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**CITY OF HOMER  
HOMER, ALASKA**

Shadle

**ORDINANCE 06-68(S)(A)**

AN ORDINANCE OF THE CITY COUNCIL AMENDING HOMER CITY CODE TITLE 1, GENERAL PROVISIONS, I. GENERAL, BY ADDING A NEW CHAPTER 1.18, CODE OF ETHICS; REPEALING SECTION 1.24.090 AND REENACTING IT AS PART OF 1.18; AND THAT SECTION 9. CODE OF ETHICS, OF THE COUNCIL'S OPERATING MANUAL SHALL BE REPLACED WITH THE CODIFIED VERSION.

The City of Homer Ordains:

Section 1. That Homer City Code Title 1, General Provisions, I. General, is hereby amended by adding a new Chapter 1.18, entitled Ethics Code:

CHAPTER 1.18

CODE OF ETHICS

- 1.18.010 Purpose  
1.18.020 Definitions  
1.18.030 Prohibited acts.  
**1.18.040 Business dealings with city**  
[1.18.040 — Enforcement]  
**1.18.050 Enforcement**  
[1.18.050 — Advisory opinions.]  
**1.18.060 Advisory opinions.**  
[1.18.006 Penalties — forfeited position — exemptions — injunction]  
**1.18.070 Violation and penalty**  
[1.18.070 — Distribution of Code of Ethics]  
**1.18.080 Sanctions, civil penalties and remedies.**  
**1.18.090 Distribution of Code of Ethics.**  
**1.18.100 Application of state statutes.**

1.18.010, Purpose. a. 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 chapter 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.

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

50 c. This chapter is also intended to establish a process which will ensure that complaints  
51 or inquiries regarding the conduct of elected city officials and appointed advisory commissioners  
52 and boardmembers are resolved in the shortest practicable time in order to protect the rights of  
53 the public

54 at large and the rights of the elected official, or appointed advisory commissioners and  
55 boardmembers.

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

61  
62 1.18.020, Definitions. As used in this chapter:

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

68 b. "Financial interest" is as defined in HCC Chapter 1.12.010.

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

70 d. "Immediate family" is as defined in HCC 1.12.010(d).

71 e. "City official" or "official" is as defined in HCC 1.12.010(g).

72 f. "Official act" or "action" is as defined in HCC 1.12.010(f).

73 g. "Organization" is as defined in HCC 1.12.010(e).

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

79  
80 1.18.030, Prohibited Acts. a. Official Action. A city official shall not participate in any  
81 official action in which[] **the official** has a financial interest, **except to the extent, if any,**  
82 **authorized by HCC Chapter 1.12.** [~~An official who is a voting member of the council, a~~  
83 ~~commission, or other agency]~~**A city official** shall identify any financial conflicts of interest in  
84 accordance with HCC Chapter 1.12.

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

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

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

97 d. Inappropriate Use of Office Title[-] or Authority. No official, elected or appointed,  
98 shall use the implied authority of their position for the purposes of unduly influencing the  
99 decisions of others, or promoting a personal interest within the community. Councilmembers  
100 will refrain from using their title except when duly representing the city in that capacity. Unless  
101 duly appointed by the Mayor [~~and/or~~] or Council to represent the interests of the full council,  
102 councilmembers shall refrain from implying their representation of the whole by the use of their  
103 title.

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

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

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

119 1. A person who holds an appointed city office shall not be eligible for  
120 employment with the city, during their term of office, in the department that the appointed  
121 commission has jurisdiction over until one year has elapsed following the term of appointment.  
122 An exception may be made with the approval of the city council.

123 2. A person who holds or has held an elective city office shall not be eligible for  
124 appointment to an office or for employment with the city until one year has elapsed following the  
125 term for which he was elected or appointed. An exception may be made with the approval of the  
126 city council.

