

SECTION 1.**GENERAL SEPARATION CRITERIA FOR HAZARDOUS WILDLIFE ATTRACTANTS ON OR NEAR AIRPORTS.**

1-1. INTRODUCTION. When considering proposed land uses, airport operators, local planners, and developers must take into account whether the proposed land uses, including new development projects, will increase wildlife hazards. Land-use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase the potential for wildlife strikes.

The FAA recommends the minimum separation criteria outlined below for land-use practices that attract hazardous wildlife to the vicinity of airports. Please note that FAA criteria include land uses that cause movement of hazardous wildlife onto, into, or across the airport's approach or departure airspace or air operations area (AOA). (See the discussion of the synergistic effects of surrounding land uses in Section 2-8 of this AC.)

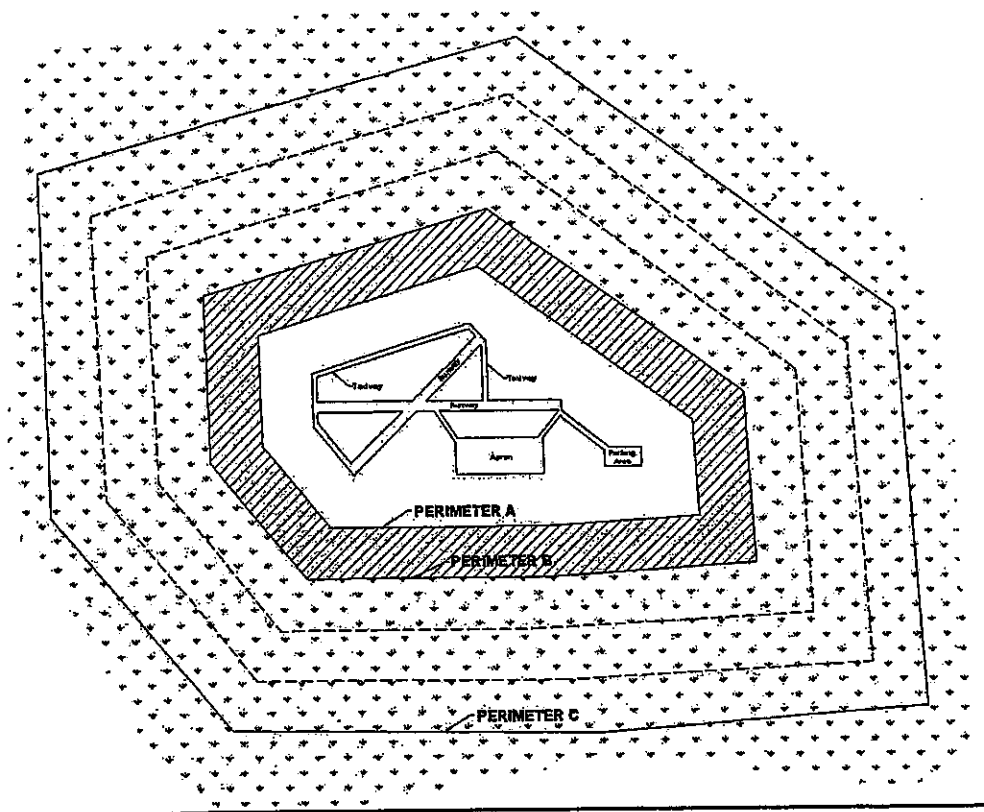
The basis for the separation criteria contained in this section can be found in existing FAA regulations. The separation distances are based on (1) flight patterns of piston-powered aircraft and turbine-powered aircraft, (2) the altitude at which most strikes happen (78 percent occur under 1,000 feet and 90 percent occur under 3,000 feet above ground level), and (3) National Transportation Safety Board (NTSB) recommendations.

1-2. AIRPORTS SERVING PISTON-POWERED AIRCRAFT. Airports that do not sell Jet-A fuel normally serve piston-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 5,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance measured from the nearest aircraft operations areas.

1-3. AIRPORTS SERVING TURBINE-POWERED AIRCRAFT. Airports selling Jet-A fuel normally serve turbine-powered aircraft. Notwithstanding more stringent requirements for specific land uses, the FAA recommends a separation distance of 10,000 feet at these airports for any of the hazardous wildlife attractants mentioned in Section 2 or for new airport development projects meant to accommodate aircraft movement. This distance is to be maintained between an airport's AOA and the hazardous wildlife attractant. Figure 1 depicts this separation distance from the nearest aircraft movement areas.

1-4. PROTECTION OF APPROACH, DEPARTURE, AND CIRCLING AIRSPACE. For all airports, the FAA recommends a distance of 5 statute miles between the farthest edge of the airport's AOA and the hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace.

Figure 1. Separation distances within which hazardous wildlife attractants should be avoided, eliminated, or mitigated.



PERIMETER A: For airports serving piston-powered aircraft, hazardous wildlife attractants must be 5,000 feet from the nearest air operations area.

PERIMETER B: For airports serving turbine-powered aircraft, hazardous wildlife attractants must be 10,000 feet from the nearest air operations area.

PERIMETER C: 5-mile range to protect approach, departure and circling airspace.

SECTION 2.**LAND-USE PRACTICES ON OR NEAR AIRPORTS THAT POTENTIALLY ATTRACT HAZARDOUS WILDLIFE.**

2-1. GENERAL. The wildlife species and the size of the populations attracted to the airport environment vary considerably, depending on several factors, including land-use practices on or near the airport. This section discusses land-use practices having the potential to attract hazardous wildlife and threaten aviation safety. In addition to the specific considerations outlined below, airport operators should refer to *Wildlife Hazard Management at Airports*, prepared by FAA and U.S. Department of Agriculture (USDA) staff. (This manual is available in English, Spanish, and French. It can be viewed and downloaded free of charge from the FAA's wildlife hazard mitigation web site: <http://wildlife-mitigation.tc.FAA.gov>.) And, *Prevention and Control of Wildlife Damage*, compiled by the University of Nebraska Cooperative Extension Division. (This manual is available online in a periodically updated version at: <http://www.unl.edu/wildlife/solutions/handbook/>.)

2-2. WASTE DISPOSAL OPERATIONS. Municipal solid waste landfills (MSWLF) are known to attract large numbers of hazardous wildlife, particularly birds. Because of this, these operations, when located within the separations identified in the siting criteria in Sections 1-2 through 1-4, are considered incompatible with safe airport operations.

- a. Siting for new municipal solid waste landfills subject to AIR 21.** Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181) (AIR 21) prohibits the construction or establishment of a new MSWLF within 6 statute miles of certain public-use airports. Before these prohibitions apply, both the airport and the landfill must meet the very specific conditions described below. These restrictions do not apply to airports or landfills located within the state of Alaska.

The airport must (1) have received a Federal grant(s) under 49 U.S.C. § 47101, et. seq.; (2) be under control of a public agency; (3) serve some scheduled air carrier operations conducted in aircraft with less than 60 seats; and (4) have total annual enplanements consisting of at least 51 percent of scheduled air carrier enplanements conducted in aircraft with less than 60 passenger seats.

The proposed MSWLF must (1) be within 6 miles of the airport, as measured from airport property line to MSWLF property line, and (2) have started construction or establishment on or after April 5, 2001. Public Law 106-181 only limits the construction or establishment of some new MSWLF. It does not limit the expansion, either vertical or horizontal, of existing landfills.

NOTE: Consult the most recent version of AC 150/5200-34, *Construction or Establishment of Landfills Near Public Airports*, for a more detailed discussion of these restrictions.

- b. **Siting for new MSWLF not subject to AIR 21.** If an airport and MSWLF do not meet the restrictions of Public Law 106-181, the FAA recommends against locating MSWLF within the separation distances identified in Sections 1-2 through 1-4. The separation distances should be measured from the closest point of the airport's AOA to the closest planned MSWLF cell.
- c. **Considerations for existing waste disposal facilities within the limits of separation criteria.** The FAA recommends against airport development projects that would increase the number of aircraft operations or accommodate larger or faster aircraft near MSWLF operations located within the separations identified in Sections 1-2 through 1-4. In addition, in accordance with 40 CFR 258.10, owners or operators of existing MSWLF units that are located within the separations listed in Sections 1-2 through 1-4 must demonstrate that the unit is designed and operated so it does not pose a bird hazard to aircraft. (See Section 4-2(b) of this AC for a discussion of this demonstration requirement.)
- d. **Enclosed trash transfer stations.** Enclosed waste-handling facilities that receive garbage behind closed doors; process it via compaction, incineration, or similar manner; and remove all residue by enclosed vehicles generally are compatible with safe airport operations, provided they are not located on airport property or within the Runway Protection Zone (RPZ). These facilities should not handle or store putrescible waste outside or in a partially enclosed structure accessible to hazardous wildlife. Trash transfer facilities that are open on one or more sides; that store uncovered quantities of municipal solid waste outside, even if only for a short time; that use semi-trailers that leak or have trash clinging to the outside; or that do not control odors by ventilation and filtration systems (odor masking is not acceptable) do not meet the FAA's definition of fully enclosed trash transfer stations. The FAA considers these facilities incompatible with safe airport operations if they are located closer than the separation distances specified in Sections 1-2 through 1-4.
- e. **Composting operations on or near airport property.** Composting operations that accept only yard waste (e.g., leaves, lawn clippings, or branches) generally do not attract hazardous wildlife. Sewage sludge, woodchips, and similar material are not municipal solid wastes and may be used as compost bulking agents. The compost, however, must never include food or other municipal solid waste. Composting operations should not be located on airport property. Off-airport property composting operations should be located no closer than the greater of the following distances: 1,200 feet from any AOA or the distance called for by airport design requirements (see AC 150/5300-13, *Airport Design*). This spacing should prevent material, personnel, or equipment from penetrating any Object Free Area (OFA), Obstacle Free Zone (OFZ), Threshold Siting Surface (TSS), or Clearway. Airport operators should monitor composting operations located in proximity to the airport to ensure that steam or thermal rise does not adversely affect air traffic. On-airport disposal of compost by-products should not be conducted for the reasons stated in 2-3f.

- f. **Underwater waste discharges.** The FAA recommends against the underwater discharge of any food waste (e.g., fish processing offal) within the separations identified in Sections 1-2 through 1-4 because it could attract scavenging hazardous wildlife.
- g. **Recycling centers.** Recycling centers that accept previously sorted non-food items, such as glass, newspaper, cardboard, or aluminum, are, in most cases, not attractive to hazardous wildlife and are acceptable.
- h. **Construction and demolition (C&D) debris facilities.** C&D landfills do not generally attract hazardous wildlife and are acceptable if maintained in an orderly manner, admit no putrescible waste, and are not co-located with other waste disposal operations. However, C&D landfills have similar visual and operational characteristics to putrescible waste disposal sites. When co-located with putrescible waste disposal operations, C&D landfills are more likely to attract hazardous wildlife because of the similarities between these disposal facilities. Therefore, a C&D landfill co-located with another waste disposal operation should be located outside of the separations identified in Sections 1-2 through 1-4.
- i. **Fly ash disposal.** The incinerated residue from resource recovery power/heat-generating facilities that are fired by municipal solid waste, coal, or wood is generally not a wildlife attractant because it no longer contains putrescible matter. Landfills accepting only fly ash are generally not considered to be wildlife attractants and are acceptable as long as they are maintained in an orderly manner, admit no putrescible waste of any kind, and are not co-located with other disposal operations that attract hazardous wildlife.

Since varying degrees of waste consumption are associated with general incineration (not resource recovery power/heat-generating facilities), the FAA considers the ash from general incinerators a regular waste disposal by-product and, therefore, a hazardous wildlife attractant if disposed of within the separation criteria outlined in Sections 1-2 through 1-4.

2-3. WATER MANAGEMENT FACILITIES. Drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, ponds built for recreational use, and ponds that result from mining activities often attract large numbers of potentially hazardous wildlife. To prevent wildlife hazards, land-use developers and airport operators may need to develop management plans, in compliance with local and state regulations, to support the operation of storm water management facilities on or near all public-use airports to ensure a safe airport environment.

- a. **Existing storm water management facilities.** On-airport storm water management facilities allow the quick removal of surface water, including discharges related to aircraft deicing, from impervious surfaces, such as pavement and terminal/hangar building roofs. Existing on-airport detention ponds collect storm water, protect water quality, and control runoff. Because they slowly release water

after storms, they create standing bodies of water that can attract hazardous wildlife. Where the airport has developed a Wildlife Hazard Management Plan (WHMP) in accordance with Part 139, the FAA requires immediate correction of any wildlife hazards arising from existing storm water facilities located on or near airports, using appropriate wildlife hazard mitigation techniques. Airport operators should develop measures to minimize hazardous wildlife attraction in consultation with a wildlife damage management biologist.

Where possible, airport operators should modify storm water detention ponds to allow a maximum 48-hour detention period for the design storm. The FAA recommends that airport operators avoid or remove retention ponds and detention ponds featuring dead storage to eliminate standing water. Detention basins should remain totally dry between rainfalls. Where constant flow of water is anticipated through the basin, or where any portion of the basin bottom may remain wet, the detention facility should include a concrete or paved pad and/or ditch/swale in the bottom to prevent vegetation that may provide nesting habitat.

When it is not possible to drain a large detention pond completely, airport operators may use physical barriers, such as bird balls, wires grids, pillows, or netting, to deter birds and other hazardous wildlife. When physical barriers are used, airport operators must evaluate their use and ensure they will not adversely affect water rescue. Before installing any physical barriers over detention ponds on Part 139 airports, airport operators must get approval from the appropriate FAA Regional Airports Division Office.

The FAA recommends that airport operators encourage off-airport storm water treatment facility operators to incorporate appropriate wildlife hazard mitigation techniques into storm water treatment facility operating practices when their facility is located within the separation criteria specified in Sections 1-2 through 1-4.

- b. New storm water management facilities.** The FAA strongly recommends that off-airport storm water management systems located within the separations identified in Sections 1-2 through 1-4 be designed and operated so as not to create above-ground standing water. Stormwater detention ponds should be designed, engineered, constructed, and maintained for a maximum 48-hour detention period after the design storm and remain completely dry between storms. To facilitate the control of hazardous wildlife, the FAA recommends the use of steep-sided, rip-rap lined, narrow, linearly shaped water detention basins. When it is not possible to place these ponds away from an airport's AOA, airport operators should use physical barriers, such as bird balls, wires grids, pillows, or netting, to prevent access of hazardous wildlife to open water and minimize aircraft-wildlife interactions. When physical barriers are used, airport operators must evaluate their use and ensure they will not adversely affect water rescue. Before installing any physical barriers over detention ponds on Part 139 airports, airport operators must get approval from the appropriate FAA Regional Airports Division Office. All vegetation in or around detention basins that provide food or cover for hazardous wildlife should be eliminated. If soil conditions and other requirements allow, the FAA encourages

the use of underground storm water infiltration systems, such as French drains or buried rock fields, because they are less attractive to wildlife.

- c. **Existing wastewater treatment facilities.** The FAA strongly recommends that airport operators immediately correct any wildlife hazards arising from existing wastewater treatment facilities located on or near the airport. Where required, a WHMP developed in accordance with Part 139 will outline appropriate wildlife hazard mitigation techniques. Accordingly, airport operators should encourage wastewater treatment facility operators to incorporate measures, developed in consultation with a wildlife damage management biologist, to minimize hazardous wildlife attractants. Airport operators should also encourage those wastewater treatment facility operators to incorporate these mitigation techniques into their standard operating practices. In addition, airport operators should consider the existence of wastewater treatment facilities when evaluating proposed sites for new airport development projects and avoid such sites when practicable.
- d. **New wastewater treatment facilities.** The FAA strongly recommends against the construction of new wastewater treatment facilities or associated settling ponds within the separations identified in Sections 1-2 through 1-4. Appendix 1 defines wastewater treatment facility as: "any devices and/or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes." The definition includes any pretreatment involving the reduction of the amount of pollutants or the elimination of pollutants prior to introducing such pollutants into a publicly owned treatment works (wastewater treatment facility). During the site-location analysis for wastewater treatment facilities, developers should consider the potential to attract hazardous wildlife if an airport is in the vicinity of the proposed site, and airport operators should voice their opposition to such facilities if they are in proximity to the airport.
- e. **Artificial marshes.** In warmer climates, wastewater treatment facilities sometimes employ artificial marshes and use submergent and emergent aquatic vegetation as natural filters. These artificial marshes may be used by some species of flocking birds, such as blackbirds and waterfowl, for breeding or roosting activities. The FAA strongly recommends against establishing artificial marshes within the separations identified in Sections 1-2 through 1-4.
- f. **Wastewater discharge and sludge disposal.** The FAA recommends against the discharge of wastewater or sludge on airport property because it may improve soil moisture and quality on unpaved areas and lead to improved turf growth that can be an attractive food source for many species of animals. Also, the turf requires more frequent mowing, which in turn may mutilate or flush insects or small animals and produce straw, both of which can attract hazardous wildlife. In addition, the improved turf may attract grazing wildlife, such as deer and geese. Problems may also occur when discharges saturate unpaved airport areas. The resultant soft, muddy conditions can severely restrict or prevent emergency vehicles from reaching accident sites in a timely manner.

2-4. WETLANDS. Wetlands provide a variety of functions and can be regulated by local, state, and Federal laws. Normally, wetlands are attractive to many types of wildlife, including many which rank high on the list of hazardous wildlife species (Table 1).

NOTE: If questions exist as to whether an area qualifies as a wetland, contact the local division of the U.S. Army Corps of Engineers, the Natural Resources Conservation Service, or a wetland consultant qualified to delineate wetlands.

- a. **Existing wetlands on or near airport property.** If wetlands are located on or near airport property, airport operators should be alert to any wildlife use or habitat changes in these areas that could affect safe aircraft operations. At public-use airports, the FAA recommends immediately correcting, in cooperation with local, state, and Federal regulatory agencies, any wildlife hazards arising from existing wetlands located on or near airports. Where required, a WHMP will outline appropriate wildlife hazard mitigation techniques. Accordingly, airport operators should develop measures to minimize hazardous wildlife attraction in consultation with a wildlife damage management biologist.
- b. **New airport development.** Whenever possible, the FAA recommends locating new airports using the separations from wetlands identified in Sections 1-2 through 1-4. Where alternative sites are not practicable, or when airport operators are expanding an existing airport into or near wetlands, a wildlife damage management biologist, in consultation with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the state wildlife management agency should evaluate the wildlife hazards and prepare a WHMP that indicates methods of minimizing the hazards.
- c. **Mitigation for wetland impacts from airport projects.** Wetland mitigation may be necessary when unavoidable wetland disturbances result from new airport development projects or projects required to correct wildlife hazards from wetlands. Wetland mitigation must be designed so it does not create a wildlife hazard. The FAA recommends that wetland mitigation projects that may attract hazardous wildlife be sited outside of the separations identified in Sections 1-2 through 1-4.
 - (1) **Onsite mitigation of wetland functions.** The FAA may consider exceptions to locating mitigation activities outside the separations identified in Sections 1-2 through 1-4 if the affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water recharge, which cannot be replicated when moved to a different location. Using existing airport property is sometimes the only feasible way to achieve the mitigation ratios mandated in regulatory orders and/or settlement agreements with the resource agencies. Conservation easements are an additional means of providing mitigation for project impacts. Typically the airport operator continues to own the property, and an easement is created stipulating that the property will be maintained as habitat for state or Federally listed species.

Mitigation must not inhibit the airport operator's ability to effectively control hazardous wildlife on or near the mitigation site or effectively maintain other aspects of safe airport operations. Enhancing such mitigation areas to attract hazardous wildlife must be avoided. The FAA will review any onsite mitigation proposals to determine compatibility with safe airport operations. A wildlife damage management biologist should evaluate any wetland mitigation projects that are needed to protect unique wetland functions and that must be located in the separation criteria in Sections 1-2 through 1-4 before the mitigation is implemented. A WHMP should be developed to reduce the wildlife hazards.

(2) Offsite mitigation of wetland functions. The FAA recommends that wetland mitigation projects that may attract hazardous wildlife be sited outside of the separations identified in Sections 1-2 through 1-4 unless they provide unique functions that must remain onsite (see 2-4c(1)). Agencies that regulate impacts to or around wetlands recognize that it may be necessary to split wetland functions in mitigation schemes. Therefore, regulatory agencies may, under certain circumstances, allow portions of mitigation to take place in different locations.

(3) Mitigation banking. Wetland mitigation banking is the creation or restoration of wetlands in order to provide mitigation credits that can be used to offset permitted wetland losses. Mitigation banking benefits wetland resources by providing advance replacement for permitted wetland losses; consolidating small projects into larger, better-designed and managed units; and encouraging integration of wetland mitigation projects with watershed planning. This last benefit is most helpful for airport projects, as wetland impacts mitigated outside of the separations identified in Sections 1-2 through 1-4 can still be located within the same watershed. Wetland mitigation banks meeting the separation criteria offer an ecologically sound approach to mitigation in these situations. Airport operators should work with local watershed management agencies or organizations to develop mitigation banking for wetland impacts on airport property.

2-5. DREDGE SPOIL CONTAINMENT AREAS. The FAA recommends against locating dredge spoil containment areas (also known as Confined Disposal Facilities) within the separations identified in Sections 1-2 through 1-4 if the containment area or the spoils contain material that would attract hazardous wildlife.

2-6. AGRICULTURAL ACTIVITIES. Because most, if not all, agricultural crops can attract hazardous wildlife during some phase of production, the FAA recommends against the use of airport property for agricultural production, including hay crops, within the separations identified in Sections 1-2 through 1-4. If the airport has no financial alternative to agricultural crops to produce income necessary to maintain the viability of the airport, then the airport shall follow the crop distance guidelines listed in the table titled "Minimum Distances between Certain Airport Features and Any On-Airport Agricultural Crops" found in AC 150/5300-13, *Airport Design*, Appendix 17. The cost of wildlife control and potential accidents should be weighed against the income produced by the on-airport crops when deciding whether to allow crops on the airport.

- a. **Livestock production.** Confined livestock operations (i.e., feedlots, dairy operations, hog or chicken production facilities, or egg laying operations) often attract flocking birds, such as starlings, that pose a hazard to aviation. Therefore, The FAA recommends against such facilities within the separations identified in Sections 1-2 through 1-4. Any livestock operation within these separations should have a program developed to reduce the attractiveness of the site to species that are hazardous to aviation safety. Free-ranging livestock must not be grazed on airport property because the animals may wander onto the AOA. Furthermore, livestock feed, water, and manure may attract birds.
- b. **Aquaculture.** Aquaculture activities (i.e. catfish or trout production) conducted outside of fully enclosed buildings are inherently attractive to a wide variety of birds. Existing aquaculture facilities/activities within the separations listed in Sections 1-2 through 1-4 must have a program developed to reduce the attractiveness of the sites to species that are hazardous to aviation safety. Airport operators should also oppose the establishment of new aquaculture facilities/activities within the separations listed in Sections 1-2 through 1-4.
- c. **Alternative uses of agricultural land.** Some airports are surrounded by vast areas of farmed land within the distances specified in Sections 1-2 through 1-4. Seasonal uses of agricultural land for activities such as hunting can create a hazardous wildlife situation. In some areas, farmers will rent their land for hunting purposes. Rice farmers, for example, flood their land during waterfowl hunting season and obtain additional revenue by renting out duck blinds. The duck hunters then use decoys and call in hundreds, if not thousands, of birds, creating a tremendous threat to aircraft safety. A wildlife damage management biologist should review, in coordination with local farmers and producers, these types of seasonal land uses and incorporate them into the WHMP.

2-7. GOLF COURSES, LANDSCAPING AND OTHER LAND-USE CONSIDERATIONS.

- a. **Golf courses.** The large grassy areas and open water found on most golf courses are attractive to hazardous wildlife, particularly Canada geese and some species of gulls. These species can pose a threat to aviation safety. The FAA recommends against construction of new golf courses within the separations identified in Sections 1-2 through 1-4. Existing golf courses located within these separations must develop a program to reduce the attractiveness of the sites to species that are hazardous to aviation safety. Airport operators should ensure these golf courses are monitored on a continuing basis for the presence of hazardous wildlife. If hazardous wildlife is detected, corrective actions should be immediately implemented.
- b. **Landscaping and landscape maintenance.** Depending on its geographic location, landscaping can attract hazardous wildlife. The FAA recommends that airport operators approach landscaping with caution and confine it to airport areas not associated with aircraft movements. A wildlife damage management biologist should review all landscaping plans. Airport operators should also monitor all landscaped areas on a continuing basis for the presence of hazardous wildlife. If

hazardous wildlife is detected, corrective actions should be immediately implemented.

Turf grass areas can be highly attractive to a variety of hazardous wildlife species. Research conducted by the USDA Wildlife Services' National Wildlife Research Center has shown that no one grass management regime will deter all species of hazardous wildlife in all situations. In cooperation with wildlife damage management biologist, airport operators should develop airport turf grass management plans on a prescription basis, depending on the airport's geographic locations and the type of hazardous wildlife likely to frequent the airport.

Airport operators should ensure that plant varieties attractive to hazardous wildlife are not used on the airport. Disturbed areas or areas in need of re-vegetating should not be planted with seed mixtures containing millet or any other large-seed producing grass. For airport property already planted with seed mixtures containing millet, rye grass, or other large-seed producing grasses, the FAA recommends disking, plowing, or another suitable agricultural practice to prevent plant maturation and seed head production. Plantings should follow the specific recommendations for grass management and seed and plant selection made by the State University Cooperative Extension Service, the local office of Wildlife Services, or a qualified wildlife damage management biologist. Airport operators should also consider developing and implementing a preferred/prohibited plant species list, reviewed by a wildlife damage management biologist, which has been designed for the geographic location to reduce the attractiveness to hazardous wildlife for landscaping airport property.

- c. **Airports surrounded by wildlife habitat.** The FAA recommends that operators of airports surrounded by woodlands, water, or wetlands refer to Section 2.4 of this AC. Operators of such airports should provide for a Wildlife Hazard Assessment (WHA) conducted by a wildlife damage management biologist. This WHA is the first step in preparing a WHMP, where required.
- d. **Other hazardous wildlife attractants.** Other specific land uses or activities (e.g., sport or commercial fishing, shellfish harvesting, etc.), perhaps unique to certain regions of the country, have the potential to attract hazardous wildlife. Regardless of the source of the attraction, when hazardous wildlife is noted on a public-use airport, airport operators must take prompt remedial action(s) to protect aviation safety.

2-8. SYNERGISTIC EFFECTS OF SURROUNDING LAND USES. There may be circumstances where two (or more) different land uses that would not, by themselves, be considered hazardous wildlife attractants or that are located outside of the separations identified in Sections 1-2 through 1-4 that are in such an alignment with the airport as to create a wildlife corridor directly through the airport and/or surrounding airspace. An example of this situation may involve a lake located outside of the separation criteria on the east side of an airport and a large hayfield on the west side of an airport, land uses that together could create a flyway for Canada geese directly across the airspace of the airport. There are numerous examples of such situations;

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therefore, airport operators and the wildlife damage management biologist must consider the entire surrounding landscape and community when developing the WHMP.

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SECTION 3.**PROCEDURES FOR WILDLIFE HAZARD MANAGEMENT BY OPERATORS OF PUBLIC-USE AIRPORTS.**

3.1. INTRODUCTION. In recognition of the increased risk of serious aircraft damage or the loss of human life that can result from a wildlife strike, the FAA may require the development of a Wildlife Hazard Management Plan (WHMP) when specific triggering events occur on or near the airport. Part 139.337 discusses the specific events that trigger a Wildlife Hazard Assessment (WHA) and the specific issues that a WHMP must address for FAA approval and inclusion in an Airport Certification Manual.

3.2. COORDINATION WITH USDA WILDLIFE SERVICES OR OTHER QUALIFIED WILDLIFE DAMAGE MANAGEMENT BIOLOGISTS. The FAA will use the Wildlife Hazard Assessment (WHA) conducted in accordance with Part 139 to determine if the airport needs a WHMP. Therefore, persons having the education, training, and expertise necessary to assess wildlife hazards must conduct the WHA. The airport operator may look to Wildlife Services or to qualified private consultants to conduct the WHA. When the services of a wildlife damage management biologist are required, the FAA recommends that land-use developers or airport operators contact a consultant specializing in wildlife damage management or the appropriate state director of Wildlife Services.

NOTE: Telephone numbers for the respective USDA Wildlife Services state offices can be obtained by contacting USDA Wildlife Services Operational Support Staff, 4700 River Road, Unit 87, Riverdale, MD, 20737-1234, Telephone (301) 734-7921, Fax (301) 734-5157 (<http://www.aphis.usda.gov/ws/>).

