

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 Lord/Stroozas

4 **ORDINANCE 19-23(S)**
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 REPEALING AND REENACTING HOMER CITY CODE TITLE 14 TO BE
8 ENTITLED "HOMER PUBLIC UTILITY SYSTEMS" AND HOMER CITY
9 CODE TITLE 17 TO BE ENTITLED "PUBLIC ASSESSMENTS" TO: 1)
10 CONSOLIDATE WATER AND SEWER SYSTEM REGULATIONS AND
11 RATES; 2) UPDATE DEFINITIONS AND COMMON TERMS, AND 3)
12 CREATE UNIFORMITY BETWEEN SERVICE AND ASSESSMENT
13 PRACTICES AND REPEALING HOMER CITY CODE CHAPTERS 9.08,
14 13.24 AND 13.28 TO RELOCATE UTILITY CONSTRUCTION
15 PRACTICES AND FEES FROM HOMER CITY CODE 13.24 AND
16 HOMER CITY CODE 13.28 INTO TITLES 14 AND 17 AND MOVE
17 HOMER CITY CODE 9.08 TO HOMER CITY CODE 17.03 AND
18 UPDATE ASSESSMENT LIEN ENFORCEMENT PROVISIONS TO
19 INCORPORATE STATE LAW REQUIREMENTS.
20

21 WHEREAS, The Homer City Code currently requires property owners to connect to the
22 Homer Sanitary Wastewater and Sewage System and the Homer Public Water System and
23 regulates construction, installation, and use of these systems; and
24

25 WHEREAS, The regulatory, assessment, and fee provisions regarding Homer's public
26 utilities are located in various sections throughout the Code; and
27

28 WHEREAS, The laws governing Homer's public utilities have not been recently
29 updated to reflect the City's growth, progress, and needs; and
30

31 WHEREAS, The Code contains technical construction and installation requirements
32 that are best addressed via permit criteria rather than provisions in the Code; and
33

34 WHEREAS, It is in the City's and the public's best interest to identify assessments and
35 procedures arising from public utilities and capital improvements in the same title and
36 ensure all assessment procedures are clear, consistent, and easily understood; and
37

38 WHEREAS, Certain fees and assessments were addressed in Titles 9, 13, and 14 while
39 others were in Title 17.
40

41 NOW THEREFORE, THE CITY OF HOMER ORDAINS:
42

84 a. The City Manager is empowered to make rules and regulations for the administration of
85 City water and sewer services and construction, repair, operations, and maintenance of City
86 water and sewer systems. Any rules and regulations adopted by the City Manager under this
87 section and the current utility rates adopted by Council shall be available for public
88 inspection at the City Clerk's office, the Public Works Department, and on the City's website.

89
90 b. No person shall fail to comply with any rule or regulation adopted under the authority of
91 this section.

92
93 14.01.030 Immunity for discretionary acts.

94
95 An action for damages may not be brought against the City, or any of its agents, officers,
96 contractors or employees, for a claim based on the exercise or failure to exercise any
97 discretionary function or duty granted in this title, whether or not the discretion was abused,
98 including, without limitation, the exercise of discretion to restrict, interrupt, decrease, or
99 terminate the sale of water to bulk water customers, resellers, or others for export or
100 consumption outside the certificated service area or the discontinuance of water or sewer
101 services. Nothing in this section shall be construed to limit any defenses or immunities
102 available under AS 09.65.070 or any other provision of law.

103
104 14.01.040 Violation-Penalty.

105
106 a. The penalty for violating a provision of this title is the fine listed in the fine schedule in HCC
107 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in
108 court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless
109 another penalty is specifically provided.

110
111 b. The City shall provide notice of a violation via certified return receipt U.S. mail to the owner
112 of the property on which the violation is occurring. This notice shall include the name of the
113 property owner, the location of the violation, the Code provisions violated, and the action
114 necessary to correct the violation.

115
116 c. Before assessing penalties under this section, the City shall provide written notice of
117 penalty to the property owner via certified return receipt U.S. mail and personal delivery.
118 This notice shall include all the information required in subsection (b), the date from which
119 penalties incur, and notice of the right to appeal to the City Manager.

120
121 14.01.045 Violation-Right of appeal.

122
123 a. The finding of a violation and assessment of a penalty within 30 days from the date the
124 notice of penalty was postmarked.

125

126 b. Untimely appeals shall not be accepted. A notice of appeal must be filed in writing with the
127 City Clerk and be accompanied by the appeal fee set forth in the Homer fee schedule. The
128 notice must contain:

- 129 1. Name and address of the owner of the property issued the citation;
- 130 2. A copy of the notice being appealed;
- 131 3. A statement of the grounds for appeal that must include detailed and specific
132 allegations of error and references to applicable provisions of the Code or other law.

133
134 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
135 Director, to act as the decision maker in an appeal under this section.

136
137 d. An appeal before the City Manager or his or her designee shall be heard within 30 days
138 from the day the appeal is filed. The person against whom the violation is assessed shall be
139 given an opportunity to be heard at a public hearing and shall have an opportunity to make
140 an oral argument and present evidence.

141
142 e. The City Manager or his or her designee shall issue a final written decision with his or her
143 findings no more than 30 days after the hearing.

144
145 14.01.050 Bond or cash deposit
146

147 a. Every person, firm or corporate entity carrying on the business of construction and
148 connecting to City sewer and/or water within the City may be required to deposit a bond or
149 cash deposit in favor of the City in an amount and under such conditions deemed appropriate
150 by the City Manager or his or her designee to cover damages of any kind resulting from that
151 person's, firm's or entity's operations. All such sewer or water construction and connections
152 shall be completed in a good and workmanlike manner in accordance with the specifications
153 required by the City. The bond or cash deposit shall be further conditioned that the principal
154 shall repair any damage done to the public sewer or water system on account of such work
155 and shall return the surface of the ground, street, road, building, facility, right-of-way or
156 easement to its original condition insofar as possible and in accordance with the
157 requirements of the City.

158
159 b. Every person, firm or corporate entity carrying on the business of construction and
160 connecting to City sewer and/or water within the City must be approved in writing by the
161 Public Works Director. The Public Works Director shall approve a person, firm or corporate
162 entity under this section so long as he, she or it:

- 163 1. Meets all state and local licensing requirements
- 164 2. Provides a statement demonstrating experience in substantially similar or the
165 same construction projects
- 166 3. Carries liability insurance in the aggregate amount of not less than \$500,000 or
167 as may be additionally required in an amount in excess of \$500,000 as may be deemed

168 necessary for the work by the Public Works Director or their designee to cover the insurance
169 requirement of the work.

170

171 14.01.060 State contractor required.

172

173 A contractor working for the City on a water or sewer project or conducting construction
174 within a public easement or right-of-way shall file a copy of their current State contractor's
175 certificate with the office of the City Clerk.

176

177 14.01.070 Utility permits-Appeal procedure.

178

179 a. Any person who is dissatisfied with the approval or denial of a permit under this title may
180 appeal the decision to the City Manager no more than 30 days after the Public Works Director
181 approves or denies the permit.

182

183 b. An appeal to the City Manager must be filed within 30 days of the written approval or
184 denial of a permit under this chapter. Untimely appeals shall not be accepted. A notice of
185 appeal must be filed in writing with the City Clerk and be accompanied by the appeal fee set
186 forth in the Homer fee schedule. The notice must contain:

187 1. Name and address of the permit applicant;

188 2. A copy of the order or decision being appealed;

189 3. A statement of the grounds for appeal that must include detailed and specific
190 allegations of error and references to applicable provisions of the Code or other law.