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

'32 1. A meal;

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

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

145 j. Political Activities, Limitations of Individuals. ~~[Appointed officials]~~ **A city official**  
146 **who is a member of an appointed board or commission** may not take an active part in a  
147 political campaign or other~~[matter to be brought before the voters]~~ **political activity** when on  
148 duty. Nothing herein shall be construed as preventing **such** appointed officials from exercising  
149 ~~[there]~~ **their** voting franchise, contributing to a campaign or candidate of their choice, or  
150 expressing their political views when not on duty or otherwise conspicuously representing the  
151 city. ~~[See exception for Mayor under HCC 1.18.020(h)]~~

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

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

160  
161 **1.18.040 Business dealings with city.** ~~[m-Business dealings with city.]~~ **a.** Before a  
162 city official, or an organization or entity in which the official has a financial interest, engages in  
163 business with the city, the official shall file with the city clerk a statement, under oath, setting  
164 forth the nature of such business dealings and his interest therein, not less than ten days before  
165 the date when official action may be taken by the council or by any officer, **employee,**  
166 commission or other agency of the city upon the matter involved. If all other provisions of this  
167 chapter are complied with, the statement shall be sufficient for continuing transactions of a  
168 similar or like nature for one year from the date of its filing. However, if an official has violated  
169 any of the provisions of this chapter, he shall be precluded from ~~[dealing]~~ **engaging in business**  
170 with the city on that particular matter.

171 ~~[n.]~~ **b.** Upon taking office, or upon subsequently acquiring the interest, and official shall  
172 **within ten days** file with the city clerk a statement disclosing any financial interests of the  
173 official in an organization engaging in business with the city.  
174

175 ~~[1.18.040]~~**1.18.050** Enforcement. a. The city council shall have the primary  
176 responsibility for the enforcement of this chapter and shall ensure that a determination of the  
177 validity of a complaint is made within thirty days after receipt of the complaint. The time for  
178 making a determination may be extended for good cause shown. The city council may  
179 cause a hearing to be convened to determine whether a city official has violated this  
180 chapter. The responding city official shall be provided reasonable notice and an  
181 opportunity to present evidence and cross-  
182 examine witnesses. A hearing conducted and any determination made under the authority  
183 of this section are independent of and may be in addition to any prosecution in court under  
184 criminal procedures.

185 b. The city council may direct the city attorney to investigate or prosecute any apparent  
186 violation of this chapter or it may employ or appoint any qualified attorney to investigate or  
187 prosecute any violation or series of violations by one or more persons of this chapter .

188 c. Any person who believes that a violation of any portion of this chapter has occurred  
189 may file a complaint with the city attorney, city manager or the city council. However, nothing  
190 in this chapter shall be construed to prevent complainants from instituting direct legal actions  
191 through the appropriate judicial authority.

192  
193 ~~[1.18.060]~~**1.18.060** Advisory opinions. a. Where any official has a doubt as to the  
194 applicability of any provision of this chapter to a particular situation, or as to the definition of  
195 terms used herein, he may apply in writing to the city attorney for an advisory opinion. The  
196 official shall have the opportunity to present his interpretation of the facts at issue and of the  
197 applicability of provisions of the chapter before such advisory opinion is made.

198 b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent  
199 actions concerning the public official who sought the opinion and acted on it in good faith,  
200 unless material facts were omitted or misstated in the request for the advisory opinion. An  
201 advisory opinion shall be applicable and binding only to the particular set of facts and instances  
202 of conduct for which it was requested and shall have no force or effect for purposes of general  
203 application. Such opinion shall not be binding or admissible in evidence in any action initiated  
204 by any private citizen.

205  
206 ~~[1.18.060]~~**1.18.070** Violation and penalty. ~~[Penalties forfeited position exemptions~~  
207 ~~injunction a.]~~Any official who willfully and knowingly violates any of the provisions of this  
208 chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16.