3-3. WILDLIFE HAZARD MANAGEMENT AT AIRPORTS: A MANUAL FOR AIRPORT PERSONNEL. This manual, prepared by FAA and USDA Wildlife Services staff, contains a compilation of information to assist airport personnel in the development, implementation, and evaluation of WHMPs at airports. The manual includes specific information on the nature of wildlife strikes, legal authority, regulations, wildlife management techniques, WHAs, WHMPs, and sources of help and information. The manual is available in three languages: English, Spanish, and French. It can be viewed and downloaded free of charge from the FAA's wildlife hazard mitigation web site: <http://wildlife-mitigation.tc.faa.gov/>. This manual only provides a starting point for addressing wildlife hazard issues at airports. Hazardous wildlife management is a complex discipline and conditions vary widely across the United States. Therefore, qualified wildlife damage management biologists must direct the development of a WHMP and the implementation of management actions by airport personnel.

There are many other resources complementary to this manual for use in developing and implementing WHMPs. Several are listed in the manual's bibliography.

3-4. WILDLIFE HAZARD ASSESSMENTS, TITLE 14, CODE OF FEDERAL REGULATIONS, PART 139. Part 139.337(b) requires airport operators to conduct a Wildlife Hazard Assessment (WHA) when certain events occur on or near the airport.

Part 139.337 (c) provides specific guidance as to what facts must be addressed in a WHA.

3-5. WILDLIFE HAZARD MANAGEMENT PLAN (WHMP). The FAA will consider the results of the WHA, along with the aeronautical activity at the airport and the views of the airport operator and airport users, in determining whether a formal WHMP is needed, in accordance with Part 139.337. If the FAA determines that a WHMP is needed, the airport operator must formulate and implement a WHMP, using the WHA as the basis for the plan.

The goal of an airport's Wildlife Hazard Management Plan is to minimize the risk to aviation safety, airport structures or equipment, or human health posed by populations of hazardous wildlife on and around the airport.

The WHMP must identify hazardous wildlife attractants on or near the airport and the appropriate wildlife damage management techniques to minimize the wildlife hazard. It must also prioritize the management measures.

3-6. LOCAL COORDINATION. The establishment of a Wildlife Hazards Working Group (WHWG) will facilitate the communication, cooperation, and coordination of the airport and its surrounding community necessary to ensure the effectiveness of the WHMP. The cooperation of the airport community is also necessary when new projects are considered. Whether on or off the airport, the input from all involved parties must be considered when a potentially hazardous wildlife attractant is being proposed. Airport operators should also incorporate public education activities with the local coordination efforts because some activities in the vicinity of your airport, while harmless under normal leisure conditions, can attract wildlife and present a danger to aircraft. For example, if public trails are planned near wetlands or in parks adjoining airport property, the public should know that feeding birds and other wildlife in the area may pose a risk to aircraft.

Airport operators should work with local and regional planning and zoning boards so as to be aware of proposed land-use changes, or modification of existing land uses, that could create hazardous wildlife attractants within the separations identified in Sections 1-2 through 1-4. Pay particular attention to proposed land uses involving creation or expansion of waste water treatment facilities, development of wetland mitigation sites, or development or expansion of dredge spoil containment areas. At the very least, airport operators must ensure they are on the notification list of the local planning board or equivalent review entity for all communities located within 5 miles of the airport, so they will receive notification of any proposed project and have the opportunity to review it for attractiveness to hazardous wildlife.

3-7 COORDINATION/NOTIFICATION OF AIRMEN OF WILDLIFE HAZARDS. If an existing land-use practice creates a wildlife hazard and the land-use practice or wildlife hazard cannot be immediately eliminated, airport operators must issue a Notice to Airmen (NOTAM) and encourage the land-owner or manager to take steps to control the wildlife hazard and minimize further attraction.

SECTION 4.**FAA NOTIFICATION AND REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS****4-1. FAA REVIEW OF PROPOSED LAND-USE PRACTICE CHANGES IN THE VICINITY OF PUBLIC-USE AIRPORTS:**

- a. The FAA discourages the development of waste disposal and other facilities, discussed in Section 2, located within the 5,000/10,000-foot criteria specified in Sections 1-2 through 1-4.
- b. For projects that are located outside the 5,000/10,000-foot criteria but within 5 statute miles of the airport's AOA, the FAA may review development plans, proposed land-use changes, operational changes, or wetland mitigation plans to determine if such changes present potential wildlife hazards to aircraft operations. The FAA considers sensitive airport areas as those that lie under or next to approach or departure airspace. This brief examination should indicate if further investigation is warranted.
- c. Where a wildlife damage management biologist has conducted a further study to evaluate a site's compatibility with airport operations, the FAA may use the study results to make a determination.

4-2. WASTE MANAGEMENT FACILITIES.

- a. **Notification of new/expanded project proposal.** Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181) limits the construction or establishment of new MSWLF within 6 statute miles of certain public-use airports, when both the airport and the landfill meet very specific conditions. See Section 2-2 of this AC and AC 150/5200-34 for a more detailed discussion of these restrictions.

The Environmental Protection Agency (EPA) requires any MSWLF operator proposing a new or expanded waste disposal operation within 5 statute miles of a runway end to notify the appropriate FAA Regional Airports Division Office and the airport operator of the proposal (40 CFR 258, *Criteria for Municipal Solid Waste Landfills*, Section 258.10, *Airport Safety*). The EPA also requires owners or operators of new MSWLF units, or lateral expansions of existing MSWLF units, that are located within 10,000 feet of any airport runway end used by turbojet aircraft, or within 5,000 feet of any airport runway end used only by piston-type aircraft, to demonstrate successfully that such units are not hazards to aircraft. (See 4-2.b below.)

When new or expanded MSWLF are being proposed near airports, MSWLF operators must notify the airport operator and the FAA of the proposal as early as possible pursuant to 40 CFR 258.

b. Waste handling facilities within separations identified in Sections 1-2 through 1-4. To claim successfully that a waste-handling facility sited within the separations identified in Sections 1-2 through 1-4 does not attract hazardous wildlife and does not threaten aviation, the developer must establish convincingly that the facility will not handle putrescible material other than that as outlined in 2-2.d. The FAA strongly recommends against any facility other than that as outlined in 2-2.d (enclosed transfer stations). The FAA will use this information to determine if the facility will be a hazard to aviation.

c. Putrescible-Waste Facilities. In their effort to satisfy the EPA requirement, some putrescible-waste facility proponents may offer to undertake experimental measures to demonstrate that their proposed facility will not be a hazard to aircraft. To date, no such facility has been able to demonstrate an ability to reduce and sustain hazardous wildlife to levels that existed before the putrescible-waste landfill began operating. For this reason, demonstrations of experimental wildlife control measures may not be conducted within the separation identified in Sections 1-2 through 1-4.

4-3. OTHER LAND-USE PRACTICE CHANGES. As a matter of policy, the FAA encourages operators of public-use airports who become aware of proposed land use practice changes that may attract hazardous wildlife within 5 statute miles of their airports to promptly notify the FAA. The FAA also encourages proponents of such land use changes to notify the FAA as early in the planning process as possible. Advanced notice affords the FAA an opportunity (1) to evaluate the effect of a particular land-use change on aviation safety and (2) to support efforts by the airport sponsor to restrict the use of land next to or near the airport to uses that are compatible with the airport.

The airport operator, project proponent, or land-use operator may use FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, or other suitable documents similar to FAA Form 7460-1 to notify the appropriate FAA Regional Airports Division Office. Project proponents can contact the appropriate FAA Regional Airports Division Office for assistance with the notification process.

It is helpful if the notification includes a 15-minute quadrangle map of the area identifying the location of the proposed activity. The land-use operator or project proponent should also forward specific details of the proposed land-use change or operational change or expansion. In the case of solid waste landfills, the information should include the type of waste to be handled, how the waste will be processed, and final disposal methods.

a. Airports that have received Federal grant-in-aid assistance. Airports that have received Federal grant-in-aid assistance are required by their grant assurances to take appropriate actions to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. The FAA recommends that airport operators to the extent practicable oppose off-airport land-use changes or practices within the separations identified in Sections 1-2 through 1-4 that may attract hazardous wildlife. Failure to do so may lead to noncompliance with applicable grant assurances. The FAA will not approve the placement of airport

8/28/2007

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development projects pertaining to aircraft movement in the vicinity of hazardous wildlife attractants without appropriate mitigating measures. Increasing the intensity of wildlife control efforts is not a substitute for eliminating or reducing a proposed wildlife hazard. Airport operators should identify hazardous wildlife attractants and any associated wildlife hazards during any planning process for new airport development projects.

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8/28/2007

AC 150/5200-33B

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APPENDIX 1. DEFINITIONS OF TERMS USED IN THIS ADVISORY CIRCULAR.**1. GENERAL.** This appendix provides definitions of terms used throughout this AC.

1. **Air operations area.** Any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. An air operations area includes such paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiways, or apron.
2. **Airport operator.** The operator (private or public) or sponsor of a public-use airport.
3. **Approach or departure airspace.** The airspace, within 5 statute miles of an airport, through which aircraft move during landing or takeoff.
4. **Bird balls.** High-density plastic floating balls that can be used to cover ponds and prevent birds from using the sites.
5. **Certificate holder.** The holder of an Airport Operating Certificate issued under Title 14, Code of Federal Regulations, Part 139.
6. **Construct a new MSWLF.** To begin to excavate, grade land, or raise structures to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting agency.
7. **Detention ponds.** Storm water management ponds that hold storm water for short periods of time; a few hours to a few days.
8. **Establish a new MSWLF.** When the first load of putrescible waste is received on-site for placement in a prepared municipal solid waste landfill.
9. **Fly ash.** The fine, sand-like residue resulting from the complete incineration of an organic fuel source. Fly ash typically results from the combustion of coal or waste used to operate a power generating plant.
10. **General aviation aircraft.** Any civil aviation aircraft not operating under 14 CFR Part 119, Certification: Air Carriers and Commercial Operators.
11. **Hazardous wildlife.** Species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.
12. **Municipal Solid Waste Landfill (MSWLF).** A publicly or privately owned discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR § 257.2. An MSWLF may receive

other types wastes, such as commercial solid waste, non-hazardous sludge, small-quantity generator waste, and industrial solid waste, as defined under 40 CFR § 258.2. An MSWLF can consist of either a stand alone unit or several cells that receive household waste.

13. **New MSWLF.** A municipal solid waste landfill that was established or constructed after April 5, 2001.
14. **Piston-powered aircraft.** Fixed-wing aircraft powered by piston engines.
15. **Piston-use airport.** Any airport that does not sell Jet-A fuel for fixed-wing turbine-powered aircraft, and primarily serves fixed-wing, piston-powered aircraft. Incidental use of the airport by turbine-powered, fixed-wing aircraft would not affect this designation. However, such aircraft should not be based at the airport.
16. **Public agency.** A State or political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo (49 U.S.C. § 47102(19)).
17. **Public airport.** An airport used or intended to be used for public purposes that is under the control of a public agency; and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft is publicly owned (49 U.S.C. § 47102(20)).
18. **Public-use airport.** An airport used or intended to be used for public purposes, and of which the area used or intended to be used for landing, taking off, or surface maneuvering of aircraft may be under the control of a public agency or privately owned and used for public purposes (49 U.S.C. § 47102(21)).
19. **Putrescible waste.** Solid waste that contains organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for birds (40 CFR §257.3-8).
20. **Putrescible-waste disposal operation.** Landfills, garbage dumps, underwater waste discharges, or similar facilities where activities include processing, burying, storing, or otherwise disposing of putrescible material, trash, and refuse.
21. **Retention ponds.** Storm water management ponds that hold water for several months.
22. **Runway protection zone (RPZ).** An area off the runway end to enhance the protection of people and property on the ground (see AC 150/5300-13). The dimensions of this zone vary with the airport design, aircraft, type of operation, and visibility minimum.
23. **Scheduled air carrier operation.** Any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial

operator for which the air carrier, commercial operator, or their representative offers in advance the departure location, departure time, and arrival location. It does not include any operation that is conducted as a supplemental operation under 14 CFR Part 119 or as a public charter operation under 14 CFR Part 380 (14 CFR § 119.3).

24. **Sewage sludge.** Any solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment process; and a material derived from sewage sludge. Sewage does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (40 CFR 257.2)
25. **Sludge.** Any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect. (40 CFR 257.2)
26. **Solid waste.** Any garbage, refuse, sludge, from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including, solid liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by product material as defined by the Atomic Energy Act of 1954, as amended, (68 Stat. 923). (40 CFR 257.2)
27. **Turbine-powered aircraft.** Aircraft powered by turbine engines including turbojets and turboprops but excluding turbo-shaft rotary-wing aircraft.
28. **Turbine-use airport.** Any airport that sells Jet-A fuel for fixed-wing turbine-powered aircraft.
29. **Wastewater treatment facility.** Any devices and/or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes, including Publicly Owned Treatment Works (POTW), as defined by Section 212 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L. 95-576) and the Water Quality Act of 1987 (P.L. 100-4). This definition includes any pretreatment involving the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. (See 40 CFR Section 403.3 (q), (r), & (s)).

30. **Wildlife.** Any wild animal, including without limitation any wild mammal, bird, reptile, fish, amphibian, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, including any part, product, egg, or offspring thereof (50 CFR 10.12, *Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants*). As used in this AC, wildlife includes feral animals and domestic animals out of the control of their owners (14 CFR Part 139, *Certification of Airports*).
31. **Wildlife attractants.** Any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the landing or departure airspace or the airport's AOA. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.
32. **Wildlife hazard.** A potential for a damaging aircraft collision with wildlife on or near an airport.
33. **Wildlife strike.** A wildlife strike is deemed to have occurred when:
- a. A pilot reports striking 1 or more birds or other wildlife;
 - b. Aircraft maintenance personnel identify aircraft damage as having been caused by a wildlife strike;
 - c. Personnel on the ground report seeing an aircraft strike 1 or more birds or other wildlife;
 - d. Bird or other wildlife remains, whether in whole or in part, are found within 200 feet of a runway centerline, unless another reason for the animal's death is identified;
 - e. The animal's presence on the airport had a significant negative effect on a flight (i.e., aborted takeoff, aborted landing, high-speed emergency stop, aircraft left pavement area to avoid collision with animal) (Transport Canada, Airports Group, *Wildlife Control Procedures Manual*, Technical Publication 11500E, 1994).

2. **RESERVED.**



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.cityofhomer-ak.gov

STAFF REPORT PL 12-05

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: February 1, 2012
SUBJECT: Draft Ordinance 12-xx, Amending the Zoning Map to rezone portions of the Rural Residential, Urban Residential and General Commercial Two districts to Conservation, and a portion of the Urban Residential district to Open Space Recreation.

Requested Action: Conduct a public hearing and make a recommendation on the City Council on the proposed zoning map changes.

NOTE:

Staff originally advertised this ordinance to include more lands to be rezoned. However, it has become apparent that there are questions about the city's ability to apply zoning to airport lands, including access to Beluga Lake which is a floatplane facility. Therefore, staff withdrew these lands from the ordinance until there is more information. There has been some interest from the public on some of these areas. There may be public comment on parcels that are no longer included- see attachments. Another rezone ordinance could address these areas in the future if warranted.

GENERAL INFORMATION

This ordinance proposes to rezone two areas of the City. The first proposal is to rezone a piece of Rural Residential land to Conservation. The property is located on the far western boundary of the City, and is part of the state lands commonly called Overlook Park. The property is adjacent to existing conservation lands. The second proposal is to rezone a large area north of the airport to Conservation. The lands to be rezoned are currently zoned General Commercial Two, and Urban Residential.

Map comment:

The Conservation zone boundary along the northern part of the airport runway shall follow the legal description of CHA despite any graphic interpretations.

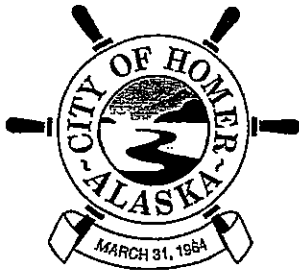
STAFF COMMENTS/RECOMMENDATIONS:

Planning staff has reviewed the ordinance per 21.95.050 and recommends the Planning Commission conduct a public hearing, and recommend approval to the City Council.

ATTACHMENTS

1. Staff Memorandum; review of HCC 21.95.050
2. Draft ordinance and attachments
3. Public Notice
4. Map of parcels withdrawn from ordinance





City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-3106
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Web Site www.cityofhomer-ak.gov

MEMORANDUM

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: February 1, 2012
SUBJECT: Draft Ordinance 12-xx, Amending the Zoning Map to rezone portions of the Rural Residential, Urban Residential and General Commercial Two districts to Conservation, and a portion of the Urban Residential district to Open Space Recreation.

This memo contains the planning staff review of the zoning code amendment as required by HCC 21.95.050.

21.95.050 Planning Department review of zoning map amendment. The Planning Department shall evaluate each amendment to the official zoning map that is initiated in accordance with HCC 21.95.020 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

Staff response: The proposed amendments are consistent with the Comprehensive Plan and follow the guidelines of the Land Use Recommendations Map found in Chapter 4, Land Use, of the Plan.

b. Applies a zoning district or districts that are better suited to the area that is the subject of the amendment than the district or districts that the amendment would replace, because either conditions have changed since the adoption of the current district or districts, or the current district or districts were not appropriate to the area initially.

Staff response:

1. Conservation zoning around the airport. Since initial zoning of the area around the airport in 1982 with the adoption of the Homer Zoning Code, it has become apparent that heavy industrial zoning is not appropriate to the area. A large part of the General Commercial Two district was designated as Critical Habitat Area in 1996 in recognition of important wetlands and area moose habitat. Through the Comprehensive Plan, the community has outlined those areas

more appropriate for industrial development, and those areas that would better serve community needs through conservation. The proposed map amendment follows the guidelines in the Plan.

2. Conservation zoning near Bluff Point (western edge of the City). The land is beach bluff property on a bench. It is much lower in elevation than adjacent residential lots along the Sterling Highway. When this area was annexed in 2002, it was owned by a private citizen who requested rural residential zoning. Staff thinks it may have been a lot selected as part of the Alaska Native Claims Settlement Act. Over the past ten years, the property has returned to the state, and the citizen has passed away. The land, and the adjacent land, is an area the state purchased with Exxon Valdez Oil Spill money for conservation or inclusion in the Kachemak bay State Park. With this change in ANCSLA selection, lack of physical access for residential development, and proximity to other conservation lands, it is appropriate to rezone this property to Conservation.

c. Is in the best interest of the public, considering the effect of development permitted under the amendment, and the cumulative effect of similar development, on property within and in the vicinity of the area subject to the amendment and on the community, including without limitation effects on the environment, transportation, public services and facilities, and land use patterns.

Staff response:

1. Airport conservation area. It is in the best interest of the public to rezone this portion of the Beluga Wetlands area as conservation. There are few public services or facilities available, and development would have a negative effect on the environment. The area is important moose and bird habitat, and contains extensive wetlands.

2. Bluff point conservation area. It is in the best interests of the public to rezone this parcel to conservation. There are no public services or access available for rural residential development and the land is adjacent to other conservation areas.

**CITY OF HOMER
HOMER, ALASKA**

Planning

ORDINANCE 12-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, AMENDING THE HOMER CITY ZONING MAP TO REZONE PORTIONS OF THE RURAL RESIDENTIAL (RR), URBAN RESIDENTIAL (UR) AND GENERAL COMMERCIAL TWO (GC2) ZONING DISTRICTS TO CONSERVATION (CONS).

WHEREAS, Chapter 4 Goal 1 Objective C of the Homer Comprehensive Plan states, "Develop clear and well-defined land use regulations and update the zoning map in support of the desired pattern of growth"; and

WHEREAS, the Alaska Legislature enacted Chapter 39 SLA 1996 establishing the Homer Airport Critical Habitat Area north of the Homer Airport for the purpose of providing an area for enhancing winter browse for the moose herd in the lower Kenai Peninsula area, and the Homer Comprehensive Plan classifies the Homer Airport Critical Habitat Area for conservation or open space recreational use; and

WHEREAS, the Homer Comprehensive Plan classifies an 80-acre parcel northwest of the Homer Airport owned by the Kenai Peninsula Borough and described as Parcel No. 179-010-26 for conservation use, and the Kenai Peninsula Borough Assembly adopted Resolution 2011-97 classifying this parcel for Preservation; and

WHEREAS, The Homer Advisory Planning Commission held a public hearing on the rezonings described herein on _____, 2012 as required by Homer City Code 21.95.040, and

WHEREAS, The Homer Advisory Planning Commission found that (i) the proposed rezonings are consistent with the Homer Comprehensive Plan and will further specific goals and objectives of the Plan; (ii) the proposed rezonings apply zoning districts that are better suited to the areas that are the subject of the rezonings than the districts that the rezonings would replace; and (iii) there is a public need and justification for the rezonings, the rezonings are in the best interest of the public, and the rezonings will not have a negative effect on the public health, safety or welfare.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from the Rural Residential (RR) zoning district to the Conservation (CONS) zoning district as shown on the attached Exhibit B.

Section 2. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from the General Commercial 2 (GC2) zoning district to the Conservation (CONS) zoning district as shown on the attached Exhibit C.

Section 3. The Homer Zoning Map is amended to transfer the parcels listed on the attached Exhibit A from the Urban Residential (UR) zoning district to the Conservation (CONS) zoning district as shown on the attached Exhibit C.

Section 4. The City Planner is authorized to note on the Homer Zoning Map the amendments enacted by this ordinance as required by Homer City Code 21.10.030(b).

Section 5. This is a non-Code ordinance of a permanent nature and shall be noted in the ordinance history of Homer City Code 21.10.030.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of
_____ 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager
Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

Exhibit A

PARCEL ID	LEGAL DESCRIPTION	Zoning Change	OWNER	OWNTYPE
17316006	T 6S R 14W SEC 15 SEWARD MERIDIAN HM GOVT LOT 1	Rural Residential to Conservation	ALASKA STATE D N R	STATE
17901027	T 6S R 13W SEC 15 SEWARD MERIDIAN HM NE1/4 SE1/4	GC2 to Conservation. CHA Land	ALASKA STATE D N R	STATE
17901025	T 6S R 13W SEC 15 SEWARD MERIDIAN HM N1/2 SW1/4 SE1/4 & S1/2 SW1/4	GC2 to Conservation. CHA Land	ALASKA STATE D N R	STATE
17901026	T 6S R 13W SEC 15 SEWARD MERIDIAN HM NW1/4 SE1/4 & NE1/4 SW1/4	GC2 to Conservation.	KENAI PENINSULA BOROUGH	BOROUGH
17901008	T 6S R 13W SEC 21 SEWARD MERIDIAN HM N1/2 NE1/4 NW1/4 & N1/2 NW1/4 NE1/4	Eastern half of parcel only. Urban Residential to Conservation. CHA Land	ALASKA STATE D N R	STATE
17901021	T 6S R 13W SEC 21 SEWARD MERIDIAN HM S1/2 NE1/4 NW1/4 & S1/2 NW1/4 NE1/4 & N1/2 SW1/4 NW1/4	Eastern two thirds of parcel only. GC2 to Conservation. CHA Land	ALASKA STATE AVIATION DIVISION	STATE
17940001	T 6S R 13W SEC 15 & 21 & 22 SEWARD MERIDIAN HM PTN OF HOMER AIRPORT LAND NORTH OF KACHEMAK DR EXCL NE1/4 NW1/4 & NW1/4 NE1/4 & N1/2 SW1/4 NW1/4 IN SEC 21	Only portions of this lot will change. The CHA lands will change from GC2 to Conservation.	ALASKA STATE AVIATION DIVISION	STATE

Exhibit B

Dump

City Limits

Rural Residential

Sterling Highway

X

Conservation

This lot to change from
Rural Residential
to Conservation zoning.

Kachemak Bay



City of Homer
Planning and Zoning Department

1/27/2012

Legend

 City Limits

Adjacent Existing Zoning

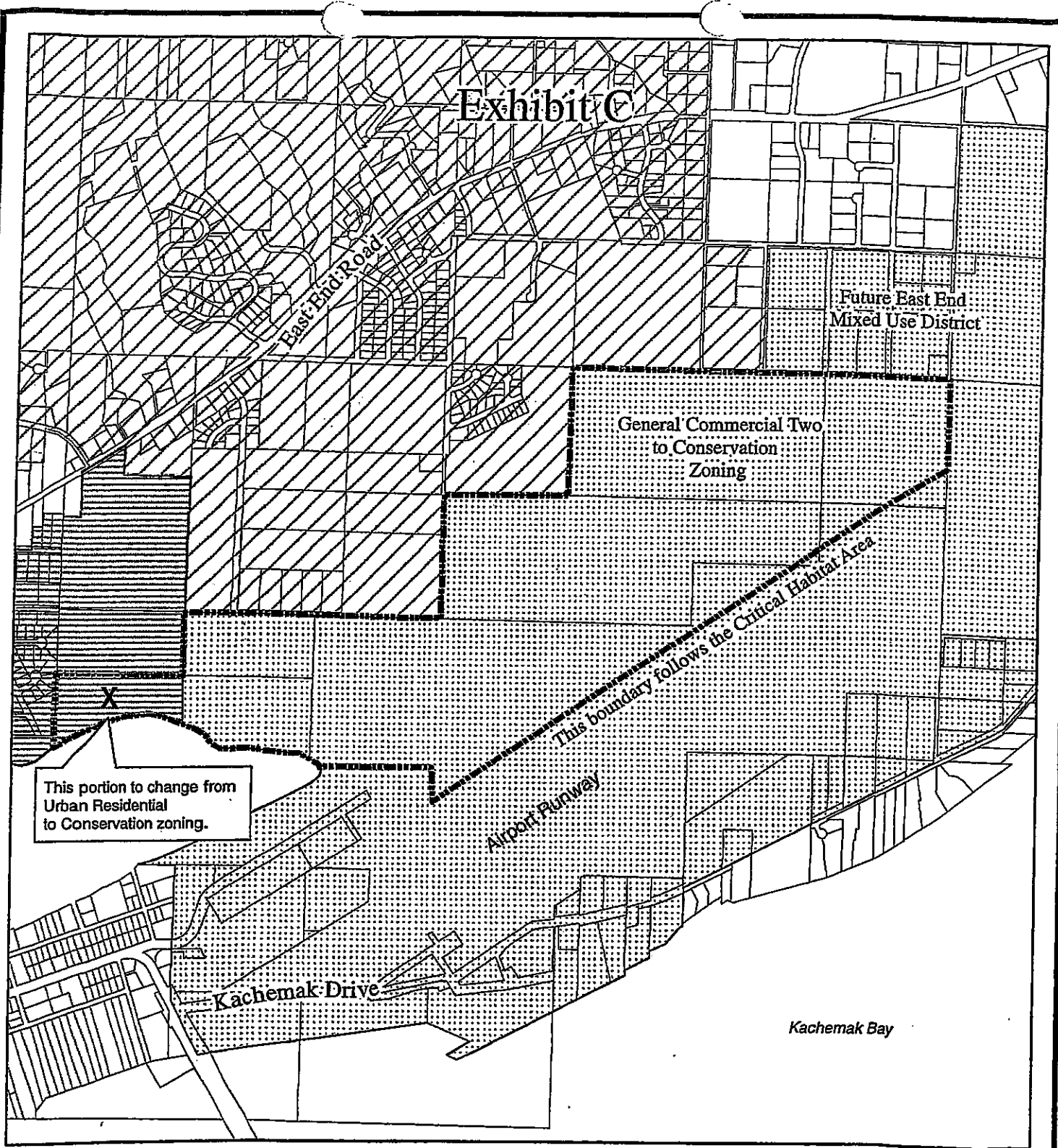
Zone

 Rural Residential

 Conservation



Disclaimer:
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Homer, its council, board,
departments, employees and agents are
not responsible for any errors or omissions
contained herein, or deductions, interpretations
or conclusions drawn therefrom.