191

192 c. The City Manager may appoint a hearing officer or City official, other than the Public Works
193 Director, to act as the decision maker in an appeal under this section.

194

195 d. An appeal before the City Manager or his or her designee shall be heard within 30 days
196 from the day the appeal is filed. The permit applicant shall be given an opportunity to be
197 heard at a public hearing and shall have an opportunity to make an oral argument and
198 present evidence.

199

200 e. The City Manager or his or her designee shall issue a final written decision with his or her
201 findings no more than 30 days after the hearing.

202

203 14.01.080 Utility permit appeals- Superior Court

204

205 A final decision of the City Manager or his or her designee may be appealed to the Superior
206 Court no later than 30 days following the date the decision of the hearing officer is issued. An
207 appeal to the court must be filed according to the applicable court rules.

208

209 14.01.090 Water and sewer rate schedule

210 a. The City Council shall adopt, renew, review and amend, as necessary, a water and sewer
211 rate schedule annually via resolution. Copies of the rate schedule shall be available at the
212 Public Works Department. The schedule may also be available on the City’s website.

213
214 b. The City will allow, upon approval of a written application and payment of fee established
215 by the City Council, a second water usage meter to measure the flow of City water that is not
216 discharged to the Sanitary System. This second meter will be read monthly and sewer
217 charges will be credited monthly.

218
219 CHAPTER 14.04
220 HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

221
222 Sections:

- 223 14.04.010 Purpose.
- 224 14.04.015 Definitions.
- 225 14.04.018 Service connection charges.
- 226 14.04.020 Connection – Required.
- 227 14.04.030 Industrial waste.
- 228 14.04.050 Sewer service connection and extension permit.
- 229 14.04.055 Sewer connection and extension permit fee.
- 230 14.04.060 Disposition of revenue.
- 231 14.04.070 Destruction/abandonment of private sewage disposal systems.
- 232 14.04.080 Commercial waste disposal permit.
- 233 14.04.090 Industrial waste disposal permit.
- 234 14.04.100 Discharge of surface drainage into HSWS illegal.

235
236 14.04.010 Purpose.

237
238 It is the intent of this chapter to establish rules and regulations for the operation and
239 installation of the Homer Sanitary Wastewater and Sewage System, which may be called the
240 “HSWS” or the “Sanitary System” throughout this chapter. It is the goal of the City of Homer
241 for all wastewater and sewage within City boundaries to be connected to the HSWS, ensuring
242 proper wastewater and sewage management throughout the City. This Code should be
243 interpreted in furtherance of that goal.

244
245 14.04.015 Definitions.

246
247 For the purposes of this chapter, the following words and phrases shall have the meanings
248 set forth below:

249
250 “ADEC” means the State of Alaska Department of Environmental Conservation.

252 A “directly adjacent” sewer main means either (1) the main extends the entire length of the
253 frontage of the lot along an easement or right-of-way; or (2) it extends at least 10 feet into an
254 easement or right-of-way adjacent to the lot and the Public Works Director determines that
255 the main will not be extended to serve additional lots.

256
257 “Domestic sewage” means waste containing human or animal excretion, other than
258 industrial waste.

259
260 “Dwelling” or “dwelling unit” means any building or portion thereof which contains living
261 facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than
262 one family.

263
264 “Industrial plant” means a plant or works producing waste material, other than domestic
265 sewage.

266
267 “Industrial waste” means liquid or solids contained within a liquid, other than domestic
268 sewage.

269
270 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by
271 two or more families living independently in separate dwelling units which may or may not
272 share common entrances and/or other spaces.

273
274 “On-site sewer connection line” means the part of the sewer connection line located on the
275 property being serviced by that line.

276
277 “Off-site sewer connection line” means the part of the sewer connection line located in a
278 public easement or right-of-way.

279
280 “Premises” means a lot, parcel of land, building or establishment.

281
282 “Sewage” means a combination of liquid- or water-carried human waste conducted away
283 from residences, business buildings and institutions, which is known as domestic sewage,
284 together with the liquid- or water-carried waste resulting from a manufacturing process
285 employed in industrial establishments, including the washing, cleaning or drain water from
286 such process or establishment, which is known as industrial waste.

287
288 “Sewer connection line” means a line or pipe carrying sewage from a premises to a sewer
289 main.

290
291 “Sewer extension” means an extension of the sewer main.

292

293 “Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent
294 to the lot being serviced by the line or pipe.

295

296 14.04.018 Service connection charges.

297

298 A person applying for sewer service to property not previously connected to the Sanitary
299 System shall pay a sewer connection charge, which shall include engineering costs of
300 inspecting and/or installing the on-site sewer connection line and permit application fees
301 and costs. The amount of the sewer connection charge and the costs included in that charge
302 shall be published annually on the City website and a newspaper of general circulation.

303

304 14.04.020 Connection – Required.

305

306 a. Except as otherwise provided in this chapter, no person shall erect or occupy a dwelling or
307 commercial or industrial building directly adjacent to the Sanitary System without
308 connecting to the Sanitary System.

309

310 b. Except when expressly approved by permit, spaghetti lines are prohibited. No service will
311 be provided to a lot that is not directly adjacent to a sewer main.

312

313 c. Where the Sanitary System is not available, a septic system may be used so long as the
314 septic system is installed and maintained as required by ADEC and all other laws and provide
315 adequate disposal of waste.

316

317 d. Except as otherwise provided in this section, Property owners must connect to the Sanitary
318 System no more than three years after the owner of a property receives written notice that
319 the Sanitary System is available to the property.

320

321 e. Property owners with compliant and fully functioning septic systems may wait to connect
322 to the Sanitary System but shall connect to the Sanitary System before and instead of
323 replacing or repairing any substantial component of a septic system on the property.
324 Property owners delaying connection the Sewer System under this subsection must provide
325 written notice of the property owner’s intent to temporarily stay connection only in
326 compliance with the code. The notice of stay must be received by the City no more than 60
327 days after the City provides written notice to the property owner that the Sanitary System is
328 available to the property. A Notice to Stay Connection is available at the Clerk’s office, the
329 Public Works Department, and/or on the City’s website.

330

331 f. Outhouses, cesspools, privies or any private wastewater system that is not subject to
332 approval and regulation by **ADEC** is prohibited within the City.

333

334 14.04.030 Industrial Waste.

335
336 The City shall adopt industrial pretreatment discharge and waste disposal procedures and
337 regulations. These procedures and regulations and any amendments to them must be
338 approved by Council via ordinance.

339
340 14.04.050 Sewer service connection and extension permit.

341
342 a. No person shall install a sewer extension or a sewer connection line without first obtaining
343 a sewer connection permit from the City. Permit applications may be obtained from the
344 Public Works Department, the City Clerk's office, and/or the City's website. Permit fees must
345 be paid at the time the application is submitted. The sewer connection and extension permit
346 fee shall include all inspection and administrative costs. All other fees for delayed or deferred
347 services, in lieu of assessments and necessary right-of-way permits shall be in addition to the
348 permit fee.

349
350 b. A property owner installing a sewer connection or extension which qualifies for a deferred
351 assessment payment or makes a payment in lieu of assessment, shall pay the assessment
352 prior to issuance of the connection or extension permit.

353
354 c. The sewer connection permit criteria shall be identified in the permit application obtained
355 from the Public Works Office.

356
357 d. All work and materials must meet the standards and specifications as described in the
358 permit application, Homer City Code, the Uniform Building Code, and ADEC.