209  
210 ~~[b.]~~**1.18.080** Sanctions, civil penalties and remedies. Upon conviction for any  
211 violation of this chapter under criminal procedures ~~[of any official, such official shall~~  
212 ~~immediately forfeit his office or position]~~ or upon a determination of any violation of this  
213 chapter after a hearing conducted pursuant to section 1.18.050, the city council may impose  
214 as a sanction, penalty or remedy any or all of the following, as appropriate to the  
215 seriousness of the violation:

216 a. The city council may declare the office of a city council member vacant for a  
217 serious violation that is (i) flagrant or (ii) willful and knowing. The office of the mavor may

218 be declared vacant only if the violation justifies a declaration of vacancy under AS  
219 29.20.280.

220 b. The city council may remove a member of a board or commission from the board  
221 or commission.

222 c. The city council may issue a public reprimand to the official.

223 d. The city council may order the official to refrain from voting, deliberating, or  
224 participating in any matter in violation of this chapter.

225 e. The city council may revoke any committee assignments of the official.

226 f. The city council may revoke or restrict the official's privilege to travel at city  
227 expense on city business.

228 ~~{e. The city council may elect not to prosecute an official whose conduct is believed to~~  
229 ~~constitute a violation of this chapter if it is determined that prosecution of the official is not~~  
230 ~~necessary in the public interest}~~

231 ~~{d.}g.~~ Any contract or transaction which was the subject of an official act or action of  
232 the city in which there is an interest prohibited by this chapter, or which involved the violation of  
233 a provision of this chapter, shall be voidable ~~{at the option of the city.}~~ by the city council.

234 h. The city council may order the official to forfeit or make restitution of any  
235 financial benefit the official received as a consequence of a violation of this chapter.

236 i. The city council may impose a civil fine of not more than \$1,000.

237 j. The city council may direct the city administration (i) to pursue legal action to  
238 enforce any order of the city council made under this section and (ii) to exercise any other  
239 legal and equitable remedies available to seek whatever relief is appropriate.

240  
241 ~~{1.18.070}~~1.18.090 Distribution of Code of Ethics. ~~{a.}~~The city clerk shall cause a  
242 copy of this chapter to be distributed to every city official~~{of the city}~~within thirty days after its  
243 enactment. Each city official elected or ~~{engaged}~~appointed or ~~{or employment.}~~thereafter shall be furnished a  
244 copy before entering upon the duties of his office.

245  
246 ~~{b.}~~1.18.100 Application of state statutes. a. Nothing in this chapter is intended to  
247 curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct  
248 involving bribery or other offenses against public administration.

249 ~~{e.}~~b. ~~{City "officers"}~~All municipal officers as defined by Alaska Statutes Chapter  
250 39.50 are exempt from the provisions of AS 39.50 relating to~~{making the}~~ conflicts of interest  
251 or financial disclosures~~{required by the statute}~~.

252  
253 Section 2. That Section 9. Code of Ethics, of the Council's Operating manual shall be  
254 replaced with the codified version.  
255  
256

**Section 3. Section 1.24.090 of the Homer City Code pertaining to exemption from AS 39.50 is repealed and, pursuant to section 1 of this ordinance, reenacted as part of Homer City Code chapter 1.18.**

Section 3.14. This ordinance is of a permanent and general character and shall be included in the Homer City Code.

PASSED AND ENACTED by the Homer City Council this 12<sup>th</sup> day of February, 2007.

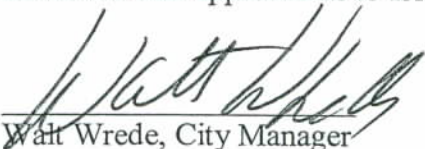
ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

Introduction:  
Public Hearing:  
Second Reading:  
Effective Date:

Ayes:  
Noes:  
Abstain:  
Absent:

Reviewed and approved as to form and content:

  
Walt Wrede, City Manager

Date: 2/24/07

Fiscal Note: NA

CITY OF HOMER



DENNIS NOVAK  
MAYOR PRO TEMPORE

  
Gordon Tans, City Attorney

Date: 22 Feb 2007