City of Homer
Planning and Zoning Department

1/27/2012

Legend

Existing Adjacent Zoning

-  General Commercial 2
-  Rural Residential
-  Urban Residential
-  Proposed Conservation



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PUBLIC NOTICE

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, February 1, 2012 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska on the following matters:

Draft Ordinance 12-xx Amending the Zoning Map to rezone portions including T 6S R 13W SEC 15 SEWARD MERIDIAN HM NE1/4 SE1/4, T 6S R 13W SEC 15 SEWARD MERIDIAN HM N1/2 SW1/4 SE1/4 & S1/2 SW1/4, T 6S R 13W SEC 15 SEWARD MERIDIAN HM NW1/4 SE1/4 & NE1/4 SW1/4, T 6S R 13W SEC 21 SEWARD MERIDIAN HM N1/2 NE1/4 NW1/4 & N1/2 NW1/4 NE1/4, T 6S R 13W SEC 21 SEWARD MERIDIAN HM S1/2 NE1/4 NW1/4 & S1/2 NW1/4 NE1/4 & N1/2 SW1/4 NW1/4, T 6S R 13W SEC 14 SEWARD MERIDIAN HM W1/2 SW1/4, T 6S R 13W SEC 23 SEWARD MERIDIAN HM 0850117 HOMER AIRPORT INDUSTRIAL PARK SUB LOT 2, T 6S R 13W SEC 23 SEWARD MERIDIAN HM 0850117 HOMER AIRPORT INDUSTRIAL PARK SUB LOT 3, T 6S R 13W SEC 23 SEWARD MERIDIAN HM 0850117 HOMER AIRPORT INDUSTRIAL PARK SUB LOT 1, T 6S R 13W SEC 23 SEWARD MERIDIAN HM 0850117 HOMER AIRPORT INDUSTRIAL PARK SUB LOT 4, T 6S R 13W SEC 23 SEWARD MERIDIAN HM THAT PORTION OF GOVT LOT 3 LYING NORTHWESTERLY OF KACHEMAK BAY DRIVE, T 6S R 14W SEC 15 SEWARD MERIDIAN HM GOVT LOT 1, T 6S R 13W SEC 22 SEWARD MERIDIAN HM BEGINNING AT THE NORTHWEST CORNER OF GOVT LOT 2 TH S 89 DEG 49 MIN 19 SEC E 1064.51 FT TH S 56 DEG 17 MIN, 36 SEC W 1297.70 FT TH N 01 DEG 10 MIN 41 SEC E 742.19 FT TO THE POB, of the Rural Residential, Urban Residential and General Commercial Two districts to Conservation, and a portion of the Urban Residential district, to Open Space Recreation.

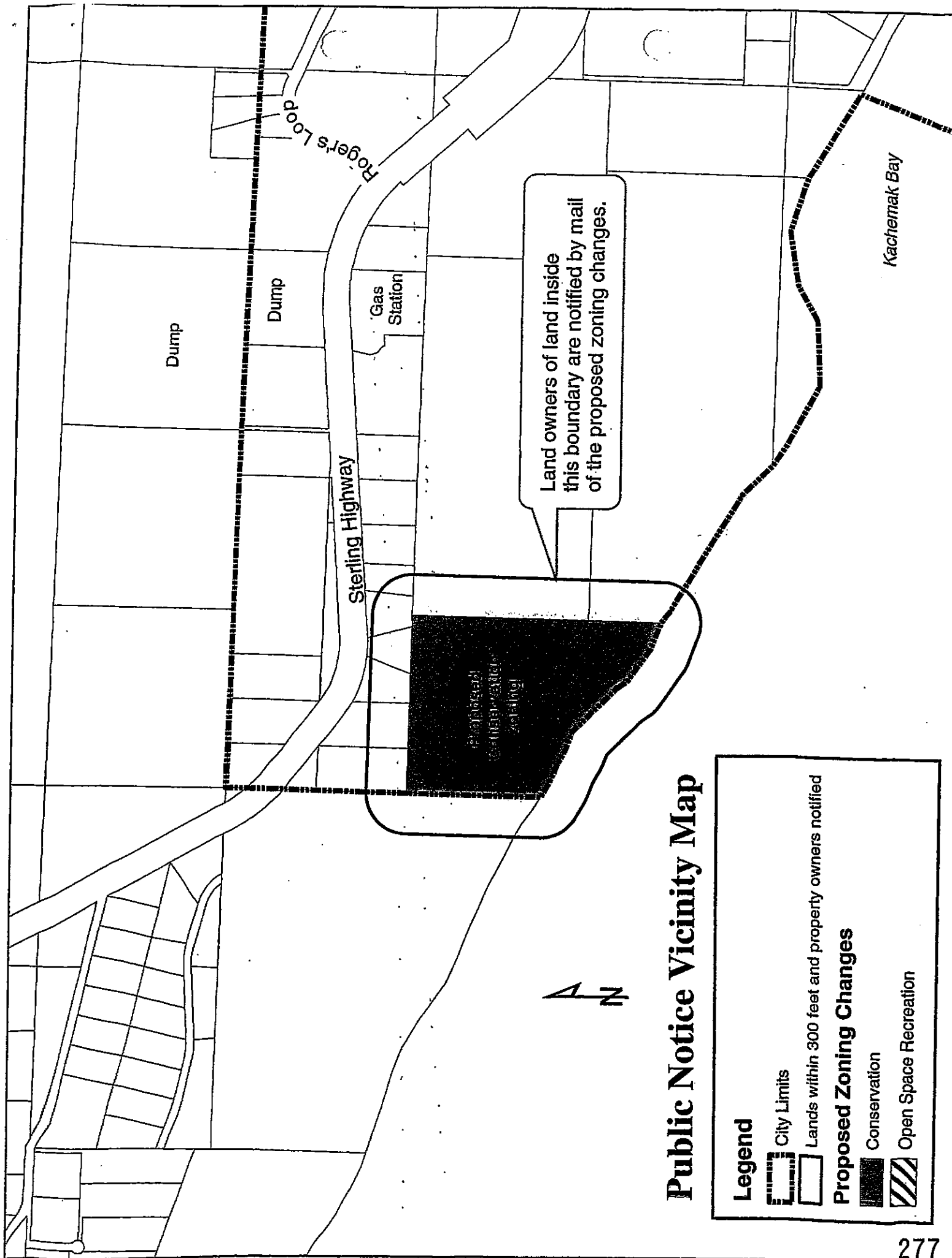
Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

For additional information, please contact Rick Abboud in the City Planning and Zoning Office at 235-8121, ext. 2236.

NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 300 FEET OF PROPERTY.

PLEASE PUBLISH ONCE

ACCOUNT 100.130.5227



Public Notice Vicinity Map

Legend



City Limits



Lands within 300 feet and property owners notified

Proposed Zoning Changes



Conservation



Open Space Recreation

Land owners of land inside this boundary are notified by mail of the proposed zoning changes.

Airport Runway/Fenced Area



Kachemak Drive

East End Road

Proposed Open Space Recreation Zoning

Beluga Lake

Public Notice Vicinity Map

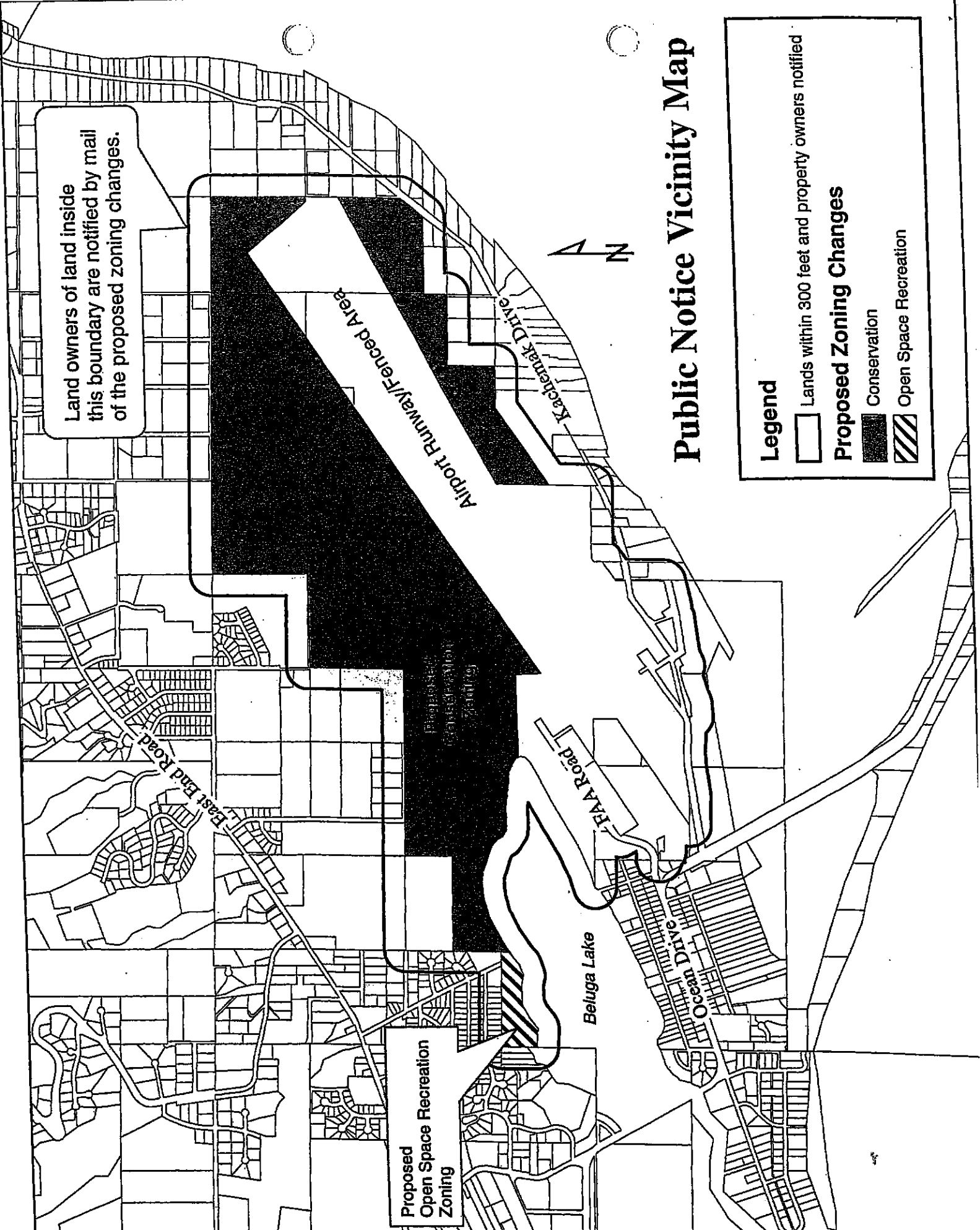
Legend

Lands within 300 feet and property owners notified

Proposed Zoning Changes

Conservation

Open Space Recreation



Lands that were part of the public notice but withdrawn from the ordinance

Future East End Mixed Use District

General Commercial Two and Urban Residential to Conservation Zoning

Airport Runway

Withdrawn area - Urban Residential to Open Space Recreation

Withdrawn Area

Kachemak Drive

Kachemak Bay



City of Homer
Planning and Zoning Department

1/27/2012



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Julie Engebretsen

From: Mandy Bernard [mandy@kachemaklandtrust.org]
Sent: Wednesday, February 01, 2012 9:29 AM
To: Julie Engebretsen
Subject: RE: Calvin and Coyle trail/property management plan

Hi Julie!

I brought this to our Land and Easement Committee and Board Meeting last week and they agreed with you – let's stick with the current zoning for now.

Thank you for bringing this to our attention!

Mandy Bernard
Conservation Director
Kachemak Heritage Land Trust
315 Klondike Ave.
Homer, AK 99603
(907) 235-5263
mandy@kachemaklandtrust.org



Kachemak Heritage Land Trust

From: Julie Engebretsen [mailto:JEngebretsen@ci.homer.ak.us]
Sent: Wednesday, December 28, 2011 3:47 PM
To: Mandy Bernard
Subject: RE: Calvin and Coyle trail/property management plan

Hi Mandy,

This project has been on the back burner for a while! Sorry I didn't respond sooner.

After reading the management plan, I think it would be in KHLT's interest to keep the existing zoning, and not have the land rezoned conservation at this time. From the plan, it appears that further trail development is likely in the coming years. These projects would require a conditional use permit under Conservation zoning. Since KHLT owns these properties and there are formal conservation easements, the zoning does not really matter; KHLT's restrictions are much greater than the City's zoning rules.

It is possible to rezone these lands in the future, if KHLT is interested. The Comprehensive Plan calls for this area to eventually become Urban Residential. It would be entirely appropriate to consider conservation zoning at that time, when we have what will be a major shift from rural to urban residential zoning. There is no timeline for this change to occur; I expect it to be at least a few years down the road.

Those are my thoughts! Here is a link to our conservation zoning <http://www.cityofhomer-ak.gov/cityclerk/chapter-2134-co-conservation-district>

Here is a link to the current zoning <http://www.cityofhomer-ak.gov/cityclerk/chapter-2112-rr-rural-residential-district>

Let me know if you have any questions, or if you'd like me to meet with you or Marie. I expect to move forward with this project in early February, so if KHLT wants to be included in the rezone, let me know!

Thanks, and have a happy new year!

Julie

From: Mandy Bernard [<mailto:mandy@kachemaklandtrust.org>]
Sent: Friday, November 04, 2011 9:29 AM
To: Julie Engebretsen
Subject: RE: Calvin and Coyle trail/property management plan

Hi Julie,

Just checking in on where the city is on this issue. Let me know what you need from me. Thank you!

Mandy Bernard
Conservation Director
Kachemak Heritage Land Trust
315 Klondike Ave.
Homer, AK 99603
(907) 235-5263
mandy@kachemaklandtrust.org



Kachemak Heritage Land Trust

From: Julie Engebretsen [<mailto:JEngebretsen@ci.homer.ak.us>]
Sent: Wednesday, September 21, 2011 4:56 PM
To: Mandy Bernard
Subject: Calvin and Coyle trail/property management plan

Hi Mandy!

I spoke with Dotti, and she said you would be the one who would have the management plan for the Mariner Drive properties – where the Calvin and Coyle trail is, and the 5 lots on the east side of Mariner Drive. Can you email me a copy of the plan and the trail route?

The city is looking at rezoning the critical habitat area to a conservation zone. (It's zoned heavy industrial right now.) Because the land trust property is adjacent, it could also be rezoned to conservation (from rural residential), with board approval. You may or may not want this designation, depending on your plans for the property! Our web page is down so I can't send you a link to our conservation zoning language, but I'll try to get that to you shortly.

For conservation zoning, city code requires land owner consent because it is very restrictive. If it sounds like your management plan and our conservation zoning are a good fit, then I will do a formal letter to the board requesting the land trust consider consenting to the zoning change. But if KHLT's plans are for more trails and educational uses, it may not be a good fit. Send me your plan and I'll send you our zoning!

Thanks!

Julie

Julie Engebretsen
Planning Technician
City of Homer

907-435-3119

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ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-12

An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget to Purchase Water Meter Reading Software/Hardware from the Water and Sewer Reserve Accounts in an Amount Not to Exceed \$15,425.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting March 12, 2012 Introduction
 - a. Memorandum 12-034 from Public Works Superintendent as backup
 - b. Quotation and Email from Badger Meter
2. City Council Regular Meeting March 27, 2012 Public Hearing and Second Reading
 - a. Memorandum 12-034 from Public Works Superintendent as backup
 - b. Quotation and Email from Badger Meter

CITY OF HOMER
HOMER, ALASKA

City Manager/
Public Works Director

ORDINANCE 12-12

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE 2012 OPERATING BUDGET TO
PURCHASE WATER METER READING
SOFTWARE/HARDWARE FROM THE WATER AND SEWER
RESERVE ACCOUNTS IN AN AMOUNT NOT TO
EXCEED \$15,425.

WHEREAS, The City uses the Badger Meter Orion System for water meter reading and
billing data in an electronic format; and

WHEREAS, The current Orion System was purchased in 2004 and has met its life
expectancy; and

WHEREAS, New Badger hardware and software is needed to enable the reading of water
meters and to facilitate the billing process.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The FY 2012 Operating Budget is hereby amended by appropriating not more
than \$15,425 from the Public Works Water and Sewer Reserve Accounts for new water meter
reading software/hardware as follows:

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
256-378	Water Reserve	\$7,712.50 (1/2 of \$15,425)
256-379	Sewer Reserve	\$7,712.50 (1/2 of \$15,425)

Section 2. This is a budget amendment ordinance is not permanent in nature, and shall
not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
_____, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



**CITY OF HOMER
PUBLIC WORKS DEPARTMENT**

Jan C. Jonker, Superintendent
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
Fax: (907)235-3145
EMAIL: jjonker@ci.homer.ak.us

MEMORANDUM 12-034

To: Walt Wrede, City Manager

From: Jan Jonker, Public Works Superintendent *Jan*

Thru: Carey Meyer, PW Director

Date: Thursday, February 23, 2012

Subject: Water Meter Reading & Billing System

Discussion

The City presently uses the Badger Meter Orion System for meter reading and billing. This system was purchased in 2004 at a cost of \$15,775.00. Unfortunately as time marches forward technology becomes antiquated and such is the case with this system. As of February 26, 2012 this system will no longer be available or supported by Badger Meter and an updated Badger system will need to be purchased in the amount of \$15,425.00.

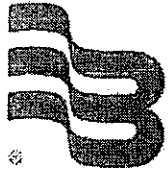
New Badger ReadCenter System

The new "ReadCenter" system will include the following.

- ReadCenter Software - \$4,500.00. This is an upgrade to our current "Connect" software which is used for customer base and billing purposes. The new software will interface with our present system.
- Laptop Upgrade - \$5,750.00. Used for Meter Technician for meter reading. Holds customer database for meter routes.
- Laptop Receiver - \$1,075.00. Receiver installed on Meter Technician truck to receive signals from individual meters installed throughout the city.
- Trimble Handheld Upgrade - \$4,100.00. Upgrade from our existing Radix unit. Used for meter reading.
- 1-day On-Site Training - no cost.
- 4-hours web-x training - no cost

Recommendation

Introduce Ordinance for the purchase in the total amount of \$15,425.00. 50% each from Water & Sewer Reserve Fund.



Badger Meter

QUOTATION

Quotation No.59534

4545 W Brown Deer Road Milwaukee WI 53223
PO Box 245036 Milwaukee WI 53224-9536
Phone: 800-876-3837 Fax: 888-371-5982
Customer Service Rep: bpepke@badgermeter.com

TO RICHARD GIBSON
CITY OF HOMER
3575 HEATH STREET
HOMER AK 99603

CUSTOMER ID: 5001982

Phone:

Fax:

E-mail: RGibson@ci.homer.ak.us

EFFECTIVE DATES: 2/16/2012-8/16/2012

SALESPERSON	PROPOSAL SUBJECT	SHIPPING TERMS/INCO TERMS	PAYMENT TERMS
007504 Torre L Treece	Upgrades Quotation	PREPAY/NO CHARGE For Orders > \$12,500 FCA FACTORY	NET 30 DAYS

LINE #	DESCRIPTION	QTY	UNIT NET PRICE USD	LINE TOTALS USD
1	READCENTER, for up to 25,000, New Customer Agreement, 5 User Licenses, Route Management Activation, MR1-0000-0471	TBD	\$4,500.00	
2	On-Site, Training 1 Days, MR1-0000-0137	TBD	\$0.00	
3	Laptop Upgrade, for up to 25,000, US CENSUS BUREAU Mapping Software, MR1-0000-0632	TBD	\$5,750.00	
4	ORION CE Drive By Receiver, MR1-0000-0509	TBD	\$1,075.00	
5	TRIMBLE RANGER, READCENTER Field App. w/ Admin Access, ORION CE Receiver for Handheld, MR1-0000-0375	TBD	\$4,100.00	
6	WEB-X (Internet), Training 4 Hrs, MR1-0000-0376	TBD	\$0.00	

THANK YOU FOR YOUR BUSINESS!

This quotation is an offer, made subject to the terms & conditions found on our website: www.badgermeter.com/Company/Legal/Sales-Terms.aspx
Quoted prices are firm for acceptance, via an order, within the effective dates provided, shipping within 60 calendar days past the expiration of this quotation.



Badger Meter

QUOTATION

Quotation No.59534

Notes and Assumptions:

Badger Meter provides a certification file for utilities to help manage their meter and endpoint inventory and to maintain their meter accuracy data in an electronic format. The electronic certification file data will be provided upon request to the utility's designated user via e-mail, in our standard format. Any deviations or custom file formats required will be considered on a time and materials basis. Please contact Badger Meter's technical support group for information on custom electronic certification file formats.

If applicable, sales tax and freight charges will be added at time of invoice.

Actual lead time to be provided at time of order.

If you have any questions concerning this quotation, please contact: Torre L Treece, 800-876-3837x17071, ttreece@badgermeter.com

To place an order, please contact: Betty Pepke, 800-616-3837 x.15984, bpepke@badgermeter.com

Official authorized quote of Badger Meter Inc.

Torre L Treece, Account Mgr. West

THANK YOU FOR YOUR BUSINESS!

This quotation is an offer, made subject to the terms & conditions found on our website: www.badgermeter.com/Company/Legal/Sales-Terms.aspx
Quoted prices are firm for acceptance, via an order, within the effective dates provided, shipping within 60 calendar days past the expiration of this quotation.

Jan Jonker

From: Richard Gibson
Sent: Tuesday, January 24, 2012 10:31 AM
To: Jan Jonker
Subject: FW: Homer AK
Attachments: READCENTER-tech-brief.pdf; Trimble-Ranger-HH.pdf

Hey Jan here is an estimated quote for now . This is the new equipment that will replace our current out of date models . Let me know how to proceed.

Thanks

Richard

From: Treece, Torre [<mailto:ttreece@badgermeter.com>]
Sent: Monday, January 23, 2012 1:38 PM
To: Richard Gibson
Cc: Treece, Torre
Subject: Homer AK

Hi Richard,

I will have an official quote coming your way but I wanted to explain and highlight on the upgrades needed at Homer.

System purchased in 2004

Both the Handheld and the Laptop have meet their life and moving forward will not be covered under a Service Agreement from Badger, based on age and the upgrades we have made to the Software sense 2004.

We have a number of Marketing Programs to bring our existing ORION customers up to current Hardware and Software

- **Connect to ReadCenter Software** – upgrade to the route management software, this is needed based on the platform Connect was written is no longer supported by Microsoft. Upgrade uses the same Interface File you have today, no modifications, 1 day of on-site training. \$4,500.00
- **Laptop Upgrade** – Your current CF29 is out service based on age and need to be updated. Badger current Laptop offering is the Panasonic CF31 with built in GPS. \$5,750.00
- **Laptop ORION Receiver** – Update to the ORION Mobile receiver allowing our customers to read both Narrow Band (earlier release ORION transmitters) and Frequency Hopping Transmitters (improvement to our original release allowing for better range and performance of the transmitter) \$1,075.00
- **Radix to Trimble Handheld Upgrade** - your Radix HH is under service until February 26, 2012 and then will not be available for service after that point based again on age. Handheld upgrade program, includes 4 hours of on-site or web x training. \$4,100.00

Up to this point of time Badger has been sending the City of Homer an annual invoice for Service Renewal (about \$1,000 on the laptop, \$600.00 on the Radix HH, and about \$600.00 for Connect). All of the new Hardware (reading equipment)

and Software come with 1 year of Service Agreement included in the pricing. Thus, to support the cost of the above listed items, Homer will not need to pay for any service agreement renewals in 2012.

I have attached a few of the Tech Briefs to help explain to the group what you are proposing to keep your ORION system up to date. Look forward to talking with you soon about this and visiting in the Spring.

Torre
Badger Meter

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-13

An Ordinance of the City Council of the City of Homer, Alaska, Enacting Homer City Code Chapter 11.24, Utility Use of Rights-of-Way.

Sponsor: City Manager/Public Works Director

1. City Council Regular Meeting March 12, 2012 Introduction
2. City Council Regular Meeting March 27, 2012 Public Hearing and Second Reading

City Manager/
Public Works Director

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
ENACTING HOMER CITY CODE CHAPTER 11.24, UTILITY USE OF
RIGHTS-OF-WAY.

Section 1. HCC Chapter 11.24, Utility Use of Rights-of-Way, is adopted to read as follows:

UTILITY USE OF RIGHTS-OF-WAY

- 11.24.010 Definitions.
- 11.24.020 Permit to use right-of way required.
- 11.24.030 Assignment of utility locations in rights-of-way.
- 11.24.040 Relocation of utility facilities within the right-of way.
- 11.24.050 Costs of utility relocations to be reimbursed by the city.
- 11.24.060 Utility construction project permits.
- 11.24.070 Utility construction project permit requirements.
- 11.24.080 Standards for excavation activity.
- 11.24.090 Appeals.
- 11.24.100 Liability.

"Road opening" means excavation within a roadway.

“Utility” means a person that is defined as a public utility in AS 42.05.990 that owns, operates, manages, or controls any plant, pipeline or system furnishing electrical service, telephone service, cable television service, natural or manufactured gas service, water service or sewer service to the public for compensation.

11.24.020 Permit to use right-of way required. a. A utility may not maintain a facility in, under or over a right-of-way for which it must obtain a utility construction project permit under HCC 11.24.060 without first obtaining a permit to use the right-of-way under this section.

b. A utility applies to the public works department for a permit to use a right-of-way on a form provided by the public works department, accompanied by the permit fee in the city fee schedule established by resolution of the council.

c. The permit application shall include without limitation:

1. the utility’s written agreement to indemnify and save the city harmless against any loss or damage caused by the negligence of the utility, its agents and employees while constructing, operating or maintaining its facilities in, under or over the right-of-way; and

2. Evidence of insurance coverage in a form acceptable to the city, with limits not less than one million dollars per occurrence, to protect the city and third parties against any loss or damages due to the negligence of the utility, its agents and employees while constructing, operating and maintaining its facilities in, under or over right-of-way, including hazards from pollution, underground work, explosion, collapse and damage to underground wires, conduits, pipes and fittings.

d. In addition to requiring compliance with the other requirements of this chapter, the city may make a utility right-of-way permit subject to reasonable conditions that it deems necessary to protect the public health, safety, welfare and interests of the city.

11.24.030 Assignment of utility locations in rights-of-way. a. General. A utility shall place new facilities, relocate existing facilities and replace existing facilities in a location assigned by this section. It is the utility’s responsibility to place its facilities within a right-of-way in accordance with this chapter, the Design Criteria Manual, and with a reasonable degree of prudence to enable maximum opportunity for others to use the right-of-way without conflict, including adequate allowances for the future construction of roads, storm sewers, sanitary sewers and water mains in the right-of-way. Utilities governed by this section shall be installed underground unless an exception has been granted by the public works department in accordance with subsection (b) of this section, or HCC §22.10.055.

1. Telephone, electric and cable television utilities. Telephone, electric and cable television distribution lines will be placed between the boundary of the right-of-way and to six feet within the boundary of the right-of-way. A location farther within the right-of-way must be approved by the public works department and noted on the permit.

2. Natural gas utilities. Natural gas utility distribution mains will be placed between the boundary of the right-of-way and eight feet within the boundary of the right-of-way. A location farther within the right-of-way must be approved by the public works department and noted on the permit.

3. Burial depths. Underground utility lines shall be installed at minimum depths of thirty-six inches for parallel runs within the right-of-way, and sixty inches for all roadway crossings. The public works director may require different depths to

accommodate unusual topography or street widths, especially in areas where storm drainage ditches are used along the roadway.

4. Incomplete right-of-way dedications. If only a portion of a right-of-way has been dedicated, utility facilities shall not be placed along the side of the right-of-way that is likely to be within the roadway after a dedication of additional adjacent right-of-way. If a utility proposes to place facilities on the side of a partial right-of-way where additional adjacent right-of-way is likely to be dedicated, the utility shall obtain easements from the neighboring property owners so that its facilities will be located outside the future roadway.

b. Exceptions to assigned utility locations.

1. If a utility finds it unreasonable to place its facilities as required by subsection (a) of this section, it may apply to the public works department for an exception, submitting at a minimum the following information:

i. A complete explanation of the reasons why the utility is requesting an exception from its assigned location within the right-of-way; and

ii. Plans, drawings or sketches necessary to show the locations of other existing utilities, problem areas such as rock or wetlands, and locations where the utility is proposing to place its new facilities.

2. An application for an exception whose necessity becomes evident during construction shall be deemed approved if not rejected or modified within four normal working hours after receipt by the public works department. The utility is responsible for determining whether the application for an exception has been approved, rejected or modified.

3. This subsection shall not be interpreted or applied in a manner that would permit an underground utility to be installed above ground.