359
360 e. Property owners connecting to the Sanitary System shall provide and pay for all materials,
361 labor, and equipment for the excavation, connection and installation of the sewer line and
362 shall be responsible for any liability, damages or costs arising from installation, excavation,
363 and connection.

364
365 f. All sewer connections and extensions shall be inspected by the Public Works Department
366 before the connection is used. The customer shall make arrangements with the Public Works
367 Department at least 24 hours in advance for all required inspections.

368
369 14.04.070 Destruction/Abandonment of private sewage disposal systems.

370
371 All septic tanks, cesspools, privies, or sewage holding tank/vaults shall be removed, filled or
372 destroyed in full compliance with Conservation requirements and the Uniform Plumbing
373 Code.

374
375 14.04.080 Commercial waste disposal permit.

376

377 a. Except for property owners connecting to the Sanitary System for disposal of waste from a
378 single family dwelling or property owners required to obtain an industrial waste disposal
379 permit, all property owners must obtain a commercial waste disposal permit before
380 discharging any waste into the Sanitary System.

381
382 b. The waste disposal permit application shall be available at the Public Works Office and
383 may be available on the City's website. The permit fee must be paid at the time the
384 application is submitted. The criteria for the permit shall be included in the application.

385
386 c. The Public Works Director shall issue a commercial waste disposal permit so long as:
387 1. The Public Works Director reasonably believes, and the property attests that the
388 type of waste reported by the property owner will not damage the Sanitary System;
389 and
390 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

391
392 d. The Public Works Director or his designee may revoke, modify or impose conditions upon a
393 disposal permit if he or she finds, in his or her sole discretion, that revocation, conditions or
394 modifications to the permit are required to prevent or stop damage to the Sanitary System.
395 Except when immediate action is necessary to protect the Sanitary System and prevent
396 immediate harm to public health and sanitation, the Public Works Director shall provide
397 notice to the property owner at least 30 days before revoking or modifying a disposal permit.

398
399 14.04.090 Industrial waste disposal permit.

400
401 a. All significant industrial users must obtain an industrial waste disposal permit from the
402 City. A significant industrial user means an industrial user of the System who meets any one
403 of the following criteria:

- 404 1. Is subject to or potentially subject to national pretreatment standards promulgated
405 under Section 307(b) or (c) of the Clean Water Act;
406 2. Has in its wastes any priority toxic pollutants listed in 40 CFR 401.15 or 40 CFR Part
407 403 or listed by the Public Works Director;
408 3. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Clean
409 Water Act or regulations promulgated thereto;
410 4. Has a discharge flow of 10,000 gallons or more of wastewater per average work day;
411 5. Has a flow greater than five percent of the flow into the HSWS or of the design
412 pollutant loading capacity of the HSWS; or
413 6. Is determined by the Public Works Director to have a significant impact or potential
414 for significant impact, either singly or in combination with other contributing
415 industries, on the wastewater treatment system, the quality of sludge, the HSWS
416 effluent quality, or air emissions generated by the HSWS.

417

418 b. The industrial waste disposal permit application shall be available at the Public Works
419 Office, and may also be available on the City's website. The permit fee must be paid at the
420 time the application is submitted. The criteria for the permit shall be included in the
421 application.

422 c. The Public Works Director shall only issue an industrial waste disposal permit after finding
423 that:

424 1. The applicant and the sewage generated on the property subject to the permit
425 complies with the City of Homer Industrial Pretreatment and Discharge Policies as
426 adopted by Council; and

427 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

428

429 d. The Public Works Director or his designee may revoke, modify or impose conditions upon
430 an industrial waste disposal permit if he or she finds, in his or her sole discretion, revocation,
431 conditions or modifications to the permit are required to prevent or stop damage to the
432 Sanitary System. Except when immediate action is necessary to protect the Sanitary System
433 and prevent immediate harm to public health and sanitation, the Public Works Director shall
434 provide notice to the property owner at least 30 days before revoking or modifying a disposal
435 permit.

436

437 14.04.100 Discharge of surface drainage into HSWS Illegal.

438

439 No connections shall be made to any public sewer or any premises for the purpose of
440 directing or diverting any storm water or any surface or underground drainage into the
441 sewer, and no person shall discharge into any public sewer or house lateral any leader pipe
442 from a roof, surface drain, underground drain or any solid or liquid waste other than the
443 sewage composed of the ordinary liquid wastes of residences, business buildings and
444 institutions from baths, toilets, laundries, wash tubs, sinks and floor drains. Connections of
445 surface or groundwater to the sanitary sewer are considered illegal.

446

447

CHAPTER 14.08

448

HOMER PUBLIC WATER SYSTEM

449 Sections:

450 14.08.010 Purpose.

451 14.08.020 Definitions.

452 14.08.030 Water connections and extensions.

453 14.08.037 Water meters.

454 14.08.040 Water meter installation.

455 14.08.050 Water connection and extension permit.

456 14.08.060 Disconnection due to nonpayment.

457 14.08.070 Frozen pipes – City not liable.

458 14.08.080 Discontinuance of water.

459 14.08.090 Priority use of water.

- 460 14.08.100 Surplus water – Sale.
461 14.08.110 Water shortage or emergency declaration.
462 14.08.120 Water shortage or emergency – Interruption of sale of surplus water –
463 Other measures.
464 14.08.130 Water shortage or emergency – Appeal.
465 14.08.150 Service deposits.
466 14.08.160 Bulk water sales.
467 14.08.170 Water filling station permit.
468
469 14.08.010 Purpose.

470
471 It is the intent of this chapter to establish rules and regulations for the operation of the
472 Homer Public Water System. The Homer Public Water System may also be called “HPWS” or
473 the “Water System” in this chapter, permit applications, and/or City regulations and policies.
474 The provisions in this chapter also provide for the financial management of the Water
475 System.

476
477 14.08.020 Definitions.

478
479 For the purposes of this chapter, the following words and phrases shall have the meanings
480 set forth below:

481
482 “Bulk water” means water purchased from the City and supplied to the customer by means of
483 fire hydrant, tanker truck, or by any other means other than through a direct connection from
484 a water main to the premises where the water is consumed.

485
486 “Bulk water customer” means a person who purchases bulk water from the City.
487 A “directly adjacent” water main either (1) extends the entire length of the frontage of the lot
488 along a public easement or right-of-way; or (2) extends at least 10 feet into the easement or
489 right-of-way adjacent to the lot and the Public Works Director has determined that at no time
490 will the water main be extended to serve additional lots.

491
492 “Reseller” or “reseller of water” means a person who purchases water from the City and, for
493 valuable consideration, provides any quantity of such water to another person, but it shall
494 not include any eating or drinking establishment that provides its customers City water only
495 by the glass.

496
497 “Standard service account” means an established City water utility account for metered
498 water service through a direct connection from the City water main to the premises served.

499

500 “Surplus water” means water that the City administration has determined, in its sole
501 discretion, is in excess of the water needed to meet the consumption, sanitation, and fire
502 protection needs within the boundaries of the City.

503

504 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by
505 two or more families living independently in separate dwelling units which may or may not
506 share common entrances and/or other spaces.

507

508 “Off-site water connection line” means the part of the water connection line located in a
509 public easement or right-of-way.

510

511 “On-site water connection line” means the part of the water connection line located on the
512 property being serviced by that line.

513

514 “Premises” means a lot, parcel of land, building or establishment.

515

516 “Water connection line” means a line or pipe carrying water from the water main to a
517 premises.

