall burn any combustible material in the open without a permit from the City. Burning permits shall be available at the Fire Department and shall be issued only upon approval of the Fire Chief or other official with written delegation of authority from the Fire Chief. Any person burning combustibles, whether under the authority of a permit or not, is solely responsible for any damage caused by the fire.

b. If the Fire Chief determines that weather or other conditions create a situation where open burning may create a hazard to public health or safety, or property, the Fire Chief may refuse to issue burning permits, restrict the number of permits issued, impose additional restrictions on new permits, modify, suspend, or revoke existing permits, prohibit campfires, and take other measures necessary to protect health, safety, life, and property for as long as the hazardous conditions exist.

c. A person may use a barbecue and burn a campfire in a developed fire pit or ring without a burning permit.

7. Definitions from Title 19.16.020 - See discussion regarding secondary berms in the "Habitat" question above.

There is a definition for 'beach' but no definition for 'tidal area.'

In the 'Private Land' section above you mention the 17.4 high tide area as a 'rule of thumb.' When the State of Alaska conveyed the state-owned tidelands to the City of Homer how were the tidelands defined, surveyed, and marked?

Title 19.16.030(d) closes Beluga Slough (which we assume is Area 7 of the Beach Policy Map and includes Bishop's Beach?) to motorized vehicles upon the beach or tidal

areas. However, the area east of the entrance to Bishop's Beach to the mouth of Beluga Slough is currently open to motorized vehicles with 'pedestrian priority.'

We do not see where you get your interpretation that 'the tidal area of Beluga Slough is closed.'

In the ordinance, there is no comma after beach in the phrase 'beach or tidal areas' so under construction of law one would interpret it to mean all-inclusive – both the beach and the tidal area (17.4 tideline?) are included? And, in reference to the Beach Policy Map it includes Area 7.

Otherwise, it becomes subjective as to whether the beach or tidal area are considered separately (which one?) or together. And, without a definition of tidal area in the ordinance then how is it applied?

8. Beach Policy Map – Thanks – somewhat hard to interpret the map as to closures – the maps you provided that are posted on the kiosk are helpful but are not part of the Beach Policy document.

Management Implications of Habitat Protection: Undoubtedly the prime concern – resource protection. Closing the east side of Bishop's Beach from the entrance to the east end of the seawall will protect important wildlife habitat and tide pools.

#### **Education / Outreach:**

1. Education with Behavioral Controls – Our point is that education alone has not worked without some behavioral controls such as the rock barriers you mention.
2. Effectiveness of Signage – We support signage that explains why a behavioral control is necessary.
3. Enforceability of Signage - Advisory signage is not enforceable.

Management Implications of Education/Outreach: We believe that the majority of people want to protect the resource and 'do the right thing.' Good signage, interpretive kiosk materials, and engagement of users provide a greater understanding of the management tools being applied.

Unfortunately, for some, advisory signage does not work and protection of the resource and protection of the public health and safety and enjoyment of beach users requires behavioral control such as barriers to established closed areas.

## Summary of Existing/Desired Conditions at Bishop's Beach

- Tidelands are not zoned
- City Comprehensive Plan is only a guide
- Need to define how the USFWS and the City of Homer will cooperate
- Burden is on the Private Landowner to research their title and land boundary
- City of Homer is obligated to ensure public access to and along the beach across private land when an easement exists and to seek out new easements as needed.
- A dog 'At Large' is not the same as off-leash and under voice control. There is a need to define and establish an off-leash beach area(s).
- Penalties for an infraction include fines but not the power to exclude a person for a period of time. Enforcement capabilities need to be better understood and limitations known.
- Wildlife disturbance, particularly to birds, at Beluga Slough, Mud Bay, and other areas is a significant threat.
- Fires on the beach need to be better defined as to hazardous materials, fire danger, and location
- Clarify that the beach and tideland area from the entrance to Bishop's Beach east to the east end of the seawall should be closed to motorized vehicles and closed to dogs or dogs off-leash.
- Review the need to establish the beach area west from the entrance to Bishop's Beach for designated bonfire area(s), motorized vehicle use, and dogs off-leash. Close the tide pools to dogs and vehicles.
- The 'spit' formation at Mud Bay is a critical bird area and should be closed entirely to dogs.