11.24.040 Relocation of utility facilities within the right-of way. a. If the city or a third party lawfully elects to change the grade or location of any road, street, public place or highway, and the change will conflict with a utility facility, upon reasonable request and notice from the city the utility shall relocate its facility, making every effort to accommodate the construction schedule.

b. The city will reimburse the utility for facility relocation costs under the following conditions:

1. The city requests the relocation for a city project or activity reflected in the city's capital budget;

2. The relocation is necessitated by a disturbance to the utility's facilities incident to the City constructing facilities or otherwise working in the right-of-way; or

The city requests the relocation in writing for the benefit of a third party, incident to the third party constructing facilities or working in a right-of-way. This provision does not affect any right that the city may have to recover costs of the relocation from the third party.

c. Notwithstanding subsection (b) of this section, the utility shall pay the cost of relocating its facilities where the relocation is made necessary by:

1. The failure of the utility to install the facilities in a reasonably prudent manner;

2. The utility placed its facilities in the right-of-way after July 1, 1985 without first obtaining a permit from the city to do so, or the as-built location facilities varies from the location approved in the permit;

3. Repairs by the city either to restore the right-of-way after an emergency, or otherwise to reasonably maintain the serviceability of the right-of-way in the condition existing when the utility first constructed its facilities; or

4. Any other circumstance where the RCA has determined such payment to be reasonable.

11.24.050 Costs of utility relocations to be reimbursed by the city. a. Where HCC §11.24.040 requires the City to pay costs of relocating utility facilities, the city shall reimburse the utility for its reasonable cost of the relocation less a "credit" for the value of salvaged materials and betterments resulting from the construction of new facilities.

b. The city reserves the right to audit books and accounts of a Utility to verify its determination of reasonable costs for engineering, acquisition of rights-of-way or easements, labor, material, equipment, overhead, salvaged materials, and betterment incidental to relocation of the facilities for a term of six years after substantial completion of the construction project.

c. Overhead rates for a utility facility relocation project that is reimbursable by the city shall be negotiated prior to commencement of work and shall not exceed overhead rates approved for relocation projects reimbursed by the Alaska Department of Transportation and Public Facilities. Utility equipment stationed at a project in a "standby capacity" will not be expensed to relocation projects.

d. The City reserves the right to "offset" against a utility's claim for reimbursement of relocation costs for damages and delay claims it may incur for failure of the utility to perform a relocation in a timely or acceptable manner.

11.24.060 Utility construction project permits. a. After securing a right-of-way use permit under HCC §11.24.020, a utility shall obtain a permit from the public works department before performing each individual road opening project or excavation within a right-of-way.

b. A utility need not obtain a construction project permit under this section for normal maintenance of utility facilities within a right-of-way unless the maintenance work will require an excavation in the roadway.

c. An application for a construction project permit shall be made upon a form provided by the city, accompanied by the permit fee in the city fee schedule established by resolution of the council, and shall include, at a minimum, the following information:

1. The name of the utility, its address, phone number, and contact person;
2. The name of any subcontractor working for the utility on the project, and the subcontractor's name, address, phone number, and contact person;
3. The name and location of the right-of-way in which the work is to be performed;
4. The type of improvement or facility planned;
5. Plans, drawings or sketches showing the length, distance from the right-of-way boundary and configuration of the improvement, and its relationship to the roadway if one exists;
6. The proposed method of locating and marking of the boundaries of the right-of-way for construction purposes;

7. Whether a detour of traffic will be necessary, and, if so, a traffic routing narrative statement and plan as required by HCC §11.24.060; and

8. Any requested exceptions to assigned utility locations as prescribed by HCC §11.24.030, with the supporting material required by that section.

c. The city shall review and grant or deny an application for a utility construction project permit within three working days, if the proposed construction conforms to the standards, terms and conditions in this chapter, and within ten working days if the proposed construction does not conform to the standards, terms, and conditions in this chapter.

11.24.070 Utility construction project permit requirements. A utility construction project permit shall conform to the following requirements:

a. The permit shall state the commencement and completion dates for construction, and the procedure for any required road closure during the course of construction. A utility should make every effort to comply with the schedule for construction in the permit, but it shall not be penalized for failing to perform if emergency or other priority work preempts the schedule. The utility shall notify the city in advance of any proposed schedule change arising from utility exigencies.

b. The permit shall establish locations for utility facilities to assure compatibility with all present and anticipated future uses of the right-of-way in which the utility facilities are located, in accordance with the following general standards:

1. Utility facilities shall be located outside of the existing or anticipated roadway whenever possible.

2. The location of the utility facilities shall allow for the safe and practical maintenance and improvement of both the utility facilities and the roadway.

3. Surface utility facilities shall be set back from the existing or planned roadway surface and shall be located so as not to create a visual obstruction or physical obstacle contrary to codes or statutes regarding placement of obstacles in public rights-of-way.

4. Both underground and surface facilities shall be offset a minimum of five feet from existing or proposed water and/or sewer service stubouts, gate valves, manholes and vaults. Any deviation from this minimum must have prior approval from the public works director or his designee.

5. Excavation, backfill or other disturbance of the right-of-way surface by utility construction or maintenance activities shall be finished in a manner that restores the right-of-way in accordance with HCC §11.24.080.

11.24.080 Standards for excavation activity. Excavation under a utility construction project permit shall conform to the following standards:

a. Project Coordination. The utility shall coordinate its work with the schedule for other construction work in the same area of the right-of-way, including giving timely notice to persons who may be inconvenienced by the utility's work in the right-of-way. The utility may use a "one-call locate" service to give notice to other utilities.

b. Notice of Damage. If the utility damages plant or equipment of another utility, it shall immediately notify the affected utility of the damage.

c. Manner of Excavation. The utility shall conduct excavations in compliance with the excavation standards promulgated by the Alaska Department of Labor, Occupational Safety

and Health Administration. The utility shall exercise caution to avoid injury to pipes, cables or conduits of another utility in making excavations or tunnels.

d. Pedestrian Ways. If the utility's work blocks a pedestrian way, the utility shall construct or provide a temporary pedestrian way which shall be safe and convenient for travel.

e. Traffic Routing. If the utility's work affects traffic, the utility shall provide proper traffic signs, detours, and safeguards in accordance with the Alaska Traffic Manual and shall notify fire, emergency medical, police and school bus transportation agencies to obtain clearance for the type of detour, time, and other limitations imposed.

f. Closing Roads. When traffic conditions permit, the city may give written approval for the closing of roads to all traffic for a necessary period of time. Such approval may require the utility to give notification to various public agencies and to the general public.

g. Clearance for Vital Structures. The excavation work shall be performed in a manner that will enable access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures and other vital equipment.

h. Restoration of Right-of-Way. The utility shall restore the right-of-way to the grade and condition originally found or to the grade and condition directed by the utility construction project permit. Clearing of vegetation should be held to a minimum necessary for safe construction and maintenance of the utility. Debris and felled timber should be disposed of in a neat and orderly manner. Property pins, gravel, paving or seal coating, ditches, culverts, signs, or other public improvements shall be replaced, unless the city gives specific written direction to the contrary. If the utility fails to restore a right-of-way as required by this subsection after reasonable notice from the city to do so, the city may accomplish the work and recover the cost from the utility.

i. Unpaved Roads. Excavations in unpaved roads will be backfilled with useable native material to the subgrade of the existing road. Geotextiles will match existing conditions with a minimum two foot overlap to existing geotextile material. Type II material will be placed and compacted to within six inches of finish grade with the final six inch lift consisting of Type III material. The excavation and adjacent areas shall be graded to leave the site in a condition as nearly equal to that found prior to the excavation as is reasonably possible.

j. Paved Roads. For excavations in paved roads, fill below subgrade will match existing material with native backfill when material is approved as suitable. Geotextiles will match existing materials with a minimum two foot overlap of the new and existing materials. Gravel fill will consist of a minimum of twenty-six inches of Type II material, followed by six inches of Type III material, followed by two inches of leveling course before being overlaid with two inches of hot asphalt concrete.

k. Excavation Warranty. Compaction of backfilled material should be equal to that of the surrounding material. The excavation shall be guaranteed for three years against settling. Any area that has settled within three years shall be promptly rectified at no cost to the city.

l. Cleanup. As the excavation work progresses, all roads shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris deposited by the utility. All gutters shall be maintained unobstructed. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and maintained at all times. All cleanup operations shall be accomplished at the expense of the utility and shall be completed to the reasonable satisfaction of the city.

m. Prompt Completion of Work. After an excavation is commenced, the work shall be promptly completed and the road restored to its original condition as soon as reasonably possible.

n. Urgent Work – The city may order emergency work to complete an excavation as soon as possible when required to protect the public health, safety, and welfare.

o. Emergency Action. Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble within a conduit or pipe, or for making repairs, provided that the person making such excavation should make a reasonable effort to notify police dispatch of the location of the emergency excavation. A utility excavating on an emergency basis in a roadway shall apply for a permit on the first working day after such work commenced.

11.24.090 Appeals. a. A person aggrieved by a decision of the public works director under this chapter may appeal the decision to the city manager within five working days after receiving notice of the decision. The city manager shall decide an appeal under this subsection within five working days.

b. A person aggrieved by a decision of the city manager under this section may appeal the decision to the RCA pursuant to AS 42.05.251. Unless the RCA provides a different time by regulation, the appeal must be filed within thirty days after the city manager's decision is mailed or delivered to the appellant.

11.24.100 Liability. Nothing in this chapter is imposes a duty on the city to inspect any activity of a utility for purposes of assuring compliance with standards set forth in this chapter; nor does the city warrant to a utility that a right-of-way will be preserved in any particular condition.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

319 YES:

320 NO:

321 ABSTAIN:

322 ABSENT:

323

324

325

326 First Reading:

327 Public Hearing:

328 Second Reading:

329 Effective Date:

330

331 Reviewed and approved as to form:

332

333

334

335 Walt E. Wrede, City Manager

336

337

338 Date: _____

339

340

Thomas F. Klinkner, City Attorney

Date: _____

ORDINANCE(S)

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-15

An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting HCC Chapter 17.04 Regarding Special Assessment Districts.

Sponsor: Lewis/City Manager

1. City Council Regular Meeting March 27, 2012 Introduction
 - a. Comparison Draft with HCC 17.04
 - b. HCC Chapter 17.04 Improvement Districts
 - c. Ordinance 12-14 (failed 3/12/12)
 - d. Comparison Draft with Ordinance 12-14

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

Lewis/City Manager

3
4 **ORDINANCE 12-15**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING AND REENACTING HCC CHAPTER 17.04 REGARDING
8 SPECIAL ASSESSMENT DISTRICTS.
9

10 WHEREAS, The City of Homer enacted HCC 17.04, regarding special assessments, in
11 1987; and
12

13 WHEREAS, In the years following the adoption of HCC 17.04, the City has found the
14 procedures under this code chapter to be cumbersome and difficult for the public to understand;
15 and
16

17 WHEREAS, It also is necessary to revise HCC Chapter 17.04 to accommodate the
18 financing of a wider range of projects, including infrastructure of privately owned utilities.
19

20 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
21

22 Section 1. HCC Chapter 17.04, Special Assessment Districts, is repealed and reenacted
23 to read as follows:
24

25 Chapter 17.04

26 SPECIAL ASSESSMENT DISTRICTS

27 Sections:
28

- 29
30 17.04.010 Definitions.
31 17.04.020 Purpose of chapter.
32 17.04.030 Assessment authority.
33 17.04.040 Initiation of district.
34 17.04.050 Creation of district.
35 17.04.060 Contract award; Approval of increased costs.
36 17.04.070 Assessment roll.
37 17.04.080 Certification of assessment roll.
38 17.04.090 Payment.
39 17.04.100 Subdivision after levy of assessments.
40 17.04.110 Assessments to be liens.
41 17.04.120 Reassessment.
42 17.04.130 Objection and appeal.
43 17.04.140 Interim financing.
44 17.04.150 Special assessment bonds.
45 17.04.160 Time limit for special assessment districts.
46 17.04.170 Water and sewer connections required.

17.04.180 Road improvement assessments for lots with two street frontages.

17.04.190 Deferment of assessment payments for senior citizens.

17.04.200 "In lieu of assessment".

17.04.010 Definitions. In this chapter:

a. "Cost" means all expenses incurred by the city for an improvement, including without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and city administrative costs.

b. "District" means a special assessment district created under this chapter.

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

d. "Record owner" means the person in whose name real property is listed on the property tax roll prepared by the Kenai Peninsula Borough.

17.04.020 Purpose of chapter. a. A special assessment district may be created for the purpose of acquiring, installing or constructing a capital improvement that primarily benefits real property in the district, in contrast to capital improvements that benefit the entire community and are paid for with general government resources.

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance.

17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital improvement against real property benefited by the improvement, whether the property is privately or governmentally owned, including real property that is exempt from taxation.

b. A capital improvement that is provided through a special assessment district may be owned by the city, a public utility, or another entity that is qualified to own and operate the capital improvement.

17.04.040 Initiation of district. a. A special assessment district may be initiated by:

1. Resolution approved by a vote of not less than three-fourths of the council;
or

2. Petition signatures of the record owners of not less than one half in value of the real property in the proposed district received by the city clerk within 60 days after the mailing of the petition to record owners of property in the proposed district. Upon payment of the nonrefundable filing fee in the city fee schedule established by resolution of the council, the city clerk shall prepare a petition for distribution by certified mail to all record owners of property in the proposed district that contains:

i. A statement that it is a petition to form a special assessment district, and describing the capital improvement for which the district is proposed;

92 ii. For each property in the proposed district, the Kenai Peninsula
93 Borough tax parcel number and property description, the name and mailing
94 address of the record owner, the current assessed value, and a place for the record
95 owner's signature; and

96 iii. A statement that to support initiation of the proposed district, the
97 record owner must sign and return the petition to the city clerk within 60 days
98 after the date the petition was mailed

99 b. Upon adoption of a resolution initiating a special assessment district, or the city
100 clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk
101 shall

102 1. Schedule a meeting of record owners of real property in the proposed
103 district, notify the record owners by mail of the date, time and location of the meeting,
104 and include a copy of the notice in the city's regular meeting advertisement, and

105 2. Refer the proposed district to the city manager, who shall prepare an
106 improvement plan for the district that includes final boundaries for the district, the design
107 of the proposed improvement, a cost estimate for the improvement, the percentage of the
108 improvement cost to be assessed against properties in the district, a method for allocating
109 the assessed cost of the improvement among the properties in the district, the time period
110 over which assessments will be financed, and a preliminary assessment roll for the
111 district.

112
113 17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC
114 §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the
115 improvement and proposed improvement plan. Notice of the hearing shall be published at least
116 twice in a newspaper of general circulation in the city, and mailed via certified mail to every
117 record owner of real property in the proposed district not less than 60 days before the hearing.

118 b. A record owner of real property in the proposed district may file a written
119 objection to the improvement plan with the city clerk no later than the day before the date of the
120 public hearing on the improvement plan. If owners of real property that would bear 50 percent
121 or more of the assessed cost of the improvement file timely written objections, the council may
122 not proceed with the improvement unless it revises the improvement plan to reduce the assessed
123 cost of the improvement that is borne by objecting record owners to less than 50 percent of the
124 assessed cost of the improvement. If the resolution changes the district boundary in the
125 improvement plan, the city clerk shall notify all record owners of property included in the district
126 under the improvement plan of the change.

127 c. At the noticed date and time, the council shall hold a public hearing on the
128 necessity of the improvement and proposed improvement plan. After the public hearing, the
129 council shall act upon a resolution determining to proceed with the proposed improvement. The
130 resolution shall find that the improvement is necessary, of benefit to the properties to be
131 assessed, and if the district is initiated by petition, that the petition is in proper form and bears
132 sufficient signatures. The findings of the council are conclusive. The resolution shall contain a
133 description of the improvement, the estimated cost of the improvement, the percentage of the
134 cost to be assessed against the properties in the district, and a description of the properties to be
135 assessed.

d. If the owners of 100 percent of the real property in the proposed district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to the council without such notice, protest period or public hearing.

17.04.060 Contract; Approval of increased costs. a. After a special assessment district has been created, the city shall contract for the construction of the improvement. If the city will own the improvement, it shall solicit bids for construction of the improvement. If the city will not own the improvement, it shall contract with the owner of the improvement to provide for its construction.

b. If the cost of constructing the improvement will exceed 115 percent of the estimated cost of construction of the improvement in the improvement plan, the city shall not contract for the construction of the improvement without first:

1. Notifying all record owners of property in the district via certified mail of the increased cost, and

2. Within 30 days after the mailing of notice of the increased cost to record owners of property in the district, receiving written objections from record owners of property that would bear less than one-half of the cost of the improvement.

c. If record owners of property that would bear one-half or more of the cost of the improvement object in writing to the increased cost, the city will not contract to construct the improvement. The council either may levy assessments in the district in an amount sufficient to recover costs incurred for preliminary design and engineering services, or determine that the city shall assume such costs.

17.04.070 Assessment roll. a. After completion of the improvement the council shall assess costs of the improvement by a method that the council determines will assess each property in the district in proportion to the benefit that it receives from the improvement.

b. The city shall prepare an assessment roll stating for each property in the district the name and address of the record owner, Kenai Peninsula Borough parcel number, a description of the property, the amount assessed against the property, and the assessed value of the property as determined by the Borough Assessor.

c. Each property in the district shall be identified and assessed on the assessment roll in accordance with the legal description of the property at the time the council certifies the assessment roll; except that where assessments are in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), a property that was created by combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that amount multiplied by the number of parcels that comprised the property at the time of the public hearing.

d. The council shall fix a time to hear objections to the assessment roll. Not less than fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll by certified mail to each record owner of an assessed property, and publish notice of the hearing in a newspaper of general circulation in the city.

17.04.080 Certification of assessment roll. After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be

set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder.

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

b. Within 30 days after fixing the time when payment of the assessments is due, the finance director shall mail a statement to the record owner of each assessed property identifying the property and stating the assessment amount, the payment due date and the amount of the penalty on a delinquent payment. Within five days after mailing the statements, the finance director shall publish notice of mailing the statements in a newspaper of general circulation in the city.

17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated.

b. Upon the subdivision of a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that contains the original connection to the improvement for which the assessment was levied, may connect to the improvement until a subdivided property connection fee is paid for the parcel.

1. The amount of the connection fee shall be equal to the amount of the original assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the parcel is connected to the improvement.

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

3. Upon receiving connection fee payments, the city shall allocate such payments to each property assessed in the district in proportion to the amount originally assessed against the property, either by adjusting the original assessment amount or disbursing a payment to the record owner at the time of disbursement.

17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced in the same manner as property tax liens.

226 17.04.120 Reassessment. a. The City Council shall within one year correct any
227 deficiency in a special assessment found by a court, under the procedure for certification of the
228 assessment roll in HCC §§17.04.070 and 17.04.080.

229 b. Payments on the initial assessment are credited to the property upon reassessment.
230 The reassessment becomes a charge upon the property notwithstanding failure to comply with
231 any provision of the assessment procedure.
232

233 17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not
234 be contested by a person who did not file with the city clerk a written objection to the assessment
235 roll before its confirmation. The decision of the council on the objection may be appealed to
236 the superior court within 30 days after the date of confirmation of the assessment roll.

237 b. If no objection is filed or appeal taken within the time provided in this section, the
238 assessment procedure shall be considered regular and valid in all respects.
239

240 17.04.140 Interim financing. a. The council may provide by resolution or ordinance for
241 the issuance of notes to pay the costs of an improvement that shall be payable from the special
242 assessments for the improvement. The notes shall bear interest at a rate or rates authorized by
243 the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement
244 project.

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

249 c. The finance director may accept notes against special assessments on conditions
250 prescribed by the council in payment of:

- 251 1. Assessments against which the notes were issued in order of priority;
- 252 2. Judgments rendered against property owners who have become delinquent
253 in the payment of assessments; and
- 254 3. Certificates of purchase when property has been sold under execution or at
255 tax sale for failure to pay the assessments.
256

257 17.04.150 Special assessment bonds. a. The council by ordinance may authorize the
258 issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in
259 a special assessment district. The principal and interest of the bonds shall be payable solely from
260 the special assessments levied against property in the district. The assessment shall constitute a
261 sinking fund for the payment of principal and interest on the bonds. The benefitted property may
262 be pledged by the council to secure payment of the bonds.

263 b. On default in a payment due on a special assessment bond, a bondholder may
264 enforce payment of principal, interest, and costs of collection in a civil action in the same manner
265 and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
266 shall be against all property on which assessments are in default. The period for redemption is
267 the same as for a mortgage foreclosure on real property.

268 c. Before the council may issue special assessment bonds, it shall establish a
269 guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in
270 meeting payments of principal and interest on bonds if the reason for the deficiency is

nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund.

17.04.160 Time limit for special assessment districts. If five or more years elapse between the creation of a special assessment district and the city contracting for construction of the improvement, the city may not enter into the contract unless the council by resolution extends the period for entering into the contract by not more than an additional five years.

b. Before the council acts on a resolution under subsection (a) of this section, the city clerk shall mail notice of the resolution to each current record owner of property listed on the preliminary assessment roll that the city will not contract for construction of the improvement in the district unless the resolution is adopted. The notice also shall include an updated copy of the preliminary assessment roll.

17.04.170 Water and sewer connections required. The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final.

17.04.180 Road improvement assessments for lots with two street frontages. a. The record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for road improvements that is based on frontage on a road to which the lot does not have access. To obtain the deferment, the owner shall enter into a deferred assessment agreement with the city before the end of the period for filing objections to the district under HCC §17.04.050. The agreement shall provide that the lot has frontage on two streets, to only one of which the lot has access; that the lot owner shall pay the part of the assessment that is based on frontage on the street to which the lot has access; and that the owner shall pay the part of the assessment that is based on the other street frontage when the lot acquires access to the street from that frontage. The agreement shall be recorded with the district recorder's office.

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

17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain a deferment of assessment payments under this section if the person:

1. Will be at least 62 years of age within 12 months after the date of confirmation of the assessment roll;

2. Has an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region;

3. Owns or has a life tenancy in the assessed property, and permanently resides in a single family dwelling on the property; and

4. Is not determined by the city, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

b. An assessment payment deferment is subject to approval by the council. A person seeking deferment of an assessment payment shall file a written application with the finance director on or before the first payment is due, supported by documentation showing that the

applicant meets the criteria in subsection (a) of this section. A person receiving an assessment payment deferment must file with the city by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Within the same year the city for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

c. Assessment payment deferments are subject to the availability of funds appropriated for that purpose. An application for an assessment payment deferment shall be submitted to the council with a report from the finance director as to the availability of funds to appropriate for the deferment. Deferred assessments are funded from the following sources:

1. The appropriate utility operating fund for deferred water and sewer assessment payments.

2. The accelerated roads program fund for deferred road improvement assessment payments.

If funds for an assessment payment deferment are not available from the appropriate source, the council may loan the necessary amount to the appropriate source from the general fund.

d. A person who receives an assessment payment deferment shall execute a deed of trust on the property subject to assessment, together with a promissory note payable to the city on demand, to secure the eventual payment of the deferred payment.

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

1. The sale or lease of the assessed property; or

2. The death of both the deferred assessment applicant and the applicant's surviving spouse, if any.

17.04.200 "In lieu of assessment". a. An "in lieu of assessment" must be paid for a property to receive additional water or sewer service within or beyond the area within a local improvement district.

b. An "in lieu of assessment" shall be computed on the actual cost of the additional water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

c. A property on which an "in lieu of assessment" for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for the property and (ii) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
_____ 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

COMPARISON DRAFT WITH HCC 17.04

Chapter 17.04

SPECIAL ASSESSMENT DISTRICTS

Sections:

17.04.010 Definitions
17.04.020 Purpose of chapter
17.04.030 Assessment authority
17.04.040 Initiation of district
17.04.050 Creation of district
17.04.060 Contract award; Approval of increased costs
17.04.070 Assessment roll
17.04.080 Certification of assessment roll
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17.04.190 Deferment of assessment payments for senior citizens
17.04.200 "In lieu of assessment"

17.04.010 Definitions. In this chapter:

a. "Cost" means all expenses incurred by the city for an improvement, including without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and city administrative costs.

b. "District" means a special assessment district created under this chapter.

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

d. "Record owner" means the person in whose name real property is listed on the property tax roll prepared by the Kenai Peninsula Borough.

17.04.020 Purpose of chapter. a. A special assessment district may be created for the purpose of acquiring, installing or constructing a capital improvement that primarily benefits real property in the district, in contrast to capital improvements that benefit the entire community and are paid for with general government resources.

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and

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levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance.

17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital improvement against real property benefited by the improvement, whether the property is privately or governmentally owned, including real property that is exempt from taxation.

b. A capital improvement that is provided through a special assessment district may be owned by the city, a public utility, or another entity that is qualified to own and operate the capital improvement.

17.04.040 Initiation of district. a. A special assessment district may be initiated by:

1. Resolution approved by a vote of not less than three-fourths of the council;

or

2. Petition signatures of the record owners of not less than one half in value of the real property in the proposed district received by the city clerk within 60 days after the mailing of the petition to record owners of property in the proposed district. Upon payment of the nonrefundable filing fee in the city fee schedule established by resolution of the council, the city clerk shall prepare a petition for distribution by certified mail to all record owners of property in the proposed district that contains:

i. A statement that it is a petition to form a special assessment district, and describing the capital improvement for which the district is proposed;

ii. For each property in the proposed district, the Kenai Peninsula Borough tax parcel number and property description, the name and mailing address of the record owner, the current assessed value, and a place for the record owner's signature; and

iii. A statement that to support initiation of the proposed district, the record owner must sign and return the petition to the city clerk within 60 days after the date the petition was mailed

b. Upon adoption of a resolution initiating a special assessment district, or the city clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk shall

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

2. Refer the proposed district to the city manager, who shall prepare an improvement plan for the district that includes final boundaries for the district, the design of the proposed improvement, a cost estimate for the improvement, the percentage of the improvement cost to be assessed against properties in the district, a method for allocating the assessed cost of the improvement among the properties in the district, the time period over which assessments will be financed, and a preliminary assessment roll for the district.

17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at least

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twice in a newspaper of general circulation in the city, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.

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

c. At the noticed date and time, the council shall hold a public hearing on the necessity of the improvement and proposed improvement plan. After the public hearing, the council shall act upon a resolution determining to proceed with the proposed improvement. The resolution shall find that the improvement is necessary, of benefit to the properties to be assessed, and if the district is initiated by petition, that the petition is in proper form and bears sufficient signatures. The findings of the council are conclusive. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

d. If the owners of 100 percent of the real property in the proposed district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to the council without such notice, protest period or public hearing.

17.04.060 Contract; Approval of increased costs. a. After a special assessment district has been created, the city shall contract for the construction of the improvement. If the city will own the improvement, it shall solicit bids for construction of the improvement. If the city will not own the improvement, it shall contract with the owner of the improvement to provide for its construction.

b. If the cost of constructing the improvement will exceed 115 percent of the estimated cost of construction of the improvement in the improvement plan, the city shall not contract for the construction of the improvement without first:

1. Notifying all record owners of property in the district via certified mail of the increased cost, and

2. Within 30 days after the mailing of notice of the increased cost to record owners of property in the district, receiving written objections from record owners of property that would bear less than one-half of the cost of the improvement.

c. If record owners of property that would bear one-half or more of the cost of the improvement object in writing to the increased cost, the city will not contract to construct the improvement. The council either may levy assessments in the district in an amount sufficient to recover costs incurred for preliminary design and engineering services, or determine that the city shall assume such costs.

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17.04.070 Assessment roll. a. After completion of the improvement the council shall assess costs of the improvement by a method that the council determines will assess each property in the district in proportion to the benefit that it receives from the improvement.

b. The city shall prepare an assessment roll stating for each property in the district the name and address of the record owner, Kenai Peninsula Borough parcel number, a description of the property, the amount assessed against the property, and the assessed value of the property as determined by the Borough Assessor.

c. Each property in the district shall be identified and assessed on the assessment roll in accordance with the legal description of the property at the time the council certifies the assessment roll; except that where assessments are in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), a property that was created by combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that amount multiplied by the number of parcels that comprised the property at the time of the public hearing.

d. The council shall fix a time to hear objections to the assessment roll. Not less than fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll by certified mail to each record owner of an assessed property, and publish notice of the hearing in a newspaper of general circulation in the city.

17.04.080 Certification of assessment roll. After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder.

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

b. Within 30 days after fixing the time when payment of the assessments is due, the finance director shall mail a statement to the record owner of each assessed property identifying the property and stating the assessment amount, the payment due date and the amount of the penalty on a delinquent payment. Within five days after mailing the statements, the finance director shall publish notice of mailing the statements in a newspaper of general circulation in the city.

17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated.

b. Upon the subdivision of a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that

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contains the original connection to the improvement for which the assessment was levied, may connect to the improvement until a subdivided property connection fee is paid for the parcel.

1. The amount of the connection fee shall be equal to the amount of the original assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the parcel is connected to the improvement.

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

3. Upon receiving connection fee payments, the city shall allocate such payments to each property assessed in the district in proportion to the amount originally assessed against the property, either by adjusting the original assessment amount or disbursing a payment to the record owner at the time of disbursement.

17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced in the same manner as property tax liens.

17.04.120 Reassessment. a. The City Council shall within one year correct any deficiency in a special assessment found by a court, under the procedure for certification of the assessment roll in HCC §§17.04.070 and 17.04.080.