518

519 “Water extension” means an extension of the water main.

520

521 “Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent
522 to the lot being serviced by the line or pipe.

523

524 “Water filling station” means a non-City facility used to supply bulk water from the Water
525 System to a tanker truck or other means of conveyance.

526

527 14.08.030 Operation of water valves, fire hydrants and curb stops.

528

529 Only authorized City personnel shall operate water valves, fire hydrants, and curb stops.

530

531 14.08.040 Water meter installation.

532

533 a. Property owners must install a water meter and related components before they will be
534 eligible to connect to the Water System. Installation of all water meters must comply with
535 installation instructions drafted by the Public Works Department and approved by City
536 Council and available at the City Clerk’s Office and Public Work’s office. A violation of the
537 installation instructions shall constitute a violation of this chapter.

538

539 b. The property owner required to install the water meter shall be responsible for all costs
540 associated with installation of that meter and its corresponding mechanisms and a rental fee
541 for the meter from the City.

542

543 c. The City shall have the right to install a water meter remote on a building serviced or
544 scheduled to be serviced by the Water System. The meter shall be the size and model
545 indicated by the Public Works Director.

546

547 d. Water meters remain City property. Persons renting meters shall be responsible for
548 damage arising from external damage and freezing. Internal wear and tear and failure of the
549 meter due to general external wear and tear shall be the responsibility of the City. Customers
550 shall provide reasonable access for City personnel to maintain, monitor, and service a meter.

551

552 14.08.050 Water connection and extension permit.

553

554 a. All property owners connecting to the Water System must obtain a permit prior to starting
555 construction.

556

557 b. The Water System connection and extension permit application shall be available at the
558 City Clerk's office, the Public Works Department, and/or on the City's website. The permit fee
559 must be paid at the time the application is submitted. The criteria for the permit shall be
560 included in the application.

561

562 c. The Public Works Director or his or her designee may revoke, modify or impose conditions
563 upon a Water System permit if he or she finds, in his or her sole discretion, that revocation,
564 conditions or modifications to the permit are required to prevent or stop damage to the
565 Water System. Except when immediate action is necessary to protect the Water System and
566 prevent immediate harm to public health and sanitation, the Public Works Director shall
567 provide notice to the property owner at least 30 days before revoking or modifying a Water
568 System permit.

569

570 d. Installation of a Water System connection or extension of a water main must meet the
571 standards and specification in the permit application, the Homer City Code, and any
572 applicable state or federal law or regulations, including but not limited to State of Alaska
573 Department of Labor Occupational Safety and Health requirements.

574

575 e. A property owner installing an on-site water connection line or extending a water main is
576 solely responsible for all costs and liability associated with or arising from the excavation,
577 connection, and installation of the on-site water line or water main extension.

578

579 14.08.060 Disconnection due to nonpayment.

580

581 The City may discontinue water service for nonpayment of any utility service charges,
582 connection fees and related charges. The City shall provide notice to a Water System user at
583 least 30 days before discontinuing water service due to nonpayment.

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14.08.070 Frozen pipes – City not liable.

Customers will be solely responsible for all on-property frozen water connections and extensions.

14.08.080 Discontinuance of water.

Water may at any time be shut off from water mains without notice for repairs, extensions or other necessary purposes. The City will not be liable to the customer for any loss or damage caused by disruptions in water service.

14.08.090 Priority use of water.

The first priority of use of the water produced by the Water System is to provide for human consumption, sanitation, and fire protection needs of water consumers within the boundaries of the City of Homer.

14.08.100 Surplus water – Sale.

a. Subject to subsection (b) of this section and other provisions of this chapter, water may be made available for sale to bulk water customers, resellers, and others for export or consumption outside the boundaries of the City of Homer.

b. Notwithstanding any other provision of this title, City Council may by resolution restrict, interrupt, decrease, or terminate the sale of water for export or consumption outside the boundaries of the City if Council determines it is in the best interests of the City to do so.

14.08.110 Water shortage or emergency declaration.

a. City Council may declare a water shortage and restrict the use of water within the boundaries of the City if it finds, via resolution, and after conducting a public hearing, insufficient water available to meet the sanitation, fire protection, and consumption needs within the boundaries of the City.

b. City Council may declare a surplus water shortage via resolution and restrict use of surplus water as Council deems necessary and in the City’s best interest.

c. The City Manager may declare a water emergency of up to 30 days if he or she finds that there is an imminent threat or actual impairment to the City’s ability to meet water supply demands. The City Manager shall submit a summary of the declaration of water emergency and the reasons for the declaration at the next regularly scheduled Council meeting.

626 14.08.120 Water shortage or emergency – Interruption of sale of surplus water – Other
627 measures.

628

629 a. If a water shortage or water emergency is declared, the City shall first restrict, decrease,
630 interrupt, or terminate the sale of surplus water. The City may take any other measures that
631 the City determines, in its sole discretion, are necessary to address the water shortage or
632 emergency so long as it does so without discrimination between similarly situated
633 consumers.

634

635 b. Any measures adopted in response to a declared water shortage or emergency shall, for
636 the duration of the period of the declared shortage or emergency, prevail over any conflicting
637 provisions of law establishing rights of persons to receive specific or proportionate amounts
638 of the water supply.

639

640 c. Any measures adopted in response to a declared water shortage or water emergency will
641 be made available for public inspection at the City Clerk’s office, at the City Library, and at
642 the Public Works Department while those measures are in effect. Notice of the measures shall
643 also be posted on the City’s website within 48 hours after the declaration of the water
644 shortage or emergency.

645

646 14.08.130 Water shortage or emergency – Appeal.

647

648 Any person aggrieved by a City Council declaration of a water shortage or water emergency
649 under HCC 14.08.110, or by any action taken by the City in response to such a declaration,
650 may appeal the declaration or action to the Superior Court. The appeal must be filed within
651 30 days from the date the declaration was adopted or action taken. The declaration or action
652 of the City shall not be reversed except on the ground that such declaration or action was
653 fraudulent, arbitrary, or capricious.

654

655 14.08.150 Service deposits.

656

657 a. All water service users, at the time the service is established, shall pay a deposit based on
658 meter size, established by Council via resolution.

659

660 b. Deposits and any accrued interest shall be refunded:

661 1. After one year of service provided the customer has made all payments owed in full
662 and at the time due; or

663 2. No more than 45 days after the date customer is disconnected from the Water
664 System or stops receiving service. Service deposits and any interest shall first be
665 applied to any outstanding balance owed by the disconnecting customer. If there is a
666 balance, the remaining deposit and interest after the payment of that balance shall be
667 refunded to the disconnecting customer.

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c. Waiving of Deposits. If a customer has had utility service with the City within the last two years and paid their City utility payments on time, the Finance Department may waive the deposit requirement under this section.

d. Landlord Agreement. An owner/customer who requests an automatic continuance of utility service between renters may enter into a landlord agreement with the City for this purpose. This request should be directed to the Finance Department.

14.08.160 Bulk water sales.

a. Bulk water sales rates shall be established by City Council via resolution. The schedule for service fees shall apply to all bulk water service requests.

b. The meter deposit will be returned when the meter is returned undamaged.

c. If a bulk water customer purchases a meter from the City for measuring the quantity of water purchased it shall be exempt from the monthly meter service charge. It is the responsibility of the bulk water customer to maintain that meter so the City can accurately determine the amount of water being purchased. In the event the meter fails, the customer must repair or replace the meter at its sole expense. The City may at any time test the meter for accuracy and reject a repaired meter that it is not accurate.