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

17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not be contested by a person who did not file with the city clerk a written objection to the assessment roll before its confirmation. The decision of the council on the objection may be appealed to the superior court within 30 days after the date of confirmation 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.

17.04.140 Interim financing. a. The council may provide by resolution or ordinance for the issuance of notes to pay the costs of an improvement that shall be payable from the special assessments for the 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;

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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.

17.04.150 Special assessment bonds. a. The 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 benefitted 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 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption is the same as for a mortgage foreclosure on real property.

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

17.04.160 Time limit for special assessment districts. If five or more years elapse between the creation of a special assessment district and the city contracting for construction of the improvement, the city may not enter into the contract unless the council by resolution extends the period for entering into the contract by not more than an additional five years.

b. Before the council acts on a resolution under subsection (a) of this section, the city clerk shall mail notice of the resolution to each current record owner of property listed on the preliminary assessment roll that the city will not contract for construction of the improvement in the district unless the resolution is adopted. The notice also shall include an updated copy of the preliminary assessment roll.

17.04.170 Water and sewer connections required. The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final.

17.04.180 Road improvement assessments for lots with two street frontages. a. The record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for road improvements that is based on frontage on a road to which the lot does not have access. To obtain the deferment, the owner shall enter into a deferred assessment agreement with the city before the end of the period for filing objections to the district under HCC §17.04.050. The agreement shall provide that the lot has frontage on two streets, to only one of which the lot has access; that the lot owner shall pay the part of the assessment that is based on frontage on the street to which the lot has access; and that the owner shall pay the part of the assessment that is

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based on the other street frontage when the lot acquires access to the street from that frontage. The agreement shall be recorded with the district recorder's office.

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

17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain a deferment of assessment payments under this section if the person:

1. Will be at least 62 years of age within 12 months after the date of confirmation of the assessment roll;

2. Has an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region;

3. Owns or has a life tenancy in the assessed property, and permanently resides in a single family dwelling on the property; and

4. Is not determined by the city, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

b. An assessment payment deferment is subject to approval by the council. A person seeking deferment of an assessment payment shall file a written application with the finance director on or before the first payment is due, supported by documentation showing that the applicant meets the criteria in subsection (a) of this section. A person receiving an assessment payment deferment must file with the city by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Within the same year the city for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

c. Assessment payment deferments are subject to the availability of funds appropriated for that purpose. An application for an assessment payment deferment shall be submitted to the council with a report from the finance director as to the availability of funds to appropriate for the deferment. Deferred assessments are funded from the following sources:

1. The appropriate utility operating fund for deferred water and sewer assessment payments.

2. The accelerated roads program fund for deferred road improvement assessment payments.

If funds for an assessment payment deferment are not available from the appropriate source, the council may loan the necessary amount to the appropriate source from the general fund.

d. A person who receives an assessment payment deferment shall execute a deed of trust on the property subject to assessment, together with a promissory note payable to the city on demand, to secure the eventual payment of the deferred payment.

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

1. The sale or lease of the assessed property; or

2. The death of both the deferred assessment applicant and the applicant's surviving spouse, if any.

17.04.200 "In lieu of assessment". a. An "in lieu of assessment" must be paid for a property to receive additional water or sewer service within or beyond the area within a local improvement district.

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b. An "in lieu of assessment" shall be computed on the actual cost of the additional water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

c. A property on which an "in lieu of assessment" for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for the property and (ii) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district.

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Chapter 17.04 Improvement Districts

Sections:

- 17.04.010 Definitions
- 17.04.020 General intent.
- 17.04.030 Authorization and Proposals.
- 17.04.040 Necessity of improvement--Improvement plan--Hearing.
- 17.04.050 Improvement Plan--Objections and revisions.
- 17.04.060 Award of project bid.
- 17.04.070 Assessments and assessment roll.
- 17.04.080 Certification of assessment roll.
- 17.04.090 Payment.
- 17.04.095 Terms of payment.
- 17.04.100 Assessments to be liens.
- 17.04.110 Reassessment.
- 17.04.120 Objection and appeal.
- 17.04.125 Interim financing.
- 17.04.130 Special assessment bonds.
- 17.04.140 Time limitations for improvement districts.
- 17.04.150 Connection required.
- 17.04.160 Agreement for deferred assessment (ACRP) double frontage property.
- 17.04.165 Alternative methods of payment--Deferred payments
- 17.04.170 "In lieu of assessments"--determination of amount--terms.
- 17.04.175 "In lieu of assessments", not to prevent inclusion of property in future district.
- 17.04.180 Subdivided property connection fee.

17.04.010 Definitions. In this chapter, unless otherwise provided, or the context otherwise requires, the following words and phrases shall have the meanings set forth in this section:

- a. "A.C.R.P" means the Accelerated Roads Program, criteria for which is set forth in Resolution 88-47, duly adopted by the City Council.
- b. "Cost" means all expenses incurred by the City for making an improvement and includes, but is not limited to advertising expenses, engineering and architect fees, legal fees, construction contracts, costs of interim financing, financing the improvement, including the issuance of bonds and administrative costs as established by the Council of the City.
- c. "Improvement" includes, but is not limited to erecting, building, establishing, laying out, altering, opening, improving and repairing of streets, sewer, water supply and distribution systems, avenues, sidewalks, alleys, bridges, squares and other public highways and places within the City, and draining, sprinkling and street lighting them; removing all obstructions; establishing grades, grading, planking, paving, macadamizing, graveling and curbing them, in whole or in part, and constructing gutters, culverts, sidewalks and crosswalks; acquiring and constructing parks and playgrounds, making changes in channels of streams or watercourses or

constructing, erecting, strengthening or repairing bulkheads, embankments or dikes for streams or watercourses.

d. "Local improvement district" means all parcels and rights-of-way included within the boundaries being benefited by a specific improvement. The term "special assessment district" may be used interchangeably with "local improvement district".

e. "Record owner" means the person in whose name property is listed on the property tax roll as provided by the Kenai Peninsula Borough and is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment may be made against "unknown owner". (Ord. 88-10 1, 1988; Ord. 87-14 1(part), 1987).

17.04.020 General intent. It is the intent of this section to define the procedures for a local improvement district from its inception to conclusion, step-by-step, for public information as well as administrative guidance.

Generally, the validity of a special or local assessment has been held dependent upon whether the improvement for which the costs are assessed confers a benefit on the owners of property in the assessment district. No assessment can be made unless the property to be assessed is of such a nature that it is capable of actual enhancement in value as the result of the improvement.

An improvement district which is initiated according to procedures outlined in this section shall constitute a legal and valid improvement district and any costs incurred for preliminary design and engineering services will become an assessment on the property owners of the district in the event that at a later date, the district is dissolved by the request of fifty-one percent of the property owners and that the City engineer's estimate is within fifteen percent of the Design Engineer's estimate. (Ord. 87-14 1(part), 1987).

17.04.030 Authorization and proposals. The Council may create local improvement districts and assess the real property benefitting from such capital improvements for all or a portion of the cost of such improvements. An improvement proposal may be initiated by:

a. Property owners filing, with the City Clerk, an application with a non refundable fee, as set by Resolution of the City Council and set forth in the City of Homer Fee Schedule, that an improvement district be formed and stating what specific public improvement is to be made. This application must be on a form provided by the City Clerk and contain the signature of the property owners of record of at least fifty percent of the parcels as defined by Borough tax records in the proposed improvement district.

1. Upon receipt of an application for an improvement district the City Clerk shall verify that the applicants are record owners of the district.

2. If the application has sufficient and proper applicants the City Clerk shall

i. schedule a neighborhood meeting of those property owners to be benefitted by the improvement, notify the property owners by mail and include notice in the City's regular meeting

advertisement, and

ii. forward the application to the Public Works Director for review of the improvement district boundaries and verification of the information to be used in the assessment methodology, which includes an estimated project cost for non Homer Accelerated Road Program improvement districts ; and

iii. prepare a petition containing information that shall include the owner(s) of record, property value, Kenai Peninsula Borough Parcel number, brief legal description, and improvement assessment information including but not limited to the assessment methodology used, which includes an estimated project cost for non Homer Accelerated Road Program improvement districts and assessment amount, and any terms or interest for assessment payments; and

iv. forward a copy of the petition to the Public Works Director or designee and to the Finance Director or designee for a final review prior to issuing the petition; and

v. the City Clerk shall assign a deadline for return/filing of the petition with the City Clerk that shall be sixty days from issuance of the petition; and

vi. petitioners may request an extension, prior to the sixty day deadline up to an additional thirty days.

b. Upon receipt of the petition the City Clerk shall verify that the owners of at least fifty percent or more in value of the property to be benefitted by the improvement have signed the petition. The City Clerk shall forward the petition to the City Council who shall find by resolution whether:

1. The improvement is necessary and should be made;

2. The petition has sufficient and proper petitioners; and

3. The findings adopted by resolution under this section are conclusive.

c. If a petition is found to be insufficient the City Clerk shall forward the information to the City Council who shall find by resolution whether:

1. The petition is found to be insufficient; and

2. That the same local improvement district application and petition may not be submitted for at least six months from the date of the adoption of the resolution; and

3. That the same applicants/property owners may file with the City Clerk an application for the same improvements for a modified area within thirty days from the date of the adoption of the resolution.

d. The City Council may determine that an improvement is needed, and initiate by passing a resolution by approval of not fewer than three-fourths vote of the Council so declaring and shall proceed as provided in Sections 17.04.040 through 17.04.060 of this chapter. (Ord. 05-65(A) §1), 2006; Ord. 05-06(S) §2, 2006; Ord. 03-29(S), 2003; Ord. 87-14 §1(part), 1987).

17.04.040 Necessity of improvement--Improvement plan--Hearing.

a. Upon passage of a resolution as specified in Section 17.04.030 of this chapter, the City Manager shall prepare an improvement plan which shall include the extent of the improvement, boundaries of the district, the estimated cost, percentage of the improvement plan cost to be assessed against the property benefitted, length of time for financing, and a preliminary assessment roll.

b. At the time of the passage of the resolution noted in Section 17.04.030 of this chapter, the City Council shall set a time for public hearing on the necessity of the improvement and proposed

improvement plan. Notice of such hearing shall be published at least once a week for four consecutive weeks in a newspaper of general circulation within the City. Notices shall also be sent to every record owner of property within the improvement district, not less than fifteen days prior to the hearing.

1. If a landowner vacates a property line or property lines for the purposes of combining more than one parcel to form a single parcel of land (including without limitation lots and tracts of any size) originally listed as more than one parcel in a local improvement district where assessments are proposed to be set as a fixed and equal amount per parcel without regard to the characteristics of the parcel, i.e., without regard to the parcel size or dimensions, then that vacation must occur prior to the public hearing notice sent to the property owners pursuant to HCC 17.04.040(b); and

2. A vacation of lot line(s) must occur within the time line stated in HCC 17.04.040(b)(1) for a parcel to be assessed as a single parcel.

c. Property Owner Petitioners Waiver. If there is one hundred percent participation by property owners of the district, such owners may request and give written waiver of notice and right to public hearing as outlined in subsection b. of this section, and waive the sixty-day objection period as outlined in Section 17.04.050(a), whereby the Council shall pass the resolution approving the plan and proceeding with the improvement. If at any time during the preliminary improvement plan process, should added costs appear to cause the total project cost to exceed the engineer's estimate by fifteen percent or more, which was given to the property owners in the preliminary plan, the project may not proceed until the owners of said property have been notified in writing, and the provisions of Section 17.04.060 have been met. (Ord. 87-14 §1(part), 1987; Ord. 06-47(A)§1 (part), 2006).

17.04.050 Improvement plan--Objections and revisions.

a. The owner of property to be assessed may file a written objection to the plan no later than sixty days after the public hearing required in Section 17.04.040(b). At the end of the sixty days, if the owners of property in the district who shall bear fifty percent or more of the total costs have not objected, the Council may pass a resolution approving the plan and proceeding with the improvement.

b. Non responses during the sixty day objection period shall be deemed to be non-objections.

c. If objections are made in writing during the period set forth for objections by owners of property who shall bear fifty percent or more of the total estimated cost of the improvement, the Council may not proceed with the improvement unless the plan is revised to meet the objections and the objections are reduced to less than fifty percent. The Council may then pass a resolution approving the revised plan, which shall now become an original plan, and proceed with the improvement.

d. If a change is made by Council in an improvement district boundary, such change shall be made promptly by the City Clerk after any amendment thereof has been passed. Property owner(s) affected by the change will be notified promptly by the City Clerk in writing. (Ord. 05-06(S) §3, 2005; Ord. 87-14 §1(part), 1987).

17.04.060 Award of project bid. Prior to the award of the contract for the construction of the project, if the bid costs exceed one hundred fifteen percent of the engineer's estimate, the project may not be awarded until such time as all property owners of record have been notified in writing of such costs. If property owners, who shall bear one-half of the estimated cost, do not object in writing to the additional costs, the Council may award the contract for construction. If

the property owners do not consent, and the City Council is unable to reduce the costs, the City will not award the project, and the property owner shall be liable for any and all costs incurred, except where Council specifically assumes such costs. The Council shall dissolve the district. (Ord. 87-14 1(part), 1987).

17.04.070 Assessments and assessment roll. a. At any time after project completion and acceptance, the Council shall assess the properties benefited their proportionate share of the cost of the improvement.

b. The Homer City Council shall be the sole authority for determining the method of assessments to the affected district.

c. An assessment roll shall be prepared which shall contain the name of the record owner, address, description of the properties, the assessment amounts, and the property assessed value as determined by the Borough Assessor.

d. The City Council shall fix a time to hear objections to the roll. The City Clerk shall send an assessment and hearing notice by certified mail to each record owner of an assessed property not less than fifteen days prior to the hearing. A notice shall also be published in a newspaper of general circulation within the City. (Ord. 87-14 1(part), 1987).

17.04.080 Certification of assessment roll. After the hearing the Council shall correct any errors or inequalities in the roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of property in which the assessment was increased. When the roll is corrected, the Council shall pass a resolution confirming the assessment roll and the City Clerk shall so certify. (Ord. 87-14 1(part), 1987).

17.04.090 Payment. a. The Council shall fix the time of payment, penalties on delinquent payments, and the rate of interest on the unpaid balance of the assessment by resolution at the time the assessment roll is confirmed. Payments may not be required sooner than sixty days after billing, if payment is to be one sum.

b. Within thirty days after fixing the time of payment, the City Treasurer shall mail a statement to the record owner of each property assessed. The statement shall designate the property, the assessment amount, the time of delinquency and penalties.

c. Within five days after the first statements are mailed, the City Treasurer shall have published a notice that the statements have been mailed. (Ord. 87-14 1(part), 1987).

17.04.095 Terms of payment. a. Procedures for handling initial assessment payments, annual payments on assessments financed by the City or other institution and setting of penalties and interest shall be set by Resolution of the City Council.

b. Except as provided in subsection (d), if a landowner subdivides a tract originally assessed as one entire parcel, a proportionate share of the total amount of the assessment may be allocated to each individual lot abutting or benefiting from the improvement; road, waterline and/or sewer line. As individual lots are sold, the purchasers may elect to assume and pay assessment for that lot in installments as set by Council Resolution under section 17.04.090. Full payment shall be made within the same period as the number of years remaining on the installment plan for the specific assessment district.

c. The seller and purchaser of a subdivided lot shall execute an agreement providing for the assignment of the installment plan by the original landowner and an assumption of the terms and conditions of the installment plan by the purchaser. This agreement shall be executed on the date of closing or within five days thereafter. This agreement shall take effect only upon approval thereof by the City and after payment of a transfer fee to the City in the amount of twenty-five dollars. Subsequent purchasers of lots may also elect to assume the balance of any installment plan in the same manner as set forth in this section above.

d. If a landowner subdivides a parcel of land (including without limitation lots and tracts of any size) originally assessed as one parcel in a local improvement district where assessments were set as a fixed and equal amount per parcel without regard to the characteristics of the parcel, i.e., without regard to the parcel size or dimensions, then section 17.04.180 shall govern and subsections 17.04.095(b) - (c) shall not apply. (Ord. 02-48 section 1, 2002; Ord. 95-27, 1995; Prior code 24-400.7)

17.04.100 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced as provided in Title 9 of this Code. (Ord. 87-14 1(part), 1987).

17.04.110 Reassessment. a. The City Council shall within one year correct any deficiency in a special assessment found by a court. Procedures set forth in Sections 17.04.070 through 17.04.100 shall apply.

b. Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure. (Ord. 87-14 1(part), 1987).

17.04.120 Objection and appeal. a. The regularity or validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

b. The decision of the City Council upon an objection may be appealed to the superior court within thirty days of the date of confirmation of the assessment roll.

c. If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects. (Ord. 87-14 1(part), 1987).

17.04.125 Interim financing. a. The City Council may provide by resolution or ordinance for the issuance of notes in payment of the costs of a local improvement project, payable out of special assessments for the 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 municipality to secure the performance of its contract for a local improvement project, or to secure the payment of persons who have performed work or furnished materials under the contract.

c. The municipal treasurer 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. Judgements 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. (Ord. 87-14 1(part), 1987).

17.04.130 Special assessment bonds. a. The City Council may by ordinance 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 bonds issued shall be payable solely from the levy of special assessments against the property to be benefitted. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. The benefitted property may be pledged by the governing body to secure a payment.

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

c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in meeting payments of principal and interest on bonds if the reason for the deficiency is nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. (Ord. 87-14 1(part), 1987).

17.04.140 Time limitations for improvement districts. a. In the event that an improvement district is unable to proceed to the construction phase within a period of five years from the date the City Council passes the resolution creating the local improvement district (LID), the LID shall be considered void, unless Council extends the effective period by resolution for not more than five additional years.

b. The City Clerk shall notify the property owners listed on the preliminary assessment roll that the LID is void or of an extension. Notification of the assessment district and any changes shall also be sent to any new property owner of record within the proposed district since the application for the improvement district was initiated.

(Ord. 01-46, 2001; Ord. 97-2, 1997; Ord. 87-14, 1997; Ord. 84-21 S1, 1984).

17.04.150 Connection required. Owners of property within an approved water and/or sewer local improvement district that contains an occupied building shall connect to the utility within one year from the date of final approval of the assessment roll by City Council. (Ord. 87-30 2, 1988).

17.04.160 Agreement for deferred or corner lot assessment double frontage property. a. Through lots in an road reconstruction and/or paving improvement District, having a frontage on two parallel streets, or flag lots having a frontage on two perpendicular streets can be exempt from a double front foot assessment, when only one lot access exists. Corner lots are exempt from a double front footage assessment and the total assessment shall not exceed the longest side of the lot. Previous reconstruction assessments apply to reconstruction assessments and previous paving assessments apply to paving assessments. The owner(s) of property shall file a "Deferred Assessment Agreement" with the City, prior to the end of the filing period for objections to the district noted in Section 17.04.050 of this chapter. The agreement shall contain a statement that

the lot in question fronts two streets; however, the property owner has only one access onto the lot and shall pay the assessment on which the access is located. At such time as another access is made then the property owner agrees to pay the assessed front footage on which the new access has been made. The agreement shall be recorded with the Homer District Recorder's office. (Ord. 94-16(A), 1994. Ord. 88-10 2, 1988.)

17.04.165 Alternative methods of payment--Deferred payments.

A property owner meeting certain requirements as hereinafter set forth, may defer payment of assessments, including principal and interest under the following conditions:

a. Criteria for Eligibility. The property owner must:

1. Be at least sixty-two years of age within twelve months from the date of adoption of the assessment roll.
2. Have an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region.
3. Actually reside within the boundaries of the property assessed on which is located only his permanent abode which is a single-family residence.
4. Own or have a life tenancy in the assessed real estate.
5. No real property may be exempted which the City determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption.

b. Availability of Funds. Deferred assessments shall be funded by specific appropriations made by the City Council from available City funds. To determine availability of funds, the Director of Finance shall provide the City Council a financial report as to the availability of funds for appropriation in accordance with criteria outlined in this subsection. This report will accompany the application for deferment:

1. Water and sewer deferred assessments shall be funded by the appropriate utility operating fund.
2. Road improvement deferred assessments shall be funded from the Accelerate Roads Program funds.
3. In the event that funds are not available in the appropriate utility or program funds, the City Council may elect to loan either the utility or program funds from the General fund to cover the applicable deferred assessments.

c. Application for Deferment. A person seeking a deferment of assessment shall file an application with the Director of Finance on or before the first payment is due and furnish suitable proof that the applicant meets the criteria set forth in subsection (a) of this section. Based upon the availability of funds, the City Council shall approve or disapprove the application at a regular Council meeting. A claimant receiving the exemption must file with the City by April 15th of each subsequent year a separate application proving eligibility as of January 1st in order to retain the exemption. Within the same year the City for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

d. Security Required. Every property owner who qualifies and obtains a deferment of assessment under this section shall execute a mortgage, deed of trust or other appropriate security agreement in favor of the City, together with a promissory note payable on demand, to secure the eventual payment of an assessment deferred hereby.

e. Immediate Payment in case of sale or other transfer. If any property or interest therein, given

as security under subsection d. of this section is sold, leased or otherwise transferred or conveyed, then the balance of any deferred assessment including principal and interest shall become due and payable within thirty days from the date of such sale lease or transfer.

f. Probate Proceedings. Upon the decease of any person whose assessment has been deferred, the deferral will remain in effect in the event that there is a surviving spouse. Otherwise, the entire balance of any assessment including principal and interest shall immediately become due and payable from the decedent's estate. This preference shall exist whether or not probate or intestacy proceedings are opened.

g. Preemption by State Law. If at some future date legislation is passed by the state to exempt persons meeting some or all of the criteria set forth in subsection a of this section, from assessments for water and/or sewer improvements and the state agrees therein to reimburse municipalities for such assessments, then any mortgage or other security agreement required under subsection d of this section shall become null and void and of no further effect. (Ord. 95-27, 1995; Ord. 87-30 1, 1988).

17.04.170 "In lieu of assessments"--determination of amount--terms. a. "In lieu of assessments" will be required if any property requires additional service(s) within or beyond an assessed area. b. "In lieu of assessments" shall be computed on the actual cost of service(s). c. Terms of payment for such "in lieu of assessments" shall be levied in accordance with sections 17.04.090 and 17.04.095. (Ord. 95-27, 1995; Prior code 24-400.13).

17.04.175 "In lieu of assessments", not to prevent inclusion of property in future district. Any property receiving a water and/or sewer service and/or "in lieu of assessment" in accordance with section 17.04.170 may be included in an water and/or sewer improvement district at a future date and may be assessed for that district at that time. Any amount paid "in lieu of" shall be a credit toward such assessment. If, however, the assessment levied in the future shall be less than the "in lieu of assessment" no refund shall be allowed. (Ord. 95-27, 1995; Prior code 24-400.13).

17.04.180 Subdivided property connection fee. a. If a landowner subdivides a parcel of land (including without limitation lots and tracts of any size) originally assessed as one parcel in a local improvement district where assessments were set as a fixed and equal amount per parcel without regard to the characteristics of the parcel, i.e., without regard to the parcel size or dimensions, then prior to connecting any new parcel, lot or tract created by such subdivision to the improvement, the property owner shall pay a subdivided property connection fee. However, the lot that contains the original connection to the improvement for which the original assessment was paid is exempt from the subdivided property connection fee b. The amount of the connection fee for each new lot created by the subdivision shall equal the amount of the original per parcel assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the subdivided property is connected to the improvement. c. If the owner of such subdivided property refuses to pay the subdivided property connection fee, the subdivided property shall be denied the benefit of the improvement. d. The City Manager is authorized to negotiate and execute a written payment plan with the property owner on payment terms that are substantially the same as those authorized for the local improvement district by the City Council resolution adopted pursuant to subsection 17.04.090,

subject to the following

(i) The City Manager will refuse to enter into such a payment plan if the City Manager determines there is insufficient equity in the property to adequately collateralize payment of the amounts due.

(ii) The property owner must execute a written agreement and a recorded deed of trust or other instrument creating a lien on the property for the payment of all sums due or to become due.

(iii) The City Manager may adjust the interest rate on the payment plan up or down to reflect any change in interest rates from the date of the original assessment to the date of entering into the payment plan. The interest rate on the payment plan will be a fixed rate unless the interest rate on the original assessment set under section 17.04.090 was a variable interest rate.

e. The subdivided property connection fee paid pursuant to this section, shall, after collection by the City, be disbursed by the City to the owners of the property originally assessed and the City in proportion to the amounts paid by each toward the cost of the improvement. Such disbursements must be paid by the City to the current owner of record of the property at the time the disbursements are made without regard to the identity of the property owner or the payer at the time the original assessments were levied or paid. (Ord. 02-48 2, 2002.)

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**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 12-14

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
REPEALING AND REENACTING HCC CHAPTER 17.04 REGARDING
SPECIAL ASSESSMENT DISTRICTS.

WHEREAS, The City of Homer and others are seeking funding for the construction of a
natural gas transmission line from Anchor Point to the City; and

WHEREAS, The City Council deems it necessary and in the best interest of the City and
its residents to form special assessment districts to finance a natural gas distribution system in
the City upon the completion of the natural gas transmission line, by the issuance of bonds
secured by special assessments on real property in the City; and

WHEREAS, It is necessary to revise HCC Chapter 17.04, regarding special assessments,
to allow the formation of special assessment districts for natural gas distribution facilities.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. HCC Chapter 17.04, Special Assessment Districts, is repealed and reenacted
to read as follows:

Chapter 17.04

SPECIAL ASSESSMENT DISTRICTS

Sections:

- 17.04.010 Definitions.
- 17.04.020 Purpose of chapter.
- 17.04.030 Assessment authority.
- 17.04.040 Initiation of district.
- 17.04.050 Creation of district.
- 17.04.060 Contract award; Approval of increased costs.
- 17.04.070 Assessment roll.
- 17.04.080 Certification of assessment roll.
- 17.04.090 Payment.
- 17.04.100 Subdivision after levy of assessments.
- 17.04.110 Assessments to be liens.
- 17.04.120 Reassessment.
- 17.04.130 Objection and appeal.
- 17.04.140 Interim financing.
- 17.04.150 Special assessment bonds.
- 17.04.160 Time limit for special assessment districts.

17.04.170 Connection required.

17.04.180 Road improvement assessments for lots with two street frontages.

17.04.190 Deferment of assessment payments for senior citizens.

17.04.200 "In lieu of assessment".

17.04.010 Definitions. In this chapter:

a. "Cost" means all expenses incurred by the city for an improvement, including without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and city administrative costs.

b. "District" means a special assessment district created under this chapter.

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

d. "Record owner" means the person in whose name real property is listed on the property tax roll prepared by the Kenai Peninsula Borough.

17.04.020 Purpose of chapter. a. A special assessment district may be created for the purpose of acquiring, installing or constructing a capital improvement that primarily benefits real property in the district, in contrast to capital improvements that benefit the entire community and are paid for with general government resources.

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance.

17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital improvement against real property benefited by the improvement, whether the property is privately or governmentally owned, including real property that is exempt from taxation.

b. A capital improvement that is provided through a special assessment district may be owned by the city, a public utility, or another entity that is qualified to own and operate the capital improvement.

17.04.040 Initiation of district. a. A special assessment district may be initiated by:

1. Resolution of the council; or

2. Petition signatures of the record owners of not less than one half in value of the real property in the proposed district received by the city clerk within 60 days after the mailing of the petition to record owners of property in the proposed district. Upon payment of the nonrefundable filing fee in the city fee schedule established by resolution of the council, the city clerk shall prepare a petition for distribution by certified mail to all record owners of property in the proposed district that contains:

i. A statement that it is a petition to form a special assessment district, and describing the capital improvement for which the district is proposed;

ii. For each property in the proposed district, the Kenai Peninsula Borough tax parcel number and property description, the name and mailing address of the record owner, the current assessed value, and a place for the record owner's signature; and

iii. A statement that to support initiation of the proposed district, the record owner must sign and return the petition to the city clerk within 60 days after the date the petition was mailed.

b. Upon adoption of a resolution initiating a special assessment district, or the city clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk shall:

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

2. Refer the proposed district to the city manager, who shall prepare an improvement plan for the district that includes final boundaries for the district, the design of the proposed improvement, a cost estimate for the improvement, the percentage of the improvement cost to be assessed against properties in the district, a method for allocating the assessed cost of the improvement among the properties in the district, the time period over which assessments will be financed, and a preliminary assessment roll for the district.

17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at least once in a newspaper of general circulation in the city, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.

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

c. At the noticed date and time, the council shall hold a public hearing on the necessity of the improvement and proposed improvement plan. After the public hearing, the council shall act upon a resolution determining to proceed with the proposed improvement. The resolution shall find that the improvement is necessary, of benefit to the properties to be assessed, and if the district is initiated by petition, that the petition is in proper form and bears sufficient signatures. The findings of the council are conclusive. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

d. If the owners of 100 percent of the real property in the proposed district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to the council without such notice, protest period or public hearing.

17.04.060 Contract; Approval of increased costs. a. After a special assessment district has been created, the city shall contract for the construction of the improvement. If the city will own the improvement, it shall solicit bids for construction of the improvement. If the city will not own the improvement, it shall contract with the owner of the improvement to provide for its construction.

b. If the cost of constructing the improvement will exceed 115 percent of the estimated cost of construction of the improvement in the improvement plan, the city shall not contract for the construction of the improvement without first:

1. Notifying all record owners of property in the district via certified mail of the increased cost, and

2. Within 30 days after the mailing of notice of the increased cost to record owners of property in the district, receiving written objections from record owners of property that would bear less than one-half of the cost of the improvement.

c. If record owners of property that would bear one-half or more of the cost of the improvement object in writing to the increased cost, the city will not contract to construct the improvement. The council either may levy assessments in the district in an amount sufficient to recover costs incurred for preliminary design and engineering services, or determine that the city shall assume such costs.

17.04.070 Assessment roll. a. After completion of the improvement the council shall assess costs of the improvement by a method that the council determines will assess each property in the district in proportion to the benefit that it receives from the improvement.

b. The city shall prepare an assessment roll stating for each property in the district the name and address of the record owner, Kenai Peninsula Borough parcel number, a description of the property, the amount assessed against the property, and the assessed value of the property as determined by the Borough Assessor.

c. Each property in the district shall be identified and assessed on the assessment roll in accordance with the legal description of the property at the time the council certifies the assessment roll; except that where assessments are in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), a property that was created by combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that amount multiplied by the number of parcels that comprised the property at the time of the public hearing.

d. The council shall fix a time to hear objections to the assessment roll. Not less than fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll by certified mail to each record owner of an assessed property, and publish the notice in a newspaper of general circulation in the city.

17.04.080 Certification of assessment roll. After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be

set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder.

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

b. Within 30 days after fixing the time when payment of the assessments is due, the finance director shall mail a statement to the record owner of each assessed property identifying the property and stating the assessment amount, the payment due date and the amount of the penalty on a delinquent payment. Within five days after mailing the statements, the finance director shall publish notice of mailing the statements in a newspaper of general circulation in the city.

17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated.

b. Upon the subdivision of a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that contains the original connection to the improvement for which the assessment was levied, may connect to the improvement until a subdivided property connection fee is paid for the parcel.

1. The amount of the connection fee shall be equal to the amount of the original assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska, from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the parcel is connected to the improvement.

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

3. The city shall adjust the original assessment amount or disburse payments to the record owner at the time of disbursement of each property assessed in the district in proportion to the amount originally assessed against the district.

17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced as provided in Title 9 of this Code.

225 17.04.120 Reassessment. a. The City Council shall within one year correct any
226 deficiency in a special assessment found by a court, under the procedure for certification of the
227 assessment roll in HCC §§17.04.070 and 17.04.080.

228 b. Payments on the initial assessment are credited to the property upon reassessment.
229 The reassessment becomes a charge upon the property notwithstanding failure to comply with
230 any provision of the assessment procedure.
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232 17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not
233 be contested by a person who did not file with the city clerk a written objection to the assessment
234 roll before its confirmation. The decision of the council on the objection may be appealed to
235 the superior court within 30 days after the date of confirmation of the assessment roll.

236 b. If no objection is filed or appeal taken within the time provided in this section, the
237 assessment procedure shall be considered regular and valid in all respects.
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239 17.04.140 Interim financing. a. The council may provide by resolution or ordinance for
240 the issuance of notes to pay the costs of an improvement that shall be payable from the special
241 assessments for the improvement. The notes shall bear interest at a rate or rates authorized by
242 the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement
243 project.

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

248 c. The finance director may accept notes against special assessments on conditions
249 prescribed by the council in payment of:

- 250 1. Assessments against which the notes were issued in order of priority;
- 251 2. Judgments rendered against property owners who have become delinquent
252 in the payment of assessments; and
- 253 3. Certificates of purchase when property has been sold under execution or at
254 tax sale for failure to pay the assessments.
255

256 17.04.150 Special assessment bonds. a. The council by ordinance may authorize the
257 issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in
258 a special assessment district. The principal and interest of the bonds shall be payable solely from
259 the special assessments levied against property in the district. The assessment shall constitute a
260 sinking fund for the payment of principal and interest on the bonds. The benefited property may
261 be pledged by the council to secure payment of the bonds.

262 b. On default in a payment due on a special assessment bond, a bondholder may
263 enforce payment of principal, interest, and costs of collection in a civil action in the same manner
264 and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
265 shall be against all property on which assessments are in default. The period for redemption is
266 the same as for a mortgage foreclosure on real property.

267 c. Before the council may issue special assessment bonds, it shall establish a
268 guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in
269 meeting payments of principal and interest on bonds if the reason for the deficiency is

nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund.

17.04.160 Time limit for special assessment districts. If five or more years elapse between the creation of an improvement district and the city contracting for construction of the improvement, the city may not enter into the contract unless the council by resolution extends the period for entering into the contract by not more than an additional five years.

b. Before the council acts on a resolution under subsection (a) of this section, the city clerk shall mail notice of the resolution to each current record owner of property listed on the preliminary assessment roll that the city will not contract for construction of the improvement in the district unless the resolution is adopted. The notice also shall include an updated copy of the preliminary assessment roll.

17.04.170 Water and sewer connections required. The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final.

17.04.180 Road improvement assessments for lots with two street frontages. a. The record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for road improvements that is based on frontage on a road to which the lot does not have access. To obtain the deferment, the owner shall enter into a deferred assessment agreement with the city before the end of the period for filing objections to the district under HCC §17.04.050. The agreement shall provide that the lot has frontage on two streets, to only one of which the lot has access; that the lot owner shall pay the part of the assessment that is based on frontage on the street to which the lot has access; and that the owner shall pay the part of the assessment that is based on the other street frontage when the lot acquires access to the street from that frontage. The agreement shall be recorded with the district recorder's office.

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

17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain a deferment of assessment payments under this section if the person:

1. Will be at least 62 years of age within 12 months after the date of confirmation of the assessment roll;

2. Has an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region;

3. Owns or has a life tenancy in the assessed property, and permanently resides in a single family dwelling on the property; and

4. Is not determined by the city, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

b. An assessment payment deferment is subject to approval by the council. A person seeking deferment of an assessment payment shall file a written application with the finance director on or before the first payment is due, supported by documentation showing that the

applicant meets the criteria in subsection (a) of this section. A person receiving an assessment payment deferment must file with the city by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Within the same year the city for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

c. Assessment payment deferments are subject to the availability of funds appropriated for that purpose. An application for an assessment payment deferment shall be submitted to the council with a report from the finance director as to the availability of funds to appropriate for the deferment. Deferred assessments are funded from the following sources:

1. The appropriate utility operating fund for deferred water and sewer assessment payments.

2. The accelerated roads program fund for deferred road improvement assessment payments.

If funds for an assessment payment deferment are not available from the appropriate source, the council may loan the necessary amount to the appropriate source from the general fund.

d. A person who receives an assessment payment deferment shall execute a deed of trust on the property subject to assessment, together with a promissory note payable to the city on demand, to secure the eventual payment of the deferred payment.

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

1. The sale or lease of the assessed property; or

2. The death of both the deferred assessment applicant and the applicant's surviving spouse, if any.

17.04.200 "In lieu of assessment" a. An "in lieu of assessment" must be paid for a property to receive additional water or sewer service within or beyond the area within a local improvement district.

b. An "in lieu of assessment" shall be computed on the actual cost of the additional water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

c. A property on which an "in lieu of assessment" for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for the property and (ii) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district.

Section 2. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

COMPARISON DRAFT WITH ORDINANCE 12-14

Chapter 17.04

SPECIAL ASSESSMENT DISTRICTS

Sections:

- 17.04.010 Definitions
- 17.04.020 Purpose of chapter
- 17.04.030 Assessment authority
- 17.04.040 Initiation of district
- 17.04.050 Creation of district
- 17.04.060 Contract award; Approval of increased costs
- 17.04.070 Assessment roll
- 17.04.080 Certification of assessment roll
- 17.04.090 Payment
- 17.04.100 Subdivision after levy of assessments
- 17.04.110 Assessments to be liens
- 17.04.120 Reassessment
- 17.04.130 Objection and appeal
- 17.04.140 Interim financing
- 17.04.150 Special assessment bonds
- 17.04.160 Time limit for special assessment districts
- 17.04.170 Water and sewer connections required.
- 17.04.180 Road improvement assessments for lots with two street frontages
- 17.04.190 Deferment of assessment payments for senior citizens
- 17.04.200 "In lieu of assessment"

17.04.010 Definitions. In this chapter:

- a. "Cost" means all expenses incurred by the city for an improvement, including without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and city administrative costs.
- b. "District" means a special assessment district created under this chapter.
- c. "Improvement" means a capital improvement, including without limitation streets, sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary sewage collection and treatment facilities; water supply and distribution facilities; natural gas distribution facilities; and parks, playgrounds, public squares and open space.
- d. "Record owner" means the person in whose name real property is listed on the property tax roll prepared by the Kenai Peninsula Borough.

17.04.020 Purpose of chapter. a. A special assessment district may be created for the purpose of acquiring, installing or constructing a capital improvement that primarily benefits real property in the district, in contrast to capital improvements that benefit the entire community and are paid for with general government resources.

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and

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levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance.

17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital improvement against real property benefited by the improvement, whether the property is privately or governmentally owned, including real property that is exempt from taxation.

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b. A capital improvement that is provided through a special assessment district may be owned by the city, a public utility, or another entity that is qualified to own and operate the capital improvement.

17.04.040 Initiation of district. a. A special assessment district may be initiated by:

1. Resolution approved by a vote of not less than three-fourths of the council; or

2. Petition signatures of the record owners of not less than one half in value of the real property in the proposed district received by the city clerk within 60 days after the mailing of the petition to record owners of property in the proposed district. Upon payment of the nonrefundable filing fee in the city fee schedule established by resolution of the council, the city clerk shall prepare a petition for distribution by certified mail to all record owners of property in the proposed district that contains:

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i. A statement that it is a petition to form a special assessment district, and describing the capital improvement for which the district is proposed;

ii. For each property in the proposed district, the Kenai Peninsula Borough tax parcel number and property description, the name and mailing address of the record owner, the current assessed value, and a place for the record owner's signature; and

iii. A statement that to support initiation of the proposed district, the record owner must sign and return the petition to the city clerk within 60 days after the date the petition was mailed

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b. Upon adoption of a resolution initiating a special assessment district, or the city clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk shall

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

2. Refer the proposed district to the city manager, who shall prepare an improvement plan for the district that includes final boundaries for the district, the design of the proposed improvement, a cost estimate for the improvement, the percentage of the improvement cost to be assessed against properties in the district, a method for allocating the assessed cost of the improvement among the properties in the district, the time period over which assessments will be financed, and a preliminary assessment roll for the district.

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17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at least

twice in a newspaper of general circulation in the city, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.

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

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c. At the noticed date and time, the council shall hold a public hearing on the necessity of the improvement and proposed improvement plan. After the public hearing, the council shall act upon a resolution determining to proceed with the proposed improvement. The resolution shall find that the improvement is necessary, of benefit to the properties to be assessed, and if the district is initiated by petition, that the petition is in proper form and bears sufficient signatures. The findings of the council are conclusive. The resolution shall contain a description of the improvement, the estimated cost of the improvement, the percentage of the cost to be assessed against the properties in the district, and a description of the properties to be assessed.

d. If the owners of 100 percent of the real property in the proposed district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to the council without such notice, protest period or public hearing.

17.04.060 Contract; Approval of increased costs. a. After a special assessment district has been created, the city shall contract for the construction of the improvement. If the city will own the improvement, it shall solicit bids for construction of the improvement. If the city will not own the improvement, it shall contract with the owner of the improvement to provide for its construction.

b. If the cost of constructing the improvement will exceed 115 percent of the estimated cost of construction of the improvement in the improvement plan, the city shall not contract for the construction of the improvement without first:

1. Notifying all record owners of property in the district via certified mail of the increased cost, and

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2. Within 30 days after the mailing of notice of the increased cost to record owners of property in the district, receiving written objections from record owners of property that would bear less than one-half of the cost of the improvement.

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c. If record owners of property that would bear one-half or more of the cost of the improvement object in writing to the increased cost, the city will not contract to construct the improvement. The council either may levy assessments in the district in an amount sufficient to recover costs incurred for preliminary design and engineering services, or determine that the city shall assume such costs.

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17.04.070 Assessment roll. a. After completion of the improvement the council shall assess costs of the improvement by a method that the council determines will assess each property in the district in proportion to the benefit that it receives from the improvement.

b. The city shall prepare an assessment roll stating for each property in the district the name and address of the record owner, Kenai Peninsula Borough parcel number, a description of the property, the amount assessed against the property, and the assessed value of the property as determined by the Borough Assessor.

c. Each property in the district shall be identified and assessed on the assessment roll in accordance with the legal description of the property at the time the council certifies the assessment roll; except that where assessments are in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), a property that was created by combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that amount multiplied by the number of parcels that comprised the property at the time of the public hearing.

d. The council shall fix a time to hear objections to the assessment roll. Not less than fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll by certified mail to each record owner of an assessed property, and publish notice of the hearing in a newspaper of general circulation in the city.

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17.04.080 Certification of assessment roll. After the hearing the council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the council shall confirm the assessment roll by resolution. The city clerk shall record the resolution and confirmed assessment roll with the district recorder.

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

b. Within 30 days after fixing the time when payment of the assessments is due, the finance director shall mail a statement to the record owner of each assessed property identifying the property and stating the assessment amount, the payment due date and the amount of the penalty on a delinquent payment. Within five days after mailing the statements, the finance director shall publish notice of mailing the statements in a newspaper of general circulation in the city.

17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated.

b. Upon the subdivision of a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that

contains the original connection to the improvement for which the assessment was levied, may connect to the improvement until a subdivided property connection fee is paid for the parcel.

1. The amount of the connection fee shall be equal to the amount of the original assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the parcel is connected to the improvement.

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

3. ~~Upon receiving connection fee payments, the city shall allocate such payments to each property assessed in the district in proportion to the amount originally assessed against the property, either by adjusting the original assessment amount or disbursing a payment to the record owner at the time of disbursement.~~

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17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced ~~in the same manner as property tax liens.~~

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17.04.120 Reassessment. a. The City Council shall within one year correct any deficiency in a special assessment found by a court, under the procedure for certification of the assessment roll in HCC §§17.04.070 and 17.04.080.

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

17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not be contested by a person who did not file with the city clerk a written objection to the assessment roll before its confirmation. The decision of the council on the objection may be appealed to the superior court within 30 days after the date of confirmation 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.

17.04.140 Interim financing. a. The council may provide by resolution or ordinance for the issuance of notes to pay the costs of an improvement that shall be payable from the special assessments for the 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.

17.04.150 Special assessment bonds. a. The 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 benefitted 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 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption is the same as for a mortgage foreclosure on real property.

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

17.04.160 Time limit for special assessment districts. If five or more years elapse between the creation of a special assessment district and the city contracting for construction of the improvement, the city may not enter into the contract unless the council by resolution extends the period for entering into the contract by not more than an additional five years.

b. Before the council acts on a resolution under subsection (a) of this section, the city clerk shall mail notice of the resolution to each current record owner of property listed on the preliminary assessment roll that the city will not contract for construction of the improvement in the district unless the resolution is adopted. The notice also shall include an updated copy of the preliminary assessment roll.

17.04.170 Water and sewer connections required. The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final.

17.04.180 Road improvement assessments for lots with two street frontages. a. The record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for road improvements that is based on frontage on a road to which the lot does not have access. To obtain the deferment, the owner shall enter into a deferred assessment agreement with the city before the end of the period for filing objections to the district under HCC §17.04.050. The agreement shall provide that the lot has frontage on two streets, to only one of which the lot has access; that the lot owner shall pay the part of the assessment that is based on frontage on the street to which the lot has access; and that the owner shall pay the part of the assessment that is

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based on the other street frontage when the lot acquires access to the street from that frontage.
The agreement shall be recorded with the district recorder's office.

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

17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain a deferment of assessment payments under this section if the person:

1. Will be at least 62 years of age within 12 months after the date of confirmation of the assessment roll;
2. Has an annual family income that would qualify under the United States Department of Housing and Urban Development designation of lower income families adjusted for Alaska and the Kenai-Cook Inlet Region;
3. Owns or has a life tenancy in the assessed property, and permanently resides in a single family dwelling on the property; and
4. Is not determined by the city, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

b. An assessment payment deferment is subject to approval by the council. A person seeking deferment of an assessment payment shall file a written application with the finance director on or before the first payment is due, supported by documentation showing that the applicant meets the criteria in subsection (a) of this section. A person receiving an assessment payment deferment must file with the city by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Within the same year the city for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

c. Assessment payment deferments are subject to the availability of funds appropriated for that purpose. An application for an assessment payment deferment shall be submitted to the council with a report from the finance director as to the availability of funds to appropriate for the deferment. Deferred assessments are funded from the following sources:

1. The appropriate utility operating fund for deferred water and sewer assessment payments.
2. The accelerated roads program fund for deferred road improvement assessment payments.

If funds for an assessment payment deferment are not available from the appropriate source, the council may loan the necessary amount to the appropriate source from the general fund.

d. A person who receives an assessment payment deferment shall execute a deed of trust on the property subject to assessment, together with a promissory note payable to the city on demand, to secure the eventual payment of the deferred payment.

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

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

17.04.200 "In lieu of assessment". a. An "in lieu of assessment" must be paid for a property to receive additional water or sewer service within or beyond the area within a local improvement district.

b. An "in lieu of assessment" shall be computed on the actual cost of the additional water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

c. A property on which an "in lieu of assessment" for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for the property and (ii) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district

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ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-16

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Operating Budget by Appropriating and Transferring \$86,000 from the General Fund Balance to the Utility Fund, Water Operating Account, and Appropriating and Transferring \$86,000 from the General Fund Balance to the Utility Fund, Sewer Operating Account, to Compensate for the Reduction of Water and Sewer Customer Charges by Resolution 12-025.

Sponsor: Mayor

1. City Council Regular Meeting March 27, 2012 Introduction

CITY OF HOMER
HOMER, ALASKA

Mayor

ORDINANCE 12-16

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2012 OPERATING BUDGET BY APPROPRIATING AND TRANSFERRING \$86,000 FROM THE GENERAL FUND BALANCE TO THE UTILITY FUND, WATER OPERATING ACCOUNT, AND APPROPRIATING AND TRANSFERRING \$86,000 FROM THE GENERAL FUND BALANCE TO THE UTILITY FUND, SEWER OPERATING ACCOUNT, TO COMPENSATE FOR THE REDUCTION OF WATER AND SEWER CUSTOMER CHARGES BY RESOLUTION 12-025.

THE CITY OF HOMER ORDAINS:

Section 1. The Homer City Council hereby amends the FY 2012 Operating Budget by appropriating and transferring \$86,000 from the General Fund Balance to the Utility Fund, Water Operating Account as follows:

Appropriation / Transfer From:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
100-100	General Fund Balance	\$86,000

Transfer to:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
200-400	Utility Fund, Water Operating Account	\$86,000

Section 2. The Homer City Council hereby amends the FY 2012 Operating Budget by appropriating and transferring \$86,000 from the General Fund Balance to the Utility Fund, Sewer Operating Account as follows:

Appropriation / Transfer From:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
100-100	General Fund Balance	\$86,000

Transfer to:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
200-500	Utility Fund, Sewer Operating Account	\$86,000

Section 3. This ordinance is a budget amendment ordinance only, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Thomas F. Klinkner, City Attorney

Date: _____

Date: _____

CITY MANAGER'S REPORT

MANAGERS REPORT
March 27, 2012

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE *W. Wrede*

UPDATES / FOLLOW-UP

1. Customer Charge / Multi-family Dwellings: This meeting agenda contains an ordinance and two resolutions that would change the customer service charge for water and sewer customers. The Council has recently received feedback that the new customer service charge for units within multi-family dwellings places an undue burden on property owners, the elderly, and people on fixed and low incomes. Some of these comments may have merit and it is impossible to anticipate all unintended consequences when you change fees or charges.

I would urge the Council not to overreact and jump into new fee changes that are not fully researched and adequately vetted by the public. This would have a high probability of resulting in new unintended consequences, more turmoil, and a whole new set of agitated customers. Council spent months working on this last summer. You looked at many different ways to fairly allocate the costs of maintaining and operating the system. You reviewed reams of information and you have heard testimony from state and university experts about the fee structure. The changes in the fee structure just went into effect with the February billing. Unfortunately, there was a billing error in which multi-family dwellings were charged at commercial rates instead of residential rates. This grossly distorted the impacts of the changes and almost certainly had an effect on the reaction the Council received.

We would recommend that the Council take no action at this time and give us all some time to see how the new fee structure works once adjustments are in place. For example, the Finance Department has sent out new bills and provided a credit so that multifamily dwellings are not overcharged at commercial rates. This has dramatically changed some bills. The Finance Department has been diligently working with customers who have complaints. For example, it turns out that one new apartment owner who testified about her high bills had a broken water pipe and the water had been running constantly for a long time. That explained her high bill much more than the individual service charges. Regina has determined, and I agree, that it would be proper to treat the Senior Citizen housing similar to the hospital because residents are receiving an array of medical and other services while there. As a result, we have eliminated the customer service charge for most if not all of the housing units. Finally, we have determined that we should be treating units in multi-family dwellings the same way we treat residential homes and commercial users when those units are vacant. We charge a customer service charge but at 50% of the normal rate. Regina has developed a process for

allowing apartment owners to apply for a credit if they can prove that units were vacant. The burden of proof lies with the apartment owner and it minimizes administrative cost. This will also result in significant savings for multi-family dwellings.

2. Ordinance Amending Title 17: Local Improvement Districts: At the last meeting, there was an ordinance on the agenda that would have amended Title 17 to make it more efficient and easy to understand. It would also have made it possible to establish Special Assessment Districts or LIDs to finance the construction of gas utility distribution systems. This ordinance did not have enough votes to get introduced. This has caused great concern among interested parties who support and are actively working on bringing natural gas to the Homer area. The failure of this ordinance to be introduced has ramifications beyond what you might expect. I am bringing this ordinance back for your consideration with a new number, a new title, and some amendments based upon Council comments received at the meeting. I am doing so because this ordinance is a key component of the effort to bring natural gas to Homer. Council has repeatedly identified this as a top priority and I believe understood that this ordinance was an important part of the strategy for success discussed at the workshop we had. It just seemed like this needed more discussion. If this ordinance does not pass, Council would essentially be saying that it has no intent to even discuss a gas distribution system LID. If that is the Council's intent, then we should be clear about it and avoid sending mixed or ambivalent messages to our partners and to the Legislature and Governor.

I want to apologize if we tried to do too much with the ordinance the first time around. As you know, we have been talking about revising this section of the code for some time and we may have tried to accomplish too much at once. Some of the proposed amendments clearly muddled the water and caused concern. A strikeout version was not provided and this concerned several of you because the amendments were not easy to identify. This new ordinance contains strikeouts and it also addresses the issues that caused the most concern, namely the supermajority issue and public notice.

Several issues came up that should be addressed. First of all, it should be noted that all this ordinance does is amend the code to allow gas utility LIDS if the Council chooses to create one. This is a necessary prerequisite. It puts Council in position to create an LID but it does not create one nor does it obligate you to do so. Even if the Council never establishes a gas LID, approving this ordinance would be a benefit because the City would be left with an improved section of code that would govern all future water and sewer LIDs.

Second, the question about whether the City should be subsidizing Enstar is a recurring one. The fact is that Enstar almost never pays for main line or distribution system expansions out of its own pocket. The customers do. It is the same with almost all utilities, including HEA. Homer residents are going to pay for getting gas mains in the streets one way or another. The question is whether

they pay for the full cost up front direct to Enstar or whether the City helps them get the benefit of gas quicker by providing financing at attractive terms. In short, the City would not be subsidizing Enstar, it would be subsidizing its own residents and businesses in an effort to lower the overall cost of living and stimulate economic growth. In fact, subsidizing is probably not even the correct term since the property owners would be paying all of the money back.

Third, some have questioned whether the City should provide financing for the construction of infrastructure that it does not own. This is common practice with all utilities including the City water and sewer system. Customers pay for the utility expansion and the utilities own the improvements. One way to look at this is who would you want to own the improvements? The City? Does the City want to be responsible for maintenance, operations, and the liability associated with gas lines? Does the City want to have anything to do with being in the gas utility business? You have made it pretty clear so far that you do not.

Finally, some have questioned whether the City should be in the business of promoting one business over another. This happens all the time because governments have an interest in doing things that benefit society as a whole. There are many, many examples of this and I won't go into that here. There is no doubt that if natural gas comes to Homer, some businesses will be negatively impacted. That is unfortunate and regrettable. However, many businesses and their customers will benefit. I believe that the City Manager has a responsibility to the Council to make recommendations that would benefit the community at large. This is perhaps one of the biggest economic and community development opportunities to hit Homer in decades. Perhaps it would be helpful to look at this question from another angle. Would it be proper for the City to deny the benefits of gas to its residents and business so that it could protect the interests of a few? Just food for thought and discussion.

3. Future Council Workshops: At the last meeting, the Council discussed several topics that would be suitable for future workshops. There were three topics discussed in particular that were prioritized in terms of timing in the following order: 1) Community Recreation Program 2) Community Economic Development Strategy (CEDS) and 3) E-Mail training. The Council asked me to come back with a suggested plan for addressing these issues. Council seems to like two hour workshops that are held from 4 to 6 PM on the Mondays between Regular Council meetings. If so, in April, the open dates would be April 2, 16, and 30. I don't think that any of us are all that interested in meeting every Monday for the next six weeks. If I am wrong, let me know! I would suggest starting with the Community Recreation Program on April 16 and then scheduling the CEDS on either April 30 or May 7. The e-mail training could require longer than two hours, especially if you want to add additional training topics. We should probably talk about that one a little more before scheduling something.
4. Juneau Trip: As you know, I was in Juneau March 14-16. While there, I had the opportunity to meet with two of the Governor's staff and a number of key

legislators, including Representative Seaton and Senator Stevens. The City Lobbyist was very helpful when it came to scheduling meetings, discussing key points, and formulating strategy. We worked on a number of bills and topics that might have impacts upon municipalities including revenue sharing and PERS. We also of course, focused on the City's capital projects. Most of the time was spent talking about the gas line, the gas distribution system, the proposed Port G.O. Bond (Deep Water Dock), and the Proposed Transportation Bond (City Intersection Improvements and Main St). We also talked about the City's number 3 and 4 priorities, (the firestation on Skyline and the Nick Dudiak Fishing Lagoon) since they are high priorities but lower cost requests which might be suitable for discretionary funding. Finally, there was discussion about a proposed amendment to the Capital Budget to provide low cost loans to Homer and a number of other communities through the Alaska Municipal Bond Bank. This low interest money could be used to finance the gas distribution system and could save a great deal of money. This issue is important and should be discussed further during the meeting.

5. HB 312: This is a bill that we are watching closely which could have big impacts for Homer residents if natural gas arrives in the community. Katie testified in favor at a hearing last week and Linda Anderson is working on it as well. Council has not formally expressed an opinion on this one so we want to bring it to your attention and make sure you knew that we are working on it. HB 312 would provide low interest loans to businesses and residents who wish to make the conversion to natural gas.

ATTACHMENTS

1. Letter to Chief Painter from Borough re: Alaska Shield 2012



KENAI PENINSULA BOROUGH

Office of Emergency Management

253 Wilson Lane • Soldotna, Alaska 99669-7932

Toll-free within the Borough: 1-800-478-4441, Ext. 4910

Phone: (907) 262-4910 • Fax: (907) 714-2395

www.borough.kenai.ak.us

**MIKE NAVARRE
BOROUGH MAYOR**

March 2, 2012

Robert Painter, Fire Chief
Homer Fire Department
604E. Pioneer Road
Homer, AK. 99603

Re: Alaska Shield 2012

Dear Bob,

I wanted to thank you for your efforts to make our Alaska Shield 2012 exercise as success. Your willingness to be the EOC Evaluator filled a key role in the exercise. Your experience in major events provided an important perspective on the exercise, revealing success or needed corrections to our EOC operating plans. We really appreciate your comments and suggestions for improvement.