14.08.170 Water filling station permit.

a. No person shall establish or operate a water filling station to obtain water from the Water System unless that person has a water filling station permit issued by the City.

b. A person shall apply for a water filling station permit on a form provided by the City. The permit application is available at the City Clerk's office, the Public Works Department, and may be available on the City's website. The permit fee must be submitted with the application.

c. The water filling station permit criteria shall be included in the permit application and any conditions and terms of the permit shall be included on the face of the permit. Water filling station permit terms and conditions may include, but are not be limited to, uniform or site-specific flow rate restrictions, storage tank requirements, and other provisions required by the Public Works Department to minimize adverse effects on the Water System and promote its efficient operation.

CHAPTER 14.50
UTILITY DISTRIBUTION FACILITIES

710 Sections:

711 14.50.010 Definitions.

712 14.50.020 Underground installation of cable extensions.

713 14.50.030 Enforcement of this chapter.

714

715 14.50.010 Definitions.

716

717 The following words, terms and phrases, when used in this chapter, shall have the meanings
718 ascribed to them in this section, except where the context clearly indicates a different
719 meaning:

720

721 “Cable” includes cables and wires of all descriptions.

722

723 “Natural Gas Assessment District” means City of Homer Natural Gas Distribution Special
724 Assessment District created by Homer City Ordinance 13-02.

725

726 “Public utility” includes every corporation, whether public, cooperative, or otherwise,
727 company, individual, or association of individuals, their lessees, trustees, or receivers
728 appointed by a court, that owns, operates, manages, or controls any plant or system for (1)
729 furnishing, by generation, transmission, or distribution, electrical service to the public for
730 compensation; (2) furnishing telecommunication service to the public for compensation.

731

732 “Public utility” includes all public utilities, whether or not subject to regulation by the
733 Regulatory Commission of Alaska.

734

735 “Telecommunications” means the transmission and reception of messages, images,
736 impressions, pictures, data, and signals by means of electricity, electromagnetic waves, and
737 any other kind of energy, force variations, or impulses, whether conveyed by cable, wire,
738 radiated through space, or transmitted through other media within a specified area or
739 between designated points.

740

741 14.50.020 Underground installation of cable extensions.

742

743 After October 24, 2006, all public utility cable facilities, including, but not limited to, electric
744 power, telephone, and telecommunications cables constructed or installed for the purpose of
745 providing utility service to any land not served before that date by overhead cable facilities,
746 shall be installed underground, and no cables or supporting poles shall be constructed or
747 installed above ground for such purpose, unless the utility obtains an approved exception
748 pursuant to HCC 22.10.055(e) or (f).

749

750 14.50.030 Enforcement of this chapter.

751

752 a. In addition to penalties and remedies set forth in this title, no permit may be issued to
753 install a utility line on City property or in a City-owned or controlled easement or right-of-way
754 in violation of this chapter.

755

756 Section 8: Title 17 entitled “Improvement Districts” is hereby repealed and reenacted
757 to read as follows:

758

759

TITLE 17
PUBLIC ASSESSMENTS

760

761 Chapters:

762 17.01 General Provisions

763 17.02 Special Assessment Districts

764 17.03 Enforcement of Public Assessments

765 17.05 Homer Public Water System Assessment Fund

766 17.10 Water and Sewer Zone Connection Assessments

767 17.15 Water and Sewer Individual Connection Assessments

768 17.15 Public Utility and improvement short-term financing

769 17.20 Developer Reimbursement Plans

770

771

CHAPTER 17.01
GENERAL PROVISIONS

772

773 Sections:

774 17.01.010 Definitions.

775 17.01.020 Purpose.

776 17.01.030 Assessment authority.

777 17.01.010 Definitions.

778

779 17.01.010 Definitions.

780

781 For the purposes of this title, the following words and phrases shall have the meanings set
782 forth below:

783

784 “Benefited area method” means a method of assessment that determines each parcel’s share
785 of the assessment by dividing the total cost of the improvements on which the assessment is
786 based by the total square footage of land benefitted by the improvement and then allocating
787 a portion of the cost of the assessment to each parcel based upon the square footage of the
788 land benefitted by the improvement. The Public Works Director has the authority and
789 discretion to calculate and apply the benefited area method. The square footage included in
790 the calculation shall include only developable land.

791

792 “Cost” means all expenses incurred by the City for an improvement, including but not limited
793 to, advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of

794 property acquisition, payments to construction contractors, costs of interim and long-term
795 financing of the improvement, including costs of issuing bonds and notes, and City
796 administrative costs.

797

798 “Developable land” means land that, in the discretion of the Public Works Director, can be
799 reasonably developed for uses permitted within the property’s zoning district.

800

801 “District” means a special assessment district created under this chapter unless otherwise
802 specified.

803

804 “Improvement” means a capital improvement, including without limitation streets,
805 sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary
806 sewage collection and treatment facilities; water supply and distribution facilities; natural
807 gas distribution facilities; and parks, playgrounds, public squares and open space.

808

809 “Public Works Director” means the Public Works Director or his or her designee. If the Public
810 Works Director position is not filled or temporarily empty, the City Manager or his or her
811 designee will serve as the “Public Works Director” for purposes of this Title.

812

813 “Special Assessment Application Fee” means the fee charged for the processing of the special
814 assessment district application. The fee is approved annually by Council in the resolution
815 adopting the City fee schedule.

816

817 “Record owner” means the person in whose name real property is listed on the property tax
818 roll prepared by the Kenai Peninsula Borough and thus the record owner of that real property
819 for purposes of this Title.

820

821 17.01.020 Purpose.

822

823 a. The purpose of this title is to identify the assessments the City may charge for acquiring,
824 installing or constructing capital improvements and utility systems that benefit real property
825 within City boundaries.

826

827 17.01.030 Assessment authority.

828

829 The City may assess all or part of the cost of a capital improvement against real property
830 benefited by the improvement, whether the property is privately or governmentally owned,
831 including real property that is exempt from taxation.

832

833

CHAPTER 17.02
SPECIAL ASSESSMENT DISTRICTS

834

835

836 Sections:

- 837
- 838 17.02.030 Purpose and authority for special assessment districts.
- 839 17.02.040 Initiation of a special assessment district.
- 840 17.02.050 Creation of a special assessment district.
- 841 17.02.060 Contract – Approval of increased costs.
- 842 17.02.070 Special assessment roll.
- 843 17.02.080 Certification of assessment roll.
- 844 17.02.090 Payment.
- 845 17.02.100 Subdivision after levy of assessments.
- 846 17.02.120 Reassessment.
- 847 17.02.130 Objection and appeal.
- 848 17.02.140 Interim financing.
- 849 17.02.150 Special assessment bonds.
- 850 17.02.160 Time limit for special assessment districts.
- 851 17.02.170 Water and sewer connections required.
- 852 ~~17.02.180 Road improvement assessments for lots with two street frontages.~~ **[This section**
- 853 **was clarified and moved to a new Chapter, HCC 17.15. The original language of the**
- 854 **section has been edited in HCC 17.15 to permit review of the changes.]**
- 855 17.02.190 Hardship deferrals.
- 856 17.02.200 Payment in lieu of assessment.
- 857
- 858 17.02.030 Purpose and authority for special assessment districts.
- 859
- 860 a. A special assessment district may be created for the purpose of acquiring, installing or
- 861 constructing a capital improvement that primarily benefits real property in the district, in
- 862 contrast to capital improvements that benefit the entire community and are paid for with
- 863 general government resources or improvements that benefit a specific individual parcel.
- 864
- 865 b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment
- 866 district, authorizing an improvement in a special assessment district, approving and levying
- 867 special assessments, payment of special assessments, and the authorization of special
- 868 assessment bonds, for public information and administrative guidance.
- 869
- 870 17.02.040 Initiation of special assessment district.
- 871
- 872 a. A special assessment district may be initiated by:
- 873 1. A Resolution, initiated by a Council member, the City Manager, or through the
- 874 developer reimbursement application process set forth in this Title and approved by a
- 875 vote of not less than three-fourths of Council; or

876 2. A Petition signed by 50% of the total record owners who receive notice from the City
877 Clerk's office that they will be assessed a portion of the costs of a single capital
878 improvement.

879
880 b. Special assessment petition applications are available from the Clerk's office. A benefitted
881 property owner proposing a special assessment district by petition must file with the Clerk a
882 complete special assessment petition application no more than 60 days after the notice of
883 assessment is issued to record owners. The Clerk shall approve all properly and timely
884 submitted applications within 10 days of the date on which the application is filed. The Clerk
885 shall notify the petition sponsor in writing that the petition has been approved, prepare the
886 petition, and distribute it by certified mail to all record owners of property in the proposed
887 district no more than 30 days after the petition application is approved.

888
889 c. Upon adoption of a resolution initiating a special assessment district, or the filing of a
890 sufficient petition with the Clerk, the City Clerk shall:

891 1. Schedule a meeting of record owners of real property in the proposed district, notify
892 the record owners by mail of the date, time and location of the meeting, and include a
893 copy of the notice in the City's regular meeting advertisement; and

894 2. Refer the proposed district to the Public Works Director, who shall prepare an
895 improvement plan for the proposed district. The proposed district improvement plan
896 shall include:

- 897 A. The boundaries of the proposed district
- 898 B. The design of the proposed improvement
- 899 C. A cost estimate for the improvement
- 900 D. The assessment allocation method used to calculate the amount owed by
- 901 each record owner in the proposed district
- 902 E. The percentage of the improvement cost to be assessed against properties
- 903 in the district
- 904 F. The time period over which assessments will be financed, and
- 905 G. Preliminary assessment roll for the proposed district.

906 3. The Public Works Director shall use the benefitted area method in calculating the
907 assessment amount unless another method is specified in the improvement plan.

908
909 17.02.050 Creation of a special assessment district.

910
911 a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time
912 for a public hearing on the necessity of the improvement and proposed improvement plan.
913 Notice of the hearing shall be published at least twice in a newspaper of general circulation in
914 the City, and mailed via certified mail to every record owner of real property in the proposed
915 district not less than 60 days before the hearing.

916

917 b. A record owner of real property in the proposed district may file a written objection to the
918 improvement plan with the City Clerk no later than the day before the date of the public
919 hearing on the improvement plan. If owners of real property that would bear 50 percent or
920 more of the assessed cost of the improvement file timely written objections, the Council may
921 not proceed with the improvement unless it revises the improvement plan to reduce the
922 assessed cost of the improvement that is borne by objecting record owners to less than 50
923 percent of the assessed cost of the improvement. If the resolution changes the district
924 boundary in the improvement plan, the City Clerk shall notify all record owners of property
925 included in the district under the improvement plan of the change.

926
927 c. At the noticed date and time, Council shall hold a public hearing and shall adopt a
928 resolution approving the assessment if Council finds, via resolution, that the improvement is
929 necessary and benefits the properties that will be assessed. Council must also approve the
930 proposed improvement plan. The resolution shall contain a description of the improvement,
931 the estimated cost of the improvement, the percentage of the cost to be assessed against the
932 properties in the district, and a description of the properties to be assessed.

933
934 d. If record owners of all real property in the proposed assessment district waive in writing
935 the notice, protest period and public hearing required under this section, the question of
936 creating the district may be submitted to Council without such notice, protest period or
937 public hearing.

938
939 17.02.060 Contract – Approval of increased costs.

940
941 a. After a special assessment district has been created, the City shall contract for the
942 construction of the improvement. If the City will own the improvement, it shall solicit bids for
943 construction of the improvement. If the City will not own the improvement, it shall contract
944 with the owner of the improvement to provide for its construction.

945
946 b. If the cost of constructing the improvement will exceed 15 percent of the estimated cost of
947 construction identified in the improvement plan, the City shall not contract for the
948 construction of the improvement without first notifying all record owners in the district via
949 certified mail of the increased cost and providing record owners in the proposed district 30
950 days to object to the increase.

951
952 c. If the City receives written objections from record owners collectively bearing one-half or
953 more of the cost of the improvement, the City may not contract to construct the
954 improvement unless it can do so at an amount not more than 15 percent above the estimated
955 cost of construction identified in the improvement plan. The City may still impose an
956 assessment or levy taxes on the district for the costs of developing the improvement plan so
957 long as the record owners approved the initiation of the district and the improvement plan.

958

959 17.02.070 Special assessment roll.

960

961 a. After completion of the improvement, the City shall assess costs of the improvement and
962 prepare an assessment roll stating for each property in the special assessment district the
963 name and address of the record owner, Kenai Peninsula Borough parcel number, the legal
964 description of the property, the amount assessed against the property, and the assessed
965 value of the property as determined by the Borough Assessor.

966

967 b. Council shall certify the assessment roll by resolution.

968

969 c. Prior to certifying the assessment roll, Council shall hold a hearing. All record owners in the
970 proposed district will have an opportunity to raise objections to the assessment roll at the
971 hearing. At least 15 days before the hearing, the City Clerk shall send written notice of the
972 hearing on the certification of the assessment roll by certified mail to each record owner
973 appearing on the assessment roll and publish notice of the hearing in a newspaper of general
974 circulation in the City.

975

976 17.02.080 Certification of assessment roll.

977

978 After the hearing the Council shall correct any errors or inequalities in the assessment roll. If
979 an assessment is increased, a new hearing shall be set and notice published, except that a
980 new hearing and notice is not required if all record owners of property subject to the
981 increased assessment consent in writing to the increase. Objection to the increased
982 assessment shall be limited to record owners of properties whose assessments were
983 increased. When the assessment roll is corrected, the Council shall confirm the assessment
984 roll by resolution. The City Clerk shall record the resolution and confirmed assessment roll
985 with the District Recorder.

986

987 17.02.090 Payment.

988

989 a. In the resolution certifying the assessment roll, Council shall fix the time or times when
990 assessments or assessment installments are due, the amount of penalty on a delinquent
991 payment and the rate of interest on the unpaid balance of an assessment. An assessment
992 that is to be paid in a single payment shall not be due before 60 days after billing.

993

994 b. Within 30 days after fixing the time when payment of the assessments is due, the Finance
995 Director shall mail a statement to the record owner of each assessed property identifying the
996 property and stating the assessment amount, the payment due date, and the amount of the
997 penalty on a delinquent payment. Within five days after mailing the statements, the Finance
998 Director shall publish notice of mailing the statements in a newspaper of general circulation
999 in the City.

1000

1001 17.02.100 Subdivision after levy of assessments.

1002

1003 a. Except as otherwise provided in this section or required by a governing tariff, a “subdivided
1004 property connection fee” shall be paid before subdivided lots may be connected to an
1005 improvement for which the original assessment was levied.

1006

1007 b. The “subdivided property connection fee” shall only be required when the original
1008 assessment on the pre-subdivided lot was apportioned equally between parcels and was not
1009 apportioned based upon lot size or area.