When we first began thinking about the scenario for the exercise, we had no concept of what we might face if natural gas pressure was lost for a period of time. The lessons we learned with your help will be incorporated in our after-action report as well as in changes to our operating plans. I'm sure that the lessons we learned on human sheltering, pet sheltering, and incident management are applicable to any emergency situation we may have to address in the future.

Once again, please accept our gratitude. We are fortunate to have the City of Homer and the Homer Fire department as partners in protecting our citizens. We hope we will never face a similar emergency, but I think we will be better prepared for such an event than we were six months ago!

Sincerely,

Eric Mohrmann
Director OEM

Cc: City Manager Walt Wrede

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM - REPORT

TO: MAYOR HORNADAY AND HOMER CITY COUNCIL
FROM: JO JOHNSON, CMC, CITY CLERK
DATE: MARCH 20, 2012
SUBJECT: BID REPORT

ENGINEERING SERVICES FOR WATER AND SEWER PROJECTS AND FOR ROAD, TRAIL, AND DRAINAGE PROJECTS Proposals to provide professional engineering services for water and sewer projects and separate proposals for road, trail and drainage projects will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until 4:30 pm, Friday, March 16, 2012 (Roads, Trails and Drainage) and March 30 (Water and Sewer). Proposers are required to be on the City's RFP holder's list for their proposal to be considered. To get on the list and to access the RFP contact: City Clerk, 491 E. Pioneer Avenue

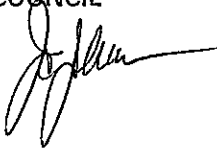
e, Homer, Alaska 99603, (907) 235-3130.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I

491 E. Pioneer Avenue
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(907) 235-3130
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Email: clerk@ci.homer.ak.us

MEMORANDUM

TO: MAYOR HORNADAY AND CITY COUNCIL
FROM: JO JOHNSON, CMC, CITY CLERK 
DATE: MARCH 20, 2012
SUBJECT: GAMES REPORT

We have received notification by the following entities of 2012 Alaska Gaming Permits:

Friends of the Homer Public Library

RECOMMENDATION:

Informational only.

Fiscal Note: Revenues.

"WHERE THE LAND ENDS AND THE SEA BEGINS"

To access City Clerk's Home Page on the Internet: <http://clerk.ci.homer.ak.us>



March 15, 2012

City Clerk
City of Homer

Attached is a copy of the Friends of the Homer Public Library's 2012 Alaska Gaming Permit Application. This permit, which we have had for many years, allows us to sell quilt raffle tickets. All proceeds from those sales are used to support services and programs of the Homer Public Library.

My understanding is that a copy of this application is to be included in the City Council's packet as an information item. Please give me a call at 235-6469 (my home phone) if you have any questions.

Thank you,

Marylou Burton
FHL Treasurer

2012 Alaska Gaming Permit Application

DEPARTMENT USE ONLY	
Validation #	
Date Stamp	

826

Organization Information

Federal EIN 92-0092030	If renewing, enter gaming permit # 1206	Phone Number (907) 435-3195	Fax Number (907) 235-3136
Organization Name Friends of the Homer Public Library, Inc.		Website Address www.friendshomerlibrary.org	
Mailing Address 500 Hazel Avenue		City Homer	State AK
		Zip + 4 99603	
Entity Type (check one)	Organization Type (check one) for definitions see AS 05.15.690 and 15 AAC 160.995.		
<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Association	<input checked="" type="checkbox"/> Charitable <input type="checkbox"/> Civic or service <input type="checkbox"/> Dog mushers' association <input type="checkbox"/> Educational <input type="checkbox"/> Fishing derby association <input type="checkbox"/> Fraternal <input type="checkbox"/> Labor <input type="checkbox"/> Municipality <input type="checkbox"/> Nonprofit trade association <input type="checkbox"/> Outboard motor association <input type="checkbox"/> Police or fire department <input type="checkbox"/> Political <input type="checkbox"/> Religious <input type="checkbox"/> Veterans <input type="checkbox"/> IRA/Native Village		
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does the organization have 25 or more members who are Alaska residents as defined in your articles of incorporation or bylaws?			

Members in Charge of Games

Members in charge must be natural persons and active members of the organization or employees of the municipality and designated by the organization. Members in charge may not be licensed as an operator, be a registered pull-tab vendor or an employee of a vendor for this organization. If more than one alternate, attach a separate sheet.

Primary Member First Name Marylou	M.I.	Primary Member Last Name Burton	Alternate Member First Name Carey	M.I.	Alternate Member Last Name James Restino
Social Security Number		Email burtons@mosquitonet.com	Social Security Number		Email info@friendshomerlibrary.org
Daytime Phone Number (907) 235-6469		Mobile Number	Daytime Phone Number (907) 435-3195		Mobile Number
Home Mailing Address PO Box 810			Home Mailing Address 4160 Trail Court		
City Homer	State AK	Zip + 4 99603	City Homer	State AK	Zip + 4 99603
Has the primary member passed the test? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Permit # under which test was taken: 1206	Has the alternate member passed the test? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Permit # under which test was taken: 1206

Legal Questions These questions must be answered, If you answer Yes to either question, see instructions.

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does any member of management or any person who is responsible for gaming activities have a prohibited conflict of interest as defined by 15 AAC 160.954?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Has any member of management or any person who is responsible for gaming activities ever been convicted of a felony, extortion, or a violation of a law or ordinance of this state, or another jurisdiction, that is a crime involving theft or dishonesty, or a violation of gambling laws?
---	--

We declare, under penalty of unsworn falsification, that I have examined this application, including any attachments, and that, to the best of our knowledge and belief, it is true and complete. We understand that any false statement made on the application or any attachments is punishable by law. By our signatures below we, the primary member, the alternate member, and if applicable, the manager of games, agree to allow the Department of Revenue to review any criminal history we may have, in accordance with 15 AAC 160.934.

Primary Member In Charge's Signature	Printed Name Marylou Burton	Date 3/15/12
President or Other Officer's Signature (see instructions)	Printed Name Sue Mauger	Date 3/15/12
Alternate Member In Charge's Signature	Printed Name Carey James Restino	Date 3/15/12
Manager of Games Signature	Printed Name	Date

Mail to: ALASKA DEPARTMENT OF REVENUE
TAX DIVISION - GAMING GROUP
PO BOX 110420
JUNEAU AK 99811-0420
Phone 907-465-2320 • Fax 907-465-3098

One copy of the completed application must be sent to the nearest municipality or borough. See instructions for mandatory attachments.

Pay online with OTIS at www.tax.alaska.gov or make check payable to State of Alaska. New applicants must pay by check.

Permit Fee

The permit fee is based on the 2011 estimated gross receipts. Check the appropriate box.

<input type="checkbox"/> New applicant	\$20
<input checked="" type="checkbox"/> \$0 - \$20,000	\$20
<input type="checkbox"/> \$20,001 - \$100,000	\$50
<input type="checkbox"/> \$100,001 or more	\$100

826
368

Retain a copy for your records

0405-826 Rev 08/11 • Page 1

2012 Alaska Gaming Permit Application

826

Gaming Permit # 1206	Organization Name Friends of the Homer Public Library, Inc.
-------------------------	--

Facility-Based Games (self-directed) If more than two facilities, attach a separate sheet.

Facility Name Homer Public Library	Physical Address 500 Hazel Avenue	City Homer	State AK	Zip + 4 99603
Facility Type (check one) <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Leased <input type="checkbox"/> Donated	Game Type (check all that apply) <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Pull-tabs <input type="checkbox"/> Animal classic (chicken)* <input type="checkbox"/> Animal classic (rat race)* <input type="checkbox"/> Special draw raffle ** <input type="checkbox"/> Calcutta pool**			

Facility Name	Physical Address	City	State AK	Zip + 4
Facility Type (check one) <input type="checkbox"/> Owned <input type="checkbox"/> Leased <input type="checkbox"/> Donated	Game Type (check all that apply) <input type="checkbox"/> Bingo <input type="checkbox"/> Raffle <input type="checkbox"/> Pull-tabs <input type="checkbox"/> Animal classic (chicken)* <input type="checkbox"/> Animal classic (rat race)* <input type="checkbox"/> Special draw raffle ** <input type="checkbox"/> Calcutta pool**			

Area-Based Games If more than two areas, attach a separate sheet.

*restricted game type **see instructions for mandatory attachments

Area	Game type (check all that apply) <input type="checkbox"/> Raffle <input type="checkbox"/> Contest of skill <input type="checkbox"/> Fish derby <input type="checkbox"/> Dog musher' contest <input type="checkbox"/> Classic (specify) _____
Area	Game type (check all that apply) <input type="checkbox"/> Raffle <input type="checkbox"/> Contest of skill <input type="checkbox"/> Fish derby <input type="checkbox"/> Dog musher' contest <input type="checkbox"/> Classic (specify) _____

Manager of Games Required only for self-directed pull-tabs and bingo.

Manager First Name	MI	Manager Last Name	Social Security Number	Daytime Phone Number
Home Mailing Address			Email	Mobile Phone
City	State	Zip + 4	Has the manager of games passed the test? <input type="checkbox"/> Yes <input type="checkbox"/> No	Permit # under which test taken

Vendor Information Attach 2012 vendor registration form(s) and fee(s) for each vendor listed below.

Bar or Liquor Store Name	Physical Address	City	State AK	Zip + 4
Bar or Liquor Store Name	Physical Address	City	State AK	Zip + 4
Bar or Liquor Store Name	Physical Address	City	State AK	Zip + 4
Bar or Liquor Store Name	Physical Address	City	State AK	Zip + 4
Bar or Liquor Store Name	Physical Address	City	State AK	Zip + 4

Operator Information

Designate operator who will conduct activities on the organization's behalf. Attach signed operating contract(s). If more than one operator, attach a separate sheet.

Operator License #	Operator	Facility Name	Game Type(s)
Physical Address		City	State Zip + 4

Multiple-Beneficiary Permittee Information (MBP)

Designate the MBP with which the organization has signed a partnership or joint venture agreement.

MBP Permit #	MBP Name	Facility Name	Game Type(s)
Physical Address		City	State Zip + 4

Dedication of Net Proceeds Describe in detail how the organization will use the net proceeds from gaming activities.

Proceeds are used to support services of the Homer Public Library as well as run free community programs of an educational nature.

CITY ATTORNEY REPORT

COMMITTEE REPORT(S)

PENDING BUSINESS

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-01

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.040, Definitions; Homer City Code 21.60.060, Signs Allowed on Private Property With and Without Permits; Homer City Code 21.60.070, Permits Required; Homer City Code 21.60.080 Design, Construction, and Maintenance; Homer City Code 21.60.090, Signs in the Public Right-of-Way; Homer City Code 21.60.095, Electoral Signs; Homer City Code 21.60.100, Signs Exempt From Regulation Under this Chapter; Homer City Code 21.60.110 Signs Prohibited Under this Chapter; Homer City Code 21.60.130, Temporary Signs-Private Property; Homer City Code 21.60.150, Time of Compliance-Nonconforming Signs and Signs Without Permits; and Homer City Code 21.60.170, Enforcement and Remedies; and Repealing Homer City Code 21.60.120, General Permit Procedures; Homer City Code 21.60.140, Temporary Signs-Public Rights-of-Way; and Homer City Code 21.60.160, Violations; Regarding the Regulation of Signs.

Sponsor: Planning/City Attorney

1. City Council Regular Meeting January 9, 2012 Introduction
 - a. Substitute Ordinance 12-01(S)
 - b. Memorandum 12-007 from City Planner as backup
 - c. Memorandum 12-008 from City Attorney as backup
2. City Council Regular Meeting January 23, 2012 Public Hearing and Second Reading
 - a. Substitute/Amended Ordinance 12-01(S)(A)
 - b. Memorandum 12-007 from City Planner as backup
 - c. Memorandum 12-008 from City Attorney as backup
3. City Council Regular Meeting January 23, 2012 Public Hearing and Second Reading
 - a. Substitute/Amended Ordinance 12-01(S)(A)
 - b. Memorandum 12-007 from City Planner as backup
 - c. Memorandum 12-008 from City Attorney as backup
4. City Council Regular Meeting March 27, 2012 Pending Business
 - a. Substitute/Amended Ordinance 12-01(S)(A)
 - b. Memorandum 12-007 and 12-051 from City Planner as backup
 - c. Memorandum 12-008 from City Attorney as backup
Memorandum 12-048 from Economic Development Advisory Commission as backup
 - d. Written public comment
 - e. Staff Reports and Memorandums from Planning Commission and Economic Development Advisory Commission meetings

CITY OF HOMER
HOMER, ALASKA

Planning/City Attorney

ORDINANCE 12-01(S)(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.60.040, DEFINITIONS; HOMER CITY CODE 21.60.060, SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS; HOMER CITY CODE 21.60.070, PERMITS REQUIRED; HOMER CITY CODE 21.60.080 DESIGN, CONSTRUCTION, AND MAINTENANCE; HOMER CITY CODE 21.60.090, SIGNS IN THE PUBLIC RIGHT-OF-WAY; **HOMER CITY CODE 21.60.095, ELECTORAL SIGNS;** HOMER CITY CODE 21.60.100, SIGNS EXEMPT FROM REGULATION UNDER THIS CHAPTER; HOMER CITY CODE 21.60.110 SIGNS PROHIBITED UNDER THIS CHAPTER; HOMER CITY CODE 21.60.130, TEMPORARY SIGNS-PRIVATE PROPERTY; HOMER CITY CODE 21.60.150, TIME OF COMPLIANCE-NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS; AND HOMER CITY CODE 21.60.170, ENFORCEMENT AND REMEDIES; AND REPEALING ~~HOMER CITY CODE 21.60.095, ELECTORAL SIGNS;~~ HOMER CITY CODE 21.60.120, GENERAL PERMIT PROCEDURES; HOMER CITY CODE 21.60.140, TEMPORARY SIGNS-PUBLIC RIGHTS-OF-WAY; AND HOMER CITY CODE 21.60.160, VIOLATIONS; REGARDING THE REGULATION OF SIGNS.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.60.040, Definitions, is amended to read as follows:

21.60.040 Definitions. ~~In~~ For the purpose of this chapter, **in addition to terms defined in HCC §21.03.040,** the following words and phrases shall have the meanings set forth in this ~~section~~ **chapter.**

"Abandoned sign-" **means a** ~~Any sign containing copy~~ that refers to a business or activity that is no longer being conducted or pursued.

"Animated sign-" **means a** Any sign that uses flashing lights, movement or change of lighting to depict action or create a special effect or scene, **or that includes characters, letters, or illustrations whose message changes at least one time per day; provided that a changing-** ~~A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature~~ **does not cause a sign to be** ~~shall be considered a time and temperature portion of a sign and not an animated sign for purposes of this chapter.~~

"Banner-" **means a** ~~Any sign of lightweight~~ **sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed of non-durable** ~~fabrie or similar materials, including without limitation~~ **cardboard, cloth and plastic.** ~~that is mounted to a pole or a building by a permanent frame at~~

[**Bold and underlined added.** Deleted language stricken through.]

one or more edges. **Banner material attached to a rigid frame on all edges or** A flag shall not be considered a banner.

"Beacon-" ~~means a~~ Any sign **that emits** with one or more beams **of light**, capable of being directed in **one or more** any direction or directions or capable of being rotated or moved.

"Building marker-" **means a wall** Any sign cut or etched into masonry, bronze, or similar material that includes only the building name, date of construction, or historical data on historic site.

"Building sign-" ~~means a~~ Any sign **that is** attached to **and/or supported by** any part of a building, **but that is not a freestanding sign** unless it is supported in whole or in part by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

"Changeable copy sign-" ~~means a~~ A sign **that includes** or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign, **and** A sign on which the message changes **less often** more than one time per day shall be considered an animated sign and not a changeable copy sign for purposes of this chapter; **provided that a A-changing** sign on which the only copy that changes is an electronic or mechanical indication of time or temperature **does not cause a sign to be** shall be considered a time and temperature portion of a sign and not a changeable copy sign for purposes of this chapter.

"Commercial message-" **means letters, graphic material or a combination thereof** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, brand, product, service or other commercial activity.

"Department-" The Planning and Zoning division or department of the City.

"Electoral sign-" Any sign used for the purpose of advertising or promoting a political party, or the election or defeat of a candidate initiative, referendum or proposition at an election.

"Flag-" **means the flag** Flags of the United States, the State, the City, a foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. A flag shall not be considered a banner for purposes of this chapter.

"Freestanding sign-" ~~means a~~ Any sign supported, in whole or in part, by structures or supports that are placed on, or anchored in, the ground and that are independent **of** from any building or other structure.

"Ground sign-" ~~means A~~ ground sign is a freestanding sign that is placed directly on the ground having or appearing to have a foundation or solid base beneath 50 percent or more of the longest horizontal dimension of the sign.

"Handbill-" Any flyer, notice or brochure advertising or promoting any product, business, cause, political candidate or issue, and intended for distribution to the general public.

"Incidental sign-" **means an** A sign, generally informational, **or directional sign** that **is incidental and subordinate** has a purpose secondary to **a principal** the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar

[**Bold and underlined added.** Deleted language stricken through.]

84 ~~directives. No sign with a~~ **and that bears no** commercial message **that is** legible from **outside**
85 **that** a position off the lot on which the sign is located shall be considered incidental.

86 ~~"Lot." See HCC § 21.32.030.~~

87 ~~"Marquee." Any permanent roof like structure projecting beyond a building or extending~~
88 ~~along and projecting beyond the wall of the building, generally designed and constructed to~~
89 ~~provide protection from the weather.~~

90 ~~"Marquee sign." means a~~ Any sign attached **in any manner** to, in any manner, or made a
91 part of, a **permanent roof-like structure projecting beyond a building, generally designed**
92 **and constructed to provide protection from the weather** marquee.

93 ~~"Non-conforming sign." Any lawfully pre-existing sign that does not conform to~~
94 ~~regulations of this chapter that became applicable after erection of the sign.~~

95 **"Official traffic control device" means a sign not inconsistent with Alaska Statutes**
96 **Title 28, placed or erected by authority of a state or municipal agency or official having**
97 **jurisdiction, for the purpose of traffic regulating, warning and guiding.**

98 ~~"Off-premises sign." means a~~ A sign containing a ~~commercial or non-commercial~~
99 message drawing attention to goods or services, business or other activity not offered or
100 conducted on the lot on which the sign is located.

101 ~~"Pennant." means a~~ Any lightweight plastic, fabric, or other material, whether or not
102 containing a message of any kind suspended from a rope, wire, or string, usually in series,
103 designed to move in the wind.

104 **"Permanent sign" means a sign that is not a temporary sign.**

105 ~~"Portable sign." means a~~ Any sign not permanently attached to the ground or other
106 permanent structure, or a sign designed to be transported, including signs designed to be
107 transported by means of wheels; signs converted to A or T frames; menu and sandwich board
108 signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on
109 vehicles parked and visible from the public right of way, unless said vehicle is used in the
110 normal day-to-day operations of the business.

111 ~~"Principal building." means a~~ The building in which is conducted the principal use of the
112 lot **is conducted** on which it is located. Lots with multiple principal uses may have multiple
113 principal buildings, but storage buildings, garages, and other accessory structures shall not be
114 considered principal buildings.

115 ~~"Projecting sign." means a~~ Any building sign **attached** affixed to a building or wall **and**
116 **that protrudes** in such a manner that its leading edge extends more than six inches beyond the
117 surface of **the** such building or wall.

118 ~~"Public sign." means A Public Sign is an~~ off-premises off premises sign **other than an**
119 **official traffic control device,** that provides direction **or information,** or identifies public
120 facilities such as parks, playgrounds, libraries, or schools or to a distinct area of the City, such as
121 Pioneer Avenue, the Homer spit, Old Town and entrances to the City. Public Signs may identify
122 categories of services available, but may not carry any other commercial message. Public signs
123 are non-regulatory.

[**Bold and underlined added.** Deleted language stricken through.]

"Residential sign-" means a ~~Any~~-sign located in the Rural Residential, Residential Office or Urban Residential zoning districts that contains no commercial message except for advertising for goods or services legally offered on the premises where the sign is located, if offering such services at such location conforms to ~~with~~ all requirements of the zoning code.

"Roof sign, integral." means a ~~Any~~-sign erected and constructed as an integral part of a ~~normal the roof of a building~~ structure, such that no part of the sign extends vertically more than two feet above the highest portion of that roof of which it is a part.

"Setback-" means the ~~The~~-distance between a sign located on a lot and the closest lot line and the sign.

"Sign-" means a ~~Any~~-device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

"Suspended sign-" means a ~~A~~ sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

"Temporary sign-" means a ~~Any~~-sign that is not affixed permanently to a building or to a permanent support or foundation, ~~used only temporarily and is not permanently mounted including without limitation menu or sandwich board signs.~~

"Wall sign-" means a ~~Any~~-sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall ~~or building or structure,~~ and which displays only one sign surface.

"Window sign-" means a ~~Any~~-sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the building window.

Section 2. The title and subsection (a) of Homer City Code 21.60.060, Signs allowed on private property with and without permits, are amended to read as follows:

21.60.060 Signs allowed on private property with and without permits. a. Signs shall be allowed on private property in the City ~~in accordance with,~~ and only in accordance with Table 1. If the letter "A" appears for a sign type in a column, such sign type is allowed without prior permit approval in the zoning district represented by that column. If the letter "P" appears for a sign type in a column, such sign type is allowed only with prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letter "N" appears for a sign type in a column, such a-sign type is not allowed in the zoning districts represented by that column under any circumstances. If the letters "PH" appear for a sign type in a column, such sign type is allowed in the zoning districts represented by that column only with prior approval by the Commission after a public hearing.

b. Although permitted under the previous paragraph, a sign designated by an "AP" or "PS" in Table 1 shall be allowed only if:

[Bold and underlined added. Deleted language stricken through.]

1. The sum of the area of all building and free standing signs on the lot **does not exceed** ~~conforms with~~ the maximum permitted sign area for the zoning district in which the lot is located as specified in Table 2; **and**

2. The characteristics of the sign conform **to** ~~with~~ the limitations of Table 3; Permitted Sign Characteristics, and with any additional limitations on characteristics listed in Table 1 or Table 2.

c. Any sign **type that is** not listed on the following tables **is prohibited** ~~are not permitted, with or without a permit.~~

Section 3. The Key to Tables 1 through 3 that follows Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

KEY to Tables 1 through 3	
RR Rural Residential	GBD Gateway Business District
UR Urban Residential	GC1 General Commercial 1
RO Residential Office	GC2 General Commercial 2
INS Institutional Uses Permitted in Residential Zoning Districts (a)	<u>EEMU East End Mixed Use</u>
CBD Central Business District	MC Marine Commercial
TC Town Center District	MI Marine Industrial
	OSR Open Space Recreation
	PS Public Sign Uses Permit
<u>AP</u> = Allowed without sign permit	
<u>PS</u> = Allowed only with sign permit	
N = Not allowed	
PH = Allowed only upon approval by the Planning Commission after a public hearing	
For parenthetical references, e.g., "(a)," see Notes following graphical portion of table.	

Section 4. Table 1 following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC 1	GC 2	<u>EEMU</u>	MC	MI	OSR	PS
<u>Freestanding</u>														
Residential (b)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	N	<u>N</u>	N	N	<u>AP</u>	PH
Other (b)	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u> (ik)	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	PH
Incidental (c)	N	N	<u>AP</u> (d)	<u>AP</u> (d)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	N	N
<u>Building</u>														
Banner	N	N	N	N	<u>NS</u>	<u>NS</u>	N	<u>NS</u>	<u>NS</u>	<u>N</u>	<u>NS</u>	<u>NS</u>	N	N
Building Marker (e)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N
Identification (d)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N
Incidental (c)	N	N	<u>AP</u> (f)	<u>AP</u> (e)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	N	N
Marquee (g)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Projecting (g)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Residential (b)	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	N	<u>N</u>	N	N	<u>AP</u>	N
Roof	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Roof, Integral	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Suspended (g)	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Temporary (gh)	<u>PN</u>	<u>PN</u>	<u>PN</u>	N	<u>P</u>	<u>P</u>	<u>PS</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	N	N
Wall	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	<u>AP</u>	<u>A</u> <u>P</u>
Window	N	N	<u>AP</u>	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
<u>Miscellaneous</u>														
Banner (e)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Flag (hi)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u> <u>P</u>
Portable	N	N	N	N	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>	<u>S</u>	N	N

[**Bold and underlined added.** Deleted language stricken through.]

Notes to Table 1:

- a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an established organization or corporation of a public, non-profit, or public safety/benefit nature, i.e., schools, churches, and hospitals.
- b. No commercial message allowed on sign, except for a commercial message drawing attention to goods or services legally offered on the lot, ~~except signs approved by the state of Alaska Department of Transportation and signs that meet the requirements of HCC § 21.60.092.~~
- c. No commercial message of any kind allowed on sign if such message is legible from any location off the lot on which the sign is located.
- d. Only address and name of occupant allowed on sign.
- e. May include only building name, date of construction, or historical data on historic site; must be cut or etched into masonry, bronze, or similar material.
- f. No commercial message of any kind allowed on sign.
- ~~g. If such a sign is suspended or projects above a public right of way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for such a sign in such form and such amount as the City planner may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least \$500,000 per occurrence per sign.~~
- gh. The conditions of HCC § 21.60.130 of this ordinance apply.
- hi. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the stars and stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.
- ~~j. Permitted on the same terms as a temporary sign, in accordance with HCC § 21.60.130, except that it may be free standing.~~
- jk. The main entrance to a development in GBD may include one ground sign announcing the name of the development. such sign shall consist of natural materials. Around the sign grass, flowers and shrubs shall be placed to provide color and visual interest. The sign must comply with applicable sign code requirements.

Section 5. Table 2 following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

Table 2. Maximum Total Sign Area Per Lot by Zoning District

Table 2 Part A

The maximum combined total area of all signs, in square feet, except incidental, building marker and flags (b) shall not exceed the following according to district:

R	UR	RO	RO (e)	INS (a)	OSR	PS (d)
4	4	6	50	20	4	32

[Bold and underlined added. Deleted language stricken through.]

Table 2 Part B

In all other districts not described in Table 2 Part A, the maximum combined total area of all signs, in square feet, except incidental, building marker and flags, shall not exceed the following:

<u>Square feet of wall frontage (c):</u>	<u>Maximum allowed sign area per lot</u>	<u>Principle Building:</u>
750 s.f. and over	150 s.f.	
650 to 749	130 s.f.	
550 to 649	110 s.f.	
450 to 549	90 s.f.	
350 to 449	70 s.f.	
<u>2000</u> to 349	50 s.f.	
<u>0</u> to 199	<u>30 s.f.</u>	

In all districts covered by Table 2 Part B, on any lot with multiple principal buildings or with multiple independent businesses or occupancies in one or more buildings, the total allowed sign area may be increased beyond the maximum allowed signage as shown in Table 2 Part B, by 20%. This additional sign area can only be used to promote or identify the building or complex of buildings.

In all districts covered by Table 2 Part B, freestanding signs, when otherwise allowed, shall not exceed the following limitations:

Only one freestanding sign is allowed per lot, except one freestanding Public Sign may be additionally allowed. A freestanding sign may not exceed ten (10) feet in height. The sign area on a freestanding sign (excluding a Public Sign) shall be included in the calculation of maximum allowed sign area per lot and shall not exceed the following:

One business or occupancy in one building – 36 sq ft

Two independent businesses or occupancies or principal buildings in any combination – 54 sq ft

Three independent businesses or occupancies or principal buildings in any combination – 63 sq ft

Four or more independent businesses or occupancies or principal buildings in any combination – 72 sq ft

Section 6. Table 3 following Homer City Code 21.60.060, Permitted Sign Characteristics by Zoning District, is amended to read as follows:

Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC 1	GC 2	<u>EEMU</u>	MC	MI	OSR	PS
Animated (b)	N	N	N	N	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	N	<u>P</u>	<u>PS</u>	N	N	N
Changeable Copy (c)	N	N	N	N	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	PH
Illumination Internal	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Illumination External	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	PH
Neon (d)	N	N	N	N	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N

[Bold and underlined added. Deleted language stricken through.]