1010

1011 c. The amount of the “subdivided property connection fee” shall be equal to the
1012 amount of the original assessment adjusted by the increase in the number of parcels.

1013

1014 d. If the original assessment was payable in installments the City may enter into a
1015 written agreement for the payment of the connection fee in installments on terms that
1016 are substantially the same as those authorized for the payment of the original assessment,
1017 secured by a deed of trust on the parcel.

1018

1019 e. Upon the subdivision of a property assessed as a single parcel in an assessment district for
1020 natural gas distribution improvements where assessments were levied in an equal amount
1021 per parcel (i.e., without regard to parcel area, dimension or other characteristic), the
1022 assessment levied on the property that is to be subdivided shall be paid in full before the
1023 recording of the final plat. No parcel that results from the subdivision shall be subject to
1024 assessment for the improvements, but shall be charged for connecting to the improvements
1025 in accordance with the tariff of the public utility that provides natural gas service to the
1026 parcel.

1027

1028 f. Subdivisions of lots included in the original assessment shall only incur the “subdivided
1029 property connection fee” when the subdivision of the lot occurs on or before the date the
1030 total assessment for the district is paid in full.

1031

1032 g. All subdivided property connection fees collected under this section shall be deposited in
1033 the Homer Accelerated Water Sewer Program fund.

1034

1035 17.02.120 Reassessment.

1036

1037 a. Council shall within one year correct any deficiency in a special assessment found by a
1038 court, under the procedure for certification of the assessment roll in HCC 17.02.

1039

1040 b. Payments on the initial assessment are credited to the property upon reassessment. The
1041 reassessment becomes a charge upon the property notwithstanding failure to comply with
1042 any provision of the assessment procedure.

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17.02.130 Objection and appeal.

a. An assessment may only be contested by a person who filed a written objection to the assessment roll before its certification. Council’s decision regarding an objection to the assessment role is final and may be appealed to the Superior Court within 30 days after the date of certification of the assessment roll.

b. If no objection is filed or appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects.

17.02.140 Interim financing.

a. Council may provide by resolution or ordinance for the issuance of notes to pay the costs of an improvement from the special assessments for that improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement project.

b. Notes issued against assessments shall be claims against the assessments that are prior and superior to a right, lien or claim of a surety on the bond given to the City to secure the performance of the contract for construction of the improvement, or to secure the payment of persons who have performed work or furnished materials under the contract.

c. The Finance Director may accept notes against special assessments on conditions prescribed by the Council in payment of:

1. Assessments against which the notes were issued in order of priority;
2. Judgments rendered against property owners who have become delinquent in the payment of assessments; and
3. Certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments.

17.02.150 Special assessment bonds.

a. Council by ordinance may authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of the bonds shall be payable solely from the special assessments levied against property in the district. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. The benefited property may be pledged by the Council to secure payment of the bonds.

b. On default in a payment due on a special assessment bond, a bondholder may enforce payment of principal, interest, and costs of collection in a civil action in the same manner and

1085 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
1086 shall be against all property on which assessments are in default. The period for redemption
1087 is the same as for a mortgage foreclosure on real property.
1088

1089 c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund
1090 and appropriate to the fund annually a sum adequate to cover a deficiency in meeting
1091 payments of principal and interest on bonds if the reason for the deficiency is nonpayment of
1092 assessments when due. Money received from actions taken against property for nonpayment
1093 of assessments shall be credited to the guarantee fund.
1094

1095 17.02.160 Time limit for special assessment districts.
1096

1097 a. If five or more years elapse between the creation of a special assessment district and the
1098 City contracting for construction of the improvement, the City may not enter into the contract
1099 unless the Council by resolution extends the period for entering into the contract by not more
1100 than an additional five years.
1101

1102 b. Before the Council acts on a resolution under subsection (a) of this section, the City Clerk
1103 shall mail notice of the resolution to each current record owner of property listed on the
1104 preliminary assessment roll that the City will not contract for construction of the
1105 improvement in the district unless the resolution is adopted. The notice also shall include an
1106 updated copy of the preliminary assessment roll.
1107

1108 17.02.170 Water and sewer connections required.
1109

1110 Except as otherwise provided in Title 14, the owner of property in a water or sewer special
1111 assessment district that contains an occupied building shall connect to the improvement
1112 constructed in the district within three years after the date that the resolution confirming the
1113 assessment roll for the district becomes final.
1114

1115 17.02.190 Hardship Deferrals.
1116

1117 a. A person may obtain a deferment of assessment payments under this section if the person:
1118 1. Has an annual family income that is less than 200% of the current U.S. Health and
1119 Human Services Poverty Guidelines for Alaska;
1120 2. Is the record owner of the assessed property, and permanently resides in a single-
1121 family dwelling on the property; and
1122 3. Is not determined by the City, after notice and hearing, to have been conveyed the
1123 property primarily for the purpose of obtaining the deferment.
1124

1125 b. A person seeking deferment of an assessment payment shall file a written application with
1126 the Finance Director supported by documentation showing that the applicant meets the

1127 criteria in subsection (a) of this section. A person requesting an assessment payment
1128 deferment the first year the assessment is levied must file an application for deferment with
1129 the City no more than 15 days after receiving the initial assessment. A person requesting an
1130 assessment payment deferment under this section in any year after the first year must file an
1131 application for deferment no later than April 15th of the year for which the deferment is
1132 sought. A person must file an application each year for which deferment is sought and shall
1133 be required to prove eligibility for deferment as of January 1st of each year for which a
1134 deferment is requested. Within the same year the City for good cause shown may waive the
1135 claimant's failure to make timely application and approve the application as if timely filed.

1136
1137 c. A person who receives an assessment payment deferment shall execute a deed of trust on
1138 the property subject to assessment, together with a promissory note payable to the City on
1139 demand, to secure the eventual payment of the deferred payment.

1140
1141 d. A deferred assessment payment shall be immediately due and payable upon the earlier to
1142 occur of the following events:

- 1143 1. The sale or lease of the assessed property; or
1144 2. The death of both the deferred assessment applicant and the applicant's surviving
1145 spouse, if any.

1146
1147 e. Except for assessments imposed upon the Natural Gas Assessment District, hardship
1148 deferrals are not available from assessment payments for the infrastructure of a privately
1149 owned utility.

1150
1151 17.02.200 Payment in lieu of assessment.

1152
1153 a. A payment in lieu of assessment may be available to owners of property outside a special
1154 assessment district who want to connect to the improvement funded by a special assessment
1155 district. In order to qualify for connection to an improvement under this section, the record
1156 owner of the property and the City shall enter into a written agreement. The record owner
1157 shall agree in writing to:

- 1158
1159 1. Pay the full and actual costs of extending the benefit of the improvement onto their
1160 property; and
1161 2. Pay in full the property's pro-rated share of the assessed improvement.

1162
1163 b. The Public Works Director retains authority to deny a request for extension of an
1164 improvement under this section.

1165
1166 c. A payment in lieu of assessment must be paid in an equal or shorter period than the term of
1167 the original assessment.

1168

1169 d. Property accessing an improvement under this section may be included in a special
1170 assessment district for the same service created in the future. If a property is included in an
1171 assessment district under this subsection, the property will receive a credit towards the total
1172 assessment equal to (1) the amount of the “in lieu of assessment” already paid for the
1173 property or(2) the amount of the assessment levied on the property in the future special
1174 assessment district, whichever amount is less.

1175 CHAPTER 17.03

1176 ENFORCEMENT OF PUBLIC ASSESSMENTS

1177 Sections:

1178 17.03.010 Delinquent assessment payments-enforcement.

1179 17.03.020 Priority of lien.

1180

1181 17.03.010 Delinquent assessment payments-enforcement.

1182

1183 a. Assessments under this title and any interest or penalties on these assessments are liens
1184 on the property assessed.

1185

1186 b. Foreclosure of assessment liens shall be in accordance with the procedures required for
1187 foreclosure of property tax liens under Alaska Statute.

1188

1189 17.03.020 Priority of Lien.

1190

1191 a. Assessments under this title and any interest or penalties on these assessments are liens
1192 on the property assessed and are prior and paramount to all liens except municipal tax liens.
1193 Assessment liens may be enforced as provided in this Code and AS 29.45.320-29.45.470 for
1194 enforcement of property tax liens.

1195

1196 b. Assessment liens run with the land, and that portion of the assessment under the
1197 assessment contract that has not yet become due is not eliminated by foreclosure of a
1198 property tax lien.

1199

1200 CHAPTER 17.15

1201 ROAD IMPROVEMENT ASSESSMENTS

1202

1203 Sections

1204 17.15.010 Partial payment for inaccessible frontage road.

1205 17.15.020 Corner lot assessment.

1206

1207 17.15.010 Partial payment for inaccessible frontage road.

1208

1209 a. The record owner of a through lot or flag lot may delay payment of the part of an
1210 assessment for road improvements that is based on frontage on a road to which the lot does

1211 not yet have access. To delay payment under this section, the owner shall enter into a
1212 delayed payment agreement with the City before the end of the period for filing objections to
1213 the district under HCC 17.01.050.

1214

1215 b. A delayed payment agreement shall include provisions confirming:

1216 1. The lot fronts two streets but only has access to one of those streets;

1217

1218 2. The lot owner agrees to pay the part of the assessment based on frontage on
1219 the street to which the lot has access; and

1220 3. When and if the lot acquires access to the other street the property fronts, the
1221 owner agrees to the remaining part of the assessment.

1222

1223 c. A delayed payment agreement shall be recorded with the District Recorder's office.

1224

1225 17.15.010 Corner lot assessment.

1226

1227 The assessment for road improvements against a corner lot shall be based only on the longer
1228 of the lot's road frontages.

1229

1230

1231 CHAPTER 17.18

1232 DEVELOPER REIMBURSEMENT PROGRAM

1233 Sections:

1234 17.18.010 Purpose.

1235 17.18.020 Definitions.

1236 17.18.030 Developer Requested Special Assessment District

1237 17.18.040 Developer Incentive and Reimbursement Program

1238

1239 17.18.010 Purpose.

1240

1241 It is the intent of this chapter to provide incentive through reimbursement and access to the
1242 City's special assessment district process and procedures to developers expanding access to
1243 public utilities and capital improvements within the boundaries of the City.

1244

1245 17.18.020 Definitions.

1246

1247 In this chapter, unless otherwise provided, or the context otherwise requires, the following
1248 words and phrases shall have the meaning set forth below:

1249

1250 "Benefiting property" means one or more parcel(s) of real property which are adjacent to,
1251 will benefit from, or are likely to require connection to a Municipal Improvement.

1252

1253 “Cost of Construction” means the developer’s actual direct cost of constructing a Municipal
1254 Improvement.

1255
1256 “Developer” means an owner of real property who is developing his, her, or its real property.
1257 “Developer Reimbursement Agreement” means a written contract between the City, as
1258 approved by the Council, and one or more developers, which provides for reimbursement of a
1259 portion of the Costs of Construction of a Municipal Improvement by a developer, and the
1260 method for assessing the pro rata share of the Costs of Construction of a Municipal
1261 Improvement to Benefitted Property.

1262
1263 “Municipal Improvement” means water, sewer, electrical, and/or storm water systems or
1264 other capital improvements which have been designed and constructed according to City
1265 standards, approved by the City, accepted by the City, and provide potential benefits and/or
1266 service to Benefitted Property.

1267
1268 17.18.030 Developer Requested Special Assessment District.

1269
1270 a. A developer may request a Resolution of the Council approving a special assessment
1271 district in connection with the construction of a Municipal Improvement as set forth in HCC
1272 17.02.040.

1273
1274 b. A request for special assessment district initiated by a developer shall be filed on the
1275 Special Assessment District Resolution Request Form, which is available from the City Clerk’s
1276 Office.

1277
1278 c. The developer’s request must include all information required by the Special Assessment
1279 District Resolution Request Form, including, without limitation, a description of the
1280 boundaries of the district requested and the Municipal Improvement the developer intends to
1281 construct or extend, a cost estimate for the improvements to be constructed, the proposed
1282 method used to calculate the amount claimed by each record owner of Benefitted Property in
1283 the proposed district, the percentage of the improvement cost to be assessed to Benefitted
1284 Properties within the district, and the percentage of the improvement cost to be assessed to
1285 the developer’s property and/or project.

1286
1287 d. Upon adoption of a Resolution of Council finding there is a necessity for the special
1288 assessment district identified by the developer in the developer’s application and the
1289 initiation of the special assessment district process under this chapter, a Developer
1290 Reimbursement Agreement must also be presented to Council for approval. This agreement
1291 must include the terms and conditions of the improvement plan and the proposed
1292 construction and installation terms by the Contractor.

1293
1294 17.18.040 Developer Incentive and Reimbursement Program.

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a. If Council approves the district and the Developer Reimbursement Agreement under the procedures set forth in Title 17.02, and upon completion of the approved Municipal Improvement in accordance with the City’s standards and acceptance of the same by the City, and only to the extent permitted by law, the City shall transfer any payments received by the City in payment for the assessments within the district. The City will disburse any payments received from property owners in the district to the developer within 90 days from the date the City collects or receives the assessment payment.

b. The City may collect, but is not required to collect, the amounts assessed to any Benefitted Property for the pro rata share of the developer’s Costs of Construction. The Pro Rata Payment must be paid before any Benefitted Property connects to or uses the Municipal Improvement. No Benefitted Property is permitted to connect to or use the Municipal Improvement without first making the Pro Rata Payment. The Pro Rata Payment is in addition to any connection fees, service fees, or other fees that may be charged for connection and/or use of the Municipal Improvement, or any other fees chargeable by the City under the Code for the construction of a particular Municipal Improvement.

c. The City accepts no liability to collect any Pro Rata Payment from the owners of Benefitted Property, or in the event of non-payment, to pursue enforcement for non-payment of any Pro Rata Payment, or to disconnect or remove any Benefitted Property from the Municipal Improvement for non-payment of a Pro Rata Payment. The City assumes no liability or responsibility regarding the enforceability of any Reimbursement Agreement, or the developer’s ability to seek a Pro Rata Payment. To the extent permitted by law, enforcement matters relating in any way to a Pro Rata Payment, or recovery or reimbursement of any Costs of Construction, shall be the sole responsibility of the private developer.

Section 9: This ordinance is of a permanent and general character and shall be included in the Homer City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS ____ DAY OF _____, 2019.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

1337

1338 YES:

1339 NO:

1340 ABSTAIN:

1341 ABSENT:

1342

1343 First Reading:

1344 Public Hearing:

1345 Second Reading:

1346 Effective Date:

1347

1348

1349 Reviewed and approved as to form:

1350

1351 _____

1352 Katie Koester, City Manager

1353

1354 Date: _____

1355

Holly Wells, City Attorney

Date: _____