Section 7. Homer City Code 21.60.070, Permits required, is amended to read as follows:

21.60.070 Sign permits ~~Permits required.~~ a. **No person may place, construct, erect or modify a sign for which** ~~If a sign requiring a provision of this chapter requires a permit without first obtaining a permit for the sign under this section the provisions of this chapter is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of HCC § 21.60.120.~~

b. **Applications.** ~~An application for a sign permit shall be submitted to the Department on an application form or in accordance with application specifications published by the Department. An application for a permit for a sign that is not an off-premises sign shall be submitted by the owner of the lot where the sign is to be located, or by a tenant leasing all or part of the lot when the sign names, advertises, or calls attention to a business, brand, product, service or other commercial activity of the tenant. No sign shall be erected in the public right-of-way except in accordance with HCC § 21.60.090 and the permit requirements of HCC § 21.60.140.~~

c. **Fees.** ~~An application for a sign permit shall be accompanied by the applicable fees established by the Homer City Council from time to time by resolution.~~

d. **Action.** ~~Within seven working days after the submission of a complete application for a sign permit, the Department shall:~~

1. **If the sign is allowed only with the prior approval of the Commission after a public hearing, refer the application to the next available Commission meeting for a public hearing.**

2. **If the sign is subject to administrative permit approval, either**

i. **Issue the sign permit, if each sign that is the subject of the application conforms in every respect with the requirements of this chapter; or**

ii. **Reject the sign permit if a sign that is the subject of the application fails in any way to conform to the requirements of this chapter. In case of rejection, the Department shall specify in the rejection the section or sections of this chapter to which the sign does not conform.**

Section 8. Subsection (b) of Homer City Code 21.60.080, Design, construction, and maintenance, is amended to read as follows:

b. Except for ~~banners~~ flags, temporary signs and window signs conforming in all respects to ~~with~~ the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

[Bold and underlined added. Deleted language stricken through.]

Section 9. Homer City Code 21.60.090, Signs in the public right-of-way, is amended to read as follows:

21.60.090 Permanent Signs in the public rights-of-way. No person may place, construct or erect a permanent sign shall be allowed in a the public right-of-way, except for the following:

a. ~~Permanent Signs. Only the following permanent signs, including:~~

a1. Official traffic control devices.

b. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;

c2. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;

and

d3. Signs containing commercial messages that have been must be approved by the State of Alaska Department of Transportation, Tourist Oriented Directional Signing Program.

~~b. Temporary Signs. Temporary signs for which a permit has been issued in accordance with HCC § 21.60.140, which shall be issued only for signs meeting the following requirements:~~

~~1. The signs shall contain no commercial message; and~~

~~2. The signs shall be no more than two square feet in area each.~~

~~3. Notwithstanding (1) and (2), such signs calling attention to civic events shall be no more than four square feet in area, if freestanding, or if street banner, may not exceed the width of traveled portion of road.~~

~~e. Emergency signs. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.~~

~~d. Other Signs Forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the City and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.~~

Section 10. Homer City Code 21.60.095, Electoral signs, is repealed. Subsection (d) of Homer City Code 21.60.095, Electoral Signs, is amended to read as follows:

d. An electoral sign shall not exceed 32-16 square feet in area and shall not exceed the height limitation applicable to non-electoral signs within the same zoning district.

Section 11. Homer City Code 21.60.100, Signs exempt from regulation under this chapter, is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

21.60.100 Signs exempt from regulation under this chapter. The following signs shall be exempt from regulation under this chapter:

a. Any sign bearing only a public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

b. Any emergency warning sign erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within a public right-of-way.

c. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located,

de. Works of art that do not contain a commercial message;

ed. Holiday lights between October 15 and April 15;

fe. Traffic control signs on private property, such as a stop sign, a yield sign, and similar signs, the face of which meet Department of Transportation standards and that contain no commercial message of any sort.

gf. Signs in existence before February 11, 1985, but such signs shall not be replaced, moved, enlarged, altered, or reconstructed except in compliance with this chapter.

Section 12. Homer City Code 21.60.110, Signs prohibited under this chapter, is amended to read as follows:

21.60.110 Signs prohibited under this chapter. All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with HCC § 21.60.100 are prohibited in the City. Without limiting the foregoing, examples of prohibited signs include:

a. **Banners;**

ba. Beacons;

cb. Pennants;

de. Strings of lights not permanently mounted to a rigid background, except those exempt under HCC § 21.60.100;

ed. Inflatable signs and tethered balloons;

fe. Animated signs that are neon, change colors, or exceed three square feet in area;

gf. Placement of hand bills, flyers, or bumper stickers on parked vehicles other than by owner;

h. Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by the Code; Prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service, business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.

ig. Abandoned signs, which shall be removed by the owner or lessee, if any, of the lot upon which the signs are located. If such owner or lessee fail to remove such signs after an opportunity for a hearing before the Planning Commission and fifteen days written notice to

[**Bold and underlined added.** Deleted language stricken through.]

remove given by the City, then (i) the owner or lessee has committed a violation, and (ii) the City may remove the signs and collect the cost of removal from such owner or lessee, who shall be jointly and severally liable for such cost.

Section 13. Homer City Code 21.60.120, General permit procedures, is repealed.

Section 14. Homer City Code 21.60.130, Temporary signs-private property, is amended to read as follows:

21.60.130 Temporary signs-~~Private property~~. a. **General. All temporary signs are subject to the following requirements:**

1. A temporary sign may not be an illuminated, animated, or changeable copy sign.

2. Unless a smaller area is required by another provision of this chapter, the area of a temporary sign shall not exceed 16 square feet.

3. A temporary sign whose message pertains to a specific date, event, or time period shall not be displayed for more than seven days after that date or the conclusion of the event or time period.

b. Commercial. A temporary sign that bears a commercial message is subject to the following:~~on private property shall be:~~

~~a. Term. A temporary sign shall not be displayed for more than 14 days in any 90-day period, except a sign offering for sale or lease the lot on which the sign is located, which is allowed as long as the property is for sale or lease.~~

~~b. Number. Only one temporary sign per lot is allowed.~~

1. One sign advertising the property on which the sign is located for sale or for rent; or

2. One sign advertising a temporary sale of household goods located on the lot where the sale is held.

3. One temporary sign other than those described in 1 and 2 above may be allowed by permit for displays of not more than 14 days in a 90 day period.

c. Non-commercial. Temporary signs that do not bear a commercial message are allowed on private property in any number, subject to the square footage limitations in this chapter.

Section 15. Homer City Code 21.60.140, Temporary signs-Public right-of-way, is repealed.

Section 16. Homer City Code 21.60.150, Time of compliance-Nonconforming signs and signs without permits, is amended to read as follows.

[Bold and underlined added. Deleted language stricken through.]

382 21.60.150 Time of compliance-Nonconforming signs and signs without permits. a.
383 Except as otherwise provided herein, the owner of any lot or other premises on which exists a
384 sign that does not conform to with the requirements of this chapter or for which there is no
385 current and valid sign permit must remove such sign or, in the case of a nonconforming sign,
386 bring it into conformity with the requirements of this chapter.

387 b. Signs that were prohibited by Ordinance 84-33(S), as amended by Ordinances 86-
388 18, and 89-8, and that are prohibited by in this chapter are illegal and must be removed
389 immediately.

390 c. Any sign that was constructed and continues to be maintained in accordance with
391 the applicable ordinances and other laws that existed prior to an amendment to this code, but
392 which becomes unlawful as a result of an amendment to this code, is lawfully nonconforming. A
393 sign that is lawfully nonconforming under this subsection may remain in place and continue to
394 be maintained until the information on the face of the sign is changed, or for a period of one
395 year after the effective date of the amendment, whichever occurs first. If any action is taken that
396 increases the degree or extent of the nonconformity with the amended code, the sign loses lawful
397 nonconforming status and must be removed immediately. ~~A change in the information on the~~
398 ~~face of an existing nonconforming sign is allowed.~~ At the end of the period during which the
399 lawfully nonconforming sign is allowed to remain in use, the sign shall either be removed or the
400 owner must obtain a permit, if required, and complete all other steps and make any modifications
401 necessary to bring it into full compliance with this code.

402 d. Any sign that was constructed and continues to be maintained in accordance with
403 the applicable laws that governed territory prior to its annexation to the City, but which becomes
404 unlawful under this code as a result of annexation to the City, is lawfully nonconforming. A sign
405 that is lawfully nonconforming under this subsection may remain in place and continue to be
406 maintained until the information on the face of the sign is changed, or for a period of one year
407 after the later of (i) the effective date of the annexation of the territory or (ii) the effective date of
408 the ordinance that assigns the territory in which the sign is located to a zoning district under the
409 Homer zoning code, whichever occurs first. If any action is taken that increases the degree or
410 extent of the nonconformity with the code, the sign loses lawful nonconforming status and must
411 be removed immediately. ~~A change in the information on the face of an existing nonconforming~~
412 ~~sign is allowed.~~ At the end of the period during which the lawfully nonconforming sign is
413 allowed to remain in use, the sign shall either be removed or the owner must obtain a permit, if
414 required, and complete all other steps and make any modifications necessary to bring it into full
415 compliance with this code.

416 e. Notwithstanding the remainder of this section, a nonconforming banner or
417 temporary sign shall be removed no later than March 1, 2012.

418
419 Section 17. Homer City Code 21.60.160, Violations, is repealed.

420
421 Section 18. Homer City Code 21.60.170, Enforcement and remedies, is amended to read
422 as follows:

[Bold and underlined added. Deleted language stricken through.]

21.60.170 Enforcement and remedies. In addition to the remedies provided in HCC Chapter 21.90, violations of this chapter are subject to the following remedies:

a. A person designated to enforce this title under HCC 21.90.020 may remove a temporary sign placed in a public right-of-way in violation of this chapter. The person responsible for the illegal placement shall be liable for the cost incurred in removing the sign. Any violation or attempted violation of this chapter or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to law.

b. Notwithstanding any other provision of this title:

1. An appeal to the Planning Commission from an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be filed within seven days after the date of distribution of the enforcement order to the person whose property is the subject of the enforcement order.

2. An appeal from a final decision of the Planning Commission regarding an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be taken directly to the Superior Court A violation of this chapter shall be considered a violation of the zoning code of the City, subject prosecution and, upon conviction, subject to fines pursuant to HCC § 21.90.100.

e. ~~The City shall have and may exercise all remedies provided for or allowed by City code or other law for the violation of the zoning code.~~

d. ~~All remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.~~

Section 19. Sections 1 through 18 of this Ordinance are of a permanent and general character and shall be included in the City Code.

Section 20. This Ordinance shall become effective on March 1, 2012.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of _____ 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

[Bold and underlined added. Deleted language stricken through.]

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ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

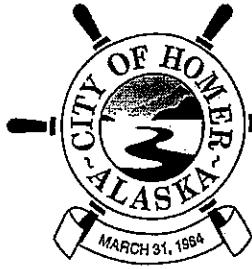
Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

[Bold and underlined added. Deleted language stricken through.]



City of Homer Planning & Zoning

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MEMORANDUM 12-007

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud, City Planner
DATE: January 4, 2012
SUBJ: Draft Ordinance 12-01, Sign Ordinance

Introduction

The Planning Commission is forwarding the Draft Ordinance 12-01 for review. The HAPC has had 17 work sessions, 14 regular meetings, 2 public workshops, a joint session with Council, and a public hearing regarding this issue.

Why

Work on the ordinance started out as a response to some specific items. Staff was looking for a directive to deal with noncompliant signage that had not been comprehensively addressed for many years, mostly dealing with the Spit and sandwich boards. The Planning Office was unable to issue a sign permits for new boardwalk businesses because we found that most all boardwalks were far past the sign allowance found in code and thus we could not condone any sign past the legal limits. Additionally, we were getting a large number of complaints about illegal sandwich board signs that were found off-site, in the rights-of-way, on the sidewalk, being displayed beyond the amount of time allowed in code, and in numbers exceeding limits in code. Complaints and comments were provided by a wide array of people including those on the council and commission along with business owners (especially competing businesses) and the general public

What

Measure signage per building from per lot

To make it less complicated and easier to enforce and permit on the spit, changes were made to table 2 part B, line 216 that allows signage to be measured per Principle Building instead of Per Lot. It is proposed that signage be displayed in proportion to the size of individual structures and not limited to 150 square feet per lot (some spit lots have over 12 buildings).

Temporary Signs

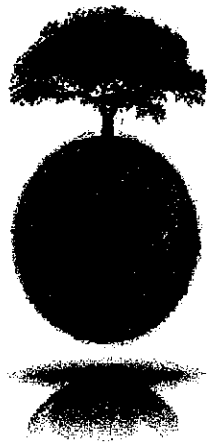
Generally, temporary signs are those that are temporary in physical nature and in display term. They are only allowed on-site within the boundary of the parcel and should not be placed on a sidewalk, ROW, or blocking a sight triangle. Additionally, they need to fit within the total amount of allowed signage per lot. These are universal concepts that are not proposed to be compromised. Now it gets more complicated, as I try to explain what is currently allowed to what is proposed.

Currently, one may use a temporary sign on private property (one per lot) for up to 14 days in a

January 9, 2012

Attachments

1. Draft Ordinance 11-XX
2. Staff Report 11-108 and minutes
3. Staff Report 11-106 and minutes
4. Staff Report 11-99 and minutes
5. Staff Report 11-93 and minutes
6. Staff Report 11-82 and minutes
7. Staff Report 11-78 and minutes
8. Staff Report 11-68 (Work Session)
9. Staff Report 11-61 and minutes
10. Staff Report 11-53 and minutes
11. Staff Report 11-46 and minutes
12. Staff Report 11-42 and minutes
13. Staff Report 11-37 (Work Session)
14. Staff Report 11-31 (Joint Work Session with City Council)
15. Staff Report 11-16 (Work Session)
16. Staff Report 10-105 and minutes
17. Staff Report 10-97 and minutes
18. Staff Report 10-88 (Work Session)
19. Staff Report 10-97 and minutes



To reduce copying costs and save a tree,
backup information to Memorandum 12-007 was
excluded from this packet.

Please refer to the January 9th City Council packet
for all the backup information pertaining to Ordinance
12-01(S)(A).

MEMORANDUM 12-008

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: THOMAS F. KLINKNER

RE: SUBSTITUTE ORDINANCE AMENDING CITY SIGN CODE

CLIENT: CITY OF HOMER

FILE NO.: 506,742.521

DATE: JANUARY 4, 2012

Presented among ordinances for introduction at the January 9, 2012 Council meeting is an ordinance that makes numerous amendments to HCC 21.60, the City's sign code. The Homer Advisory Planning Commission developed these amendments with the advice and assistance of the Planning Department and the City Attorney. Accompanying this memorandum is a substitute ordinance amending the sign code, which includes the following changes that I recommend to the ordinance recommended by the Commission.

1. Definition of window sign (Section 1, page 4, lines 146-149). This definition is revised to delete language that is redundant with the definition of "sign" in the same code section and to clarify that the definition does not apply to a sign that is visible only within a building.

2. Section 4, table and annotations. This table (page 6) and the annotations to this table are revised as follows:

- Freestanding/Other. The correct annotation reference letter is "i" rather than "j".
- Freestanding/Incidental. The "c" annotation reference under "INS" is redundant and is deleted.
- Building/Marquee and Building/Suspended. The former "g" annotation (page 7, lines 196-200), which imposed a liability insurance requirement for certain marquee and suspended signs, has been deleted, so the "g" annotation reference for these two rows also should be deleted.
- "b" annotation (page 7, lines 188-189). The last part of this annotation conflicts with the definition of "residential sign" in HCC 21.60.040, and should be deleted.
- Former "j" annotation (page 7, lines 207-208). This annotation applied to "portable signs", a category of sign that has been combined with temporary signs in the revised sign code, and should be deleted.

3. Section 7, page 9, lines 234-236. The deletion of the language stricken through was omitted inadvertently from the ordinance.



**CITY OF HOMER
CITY HALL**

MEMORANDUM 12-048

To: Mayor and Council
Homer Advisory Planning Commission

From: Economic Development Advisory Commission

Date: March 14, 2012

Subject: Ordinance 12-01(S)(A) – Sign Code

At the March 13th meeting of the Economic Development Commission the four members present discussed Ordinance 12-01(S)(A), the Sign Code, in light of recent amendments made by the Homer Advisory Planning Commission.

The Economic Development Commission made a motion to allow a sign with a commercial message to be displayed for up to 14 days in a 90 day period with a permit and to limit the 90 day period to the same quarterly schedule as Kenai Peninsula Borough sales taxes are collected.

The only change from the planning Commission recommendation to the Council on temporary signs is to make the 90 day period consistent with the Kenai Peninsula Borough sales tax quarterly schedule.



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MEMORANDUM 12-051

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud, City Planner
DATE: March 15, 2012
SUBJ: Draft Ordinance 12-01(S)(A), Sign Ordinance

Introduction

Since the City Council had last seen this ordinance it has been on the Planning Commission worksession and regular meeting agenda each twice and EDC has reviewed it twice, once before the PC amendments and once after.

Items for review

After reviewing the motions made by the City Council, I broke down the item to consider:

Safety

In all the reviews it was concluded that the provision in code regarding the placement of temporary signs adequately addressed safety and that added measures of enforcement should be all that is necessary.

Election Signs

This is basically a non-starter subject with either commission. The PC was unable to pass a motion supporting 32 or 24 square feet maximum per sign and the EDC did not address the subject.

Temporary Commercial Signs (sandwich boards)

This obviously is the subject that had the most debate. Both commissions took around an hour of time for each conversation. One thing is for sure though; each and every alternative has its plusses and minuses. This is why the conversations went on for so long.

First after exploring many options, the EDC ended up unanimously supporting the original ordinance that banned temporary commercial signs. This may have been a result of being overwhelmed when considering all of the effects of the various alternatives. It really takes a lot of time and effort to examine the benefits and effects of the various alternatives.

Next, it came to the PC. Several options were suggested and the four votes necessary to pass a motion did not materialize. Finally, a motion was passed to allow for the display of a temporary commercial sign (e.g. sandwich board) for up to 14 days out of a ninety day period with a sign permit. Consideration that contributed to the motion included:

Commercial vs. Non-commercial

This is NOT profit vs. non-profit. Many non-profits are involved in commercial activity. These terms refer to the message and a commercial message "directly or indirectly, names, advertises, or calls attention to a business, brand, product, service or other commercial activity" and a non-commercial message does not. I would be hard pressed to not consider the Nut Cracker Fair or the Street Fair non-commercial activities. No allowance for commercial temporary signs means no temporary signs for community events such as these.

Allowing the display for 14 out of ninety days maintains the option of commercial messages. It is still a temporary display that may be used for non-routine sales or commercial events. It is the current option that would be reinforced and explained when businesses obtain the permit now required.

Staff recommendation:

Review changes and consider recommendation of the EDC. If any other changes are made or suggested, they will need to be crafted and reviewed again. Changes in policy will need to be considered for the impacts that they will have and it would be very difficult for me to take it all under consideration without some time for reflection and some back and forth conversations with the body, preferably in a worksession atmosphere.

Attachments

1. Draft Ordinance 11-01(S)(A)
2. Memo EDC 2.3.12
3. Minutes EDC 2.14.12
4. Memo EDC 3.12.12
5. Staff Report 12-09
6. Minutes PC 2.15.12
7. Staff Report 12-10
8. Minutes PC 3.7.12



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MEMORANDUM 12-

TO: Economic Development Committee
FROM: Rick Abboud, City Planner
DATE: February 3, 2012
SUBJ: **Ordinance 12-01(S)(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.040, Definitions; Homer City Code 21.60.060, Signs Allowed on Private Property With and Without Permits; Homer City Code 21.60.070, Permits Required; Homer City Code 21.60.080 Design, Construction, and Maintenance; Homer City Code 21.60.090, Signs in the Public Right-of-Way; Homer City Code 21.60.100, Signs Exempt From Regulation Under This Chapter; Homer City Code 21.60.110 Signs Prohibited Under This Chapter; Homer City Code 21.60.130, Temporary Signs-Private Property; Homer City Code 21.60.150, Time of Compliance-Nonconforming Signs and Signs Without Permits; and Homer City Code 21.60.170, Enforcement and Remedies; and Repealing Homer City Code 21.60.095, Electoral Signs; Homer City Code 21.60.120, General Permit Procedures; Homer City Code 21.60.140, Temporary Signs- Public Rights-of-Way; and Homer City Code 21.60.160, Violations; Regarding the Regulation of Signs. Introduction January 9, 2012, Public Hearing and Second Reading January 23, 2012.

Task of the EDC

The EDC should review proposed policy on temporary sign regulation in consideration of the motions made by the City Council and suggest a direction for additional consideration or not, when so decided by the body.

Introduction

At the January 23 City Council meeting, the council referred the fore mentioned ordinance to the EDC for input. The input requested was provided in motions regarding specific elements of the ordinance. These motions included (some paraphrased):

SEND IT BACK WITH SOMETHING FOR SANDWICH BOARD SIGNS

AMEND THAT THE TEMPORARY SIGN SECTION BE REINSTATED THROUGHOUT THE ENTIRE ORDINANCE AND SOME LIMITATION BE PLACED ON REAL ESTATE SIGNS, AND ELECTORAL SIGNS STAY AT 32 FT.

AMEND THAT THEY COME UP WITH A POLICY FOR SANDWICH SIGNS AND HOW THEY CAN BE USED AS AN ADVERTISING TOOL.

SEND IT BACK WITH AN EMPHASIS BASED ON SAFETY.

Big Picture

While we have heard from several small business owners testifying about how these signs contribute to their bottom line, the Planning Commission did consider the impact to the community as a whole. A point to keep in mind when reviewing a planning ordinance is how it affects the entire community and not just specific individuals.

It has been recognized that there were some problems with sandwich signs (believe it or not, responding to complaints about these signs became one of the most time intensive things with which the office dealt). Basically, current regulations were not being enforced and/or followed. This resulted in an escalation of these types of signs and violations to the requirements for display. The Planning Commission did meet with the City Council and given the 'something must be done' suggestion.

The intent of the sign ordinance relating to temporary signs including sandwich boards currently found in code is that these signs are for special or temporary events and that approximately once a week or the equivalent a temporary sandwich board can be used to advertise the event. It is not meant for permanent display as much of the rest of the sign code provides for permanent display. One sign is allowed per lot for display during 14 days out of a 90 day period, basically once a week. They are not to be off the lot and cannot be blocking a sight triangle, sidewalk, or be placed in a right-of-way. All signs on the lot with a commercial message shall not exceed the total amount allowed in code.

So what exactly are we talking about? The Planning Commission decided that continued escalation of the commercial sandwich board was negatively affecting the community. They do not believe that Homer will be positively served when all businesses start displaying sandwich boards in addition to all the other signage allowed in code. I also believe that consideration was given to fact that these signs and especially their permanent display, leads to either an inequity for those not using them or an escalation to recapture market share. Do people come to see signs? How many signs does it take to see a diminishing return for the signs themselves or for the community as a whole? It might be helpful to call out where the tanning place or hair stylists is located, but do we really want to see "Beer \$8.99 a six" on sandwich boards all over town (just an example)? These messages cannot be distinguished in code so it is either all or none. The Planning Commission chose none but, left an allowance for charitable community events (not nonprofits in general), garage and real estate sales. There was a motion to place some limitation on real estate signs and I am suggesting enforcement of the rules, which do not allow for off-site display.

The City Council sent a less than pointed message, which I will respond to motion by motion.

SEND IT BACK WITH SOMETHING FOR SANDWICH BOARD SIGNS

I take it that they wish for a different policy, 'something'?

AMEND THAT THE TEMPORARY SIGN SECTION BE REINSTATED THROUGHOUT THE ENTIRE ORDINANCE AND SOME LIMITATION BE PLACED ON REAL ESTATE SIGNS, AND ELECTORAL SIGNS STAY AT 32 FT.

Temporary signs – I am interpreting this to mean that they mean to go back to the 14 day out of a 90 day period for display of sandwich boards as suggested by Council member Howard.

Things to consider;

Enforceability – My main issue with this provision is that the prescribed 90 day period is open to interpretation. I would need to know the first day of display and someone might have to keep track of days of display. Everyone could be on different schedules, making it challenging to enforce. Options to consider: Would a set period of display make it easier? Prescribe 4 quarters starting with January 1? Many communities just give a set amount of days for display such as 30 days.

Real Estate Signs – Limitations

Limitations are already placed on these sign: 1 per lot where sale property is located. I am not sure that it is practical to limit a real estate sign for a time of display less than the time for which the transaction takes place. They are required to be removed after the sale.

We can go about making sure that these are not in violation.

Electoral Signs

Easy fix, remove strike out in proposed ordinance. Unfortunately we are headed further away from the recommendations of the Planning Commission (limited to a maximum size of 16sf like any other temporary sign) and City Attorney (recommended that they be treated like any other temporary sign in that they conform to the rules of district in which they are found in size and allowance).

AMEND THAT THEY COME UP WITH A POLICY FOR SANDWICH SIGNS AND HOW THEY CAN BE USED AS AN ADVERTISING TOOL.

The version of the ordinance under consideration by the City Council did have a policy for how sandwich boards could be used as an advertising tool, specifically for special events, garage sales and real estate. So if we are to review other options they might include:

- 1. For temporary commercial display as discussed above.*
- 2. They could be required to be displayed during hours of operation only.*

I have to remind that we should only be concerned with time and size of display for the various zoning districts. Regulation of content or design (such as color) is questionable for code.

SEND IT BACK WITH AN EMPHASIS BASED ON SAFETY.

The current regulations and proposed regulations do have provisions sufficient to ensure the public's safety. I see this as more of an enforcement issue. The Planning Office will need to dedicate more resources to ensure that these regulations are followed.

Testimony

The people that testified generally had a personal stake in sandwich boards and displayed varying degrees of understanding regarding current and proposed regulations. What I heard most of them saying was that they wanted to be able to display sandwich boards continuously. To me this means that they wish to move from temporary display to permanent display. Although I saw no direct support for this from either the Planning Commission or the City Council, provisions could be made to permit sandwich boards with other permanent signage. They could be allowed within the allowances for the various districts and thought could also be given to whether or not they should be required to be displayed only during business hours.

Task of the EDC

The EDC should review proposed policy on temporary sign regulation in consideration of the motions made by the City Council and suggest a direction for additional consideration or not, when so decided by the body. The actual ordinance is by nature quite complex and I will wait until receiving some specific guidance before crafting any revisions to code.

Attachments

1. Draft Ordinance 11-XX, temporary sign section
2. Memo to City Council.
3. Excerpt of 1-23-12 City Council minutes.

ECONOMIC DEVELOPMENT ADVISORY COMMISSION
REGULAR MEETING
FEBRUARY 14, 2012

Community and Economic Development Coordinator Koester reviewed the memorandum she presented as a laydown. The group discussed the concepts of organizing the event and members discussed previous experiences they have had with events like this. Mrs. Koester asked the Commissioners what areas they suggest focusing for an event and responses included natural resources that can be turned in to small businesses and also marine trades.

C. Invite extended to Marine Trades Association for March meeting.

Community and Economic Development Coordinator Koester advised that Kate Mitchell and other members of the Marine Trades Association will be at the March meeting to give a presentation.

PUBLIC HEARING

PENDING BUSINESS

NEW BUSINESS

A. Review of Sign Ordinance 12-01(S)(A) and EDC Recommendations

City Planner Abboud reviewed his staff report provided in the packet and gave an overview of the Planning Commissions work regarding temporary signs.

FAULKNER/NEECE MOVED THAT THE EDC SUPPORTS THE SIGN ORDINANCE AS SUBMITTED TO THE COUNCIL BY THE PLANNING COMMISSION.

Commissioner Faulkner expressed his reasoning for supporting the sign ordinance as follows:

- There are so many sixty day businesses on the spit that don't care to read and follow the sign ordinance.
- When one business displays a sandwich board, neighboring businesses do the same and the signs proliferate.
- The Planning Commission prepared a good ordinance that addresses issues that needed to be changed.

Commissioner Sarno questioned if the signs work and if they are taken away will it harm businesses? City Planner Abboud commented that we are at the end of the road and businesses don't have to stop people before they get to Fritz Creek, as an example. A temporary sign takes a market share from another local business, and then when everyone has one their returns diminish. He posed the question do the temporary signs make more people come back to our community? Commissioner Sarno commented regarding safety

Chair Davis and Commissioner Wagner felt that the issue is finding a way to allow them but make it enforceable. Chair Davis questioned the legality of prohibiting commercial temporary signs but allowing them for charitable events. City Planner Abboud explained that the City Attorney advised that the restriction is allowable as long as non commercial messages are given more leniency than commercial messages.

VOTE: YES: FAULKNER, NEECE
NO: DAVIS, WAGNER, SARNO

ECONOMIC DEVELOPMENT ADVISORY COMMISSION
REGULAR MEETING
FEBRUARY 14, 2012

Motion failed.

The Commission had discussion of options. Comments included a city issued decal that includes a date to be displayed on temporary signs; changing the 14 days out of 90 to 14 days out of a quarter; designating different zones with separate rules; and seasonal allowances.

Comments were reiterated that if you allow one sandwich board on the spit or along Pioneer Avenue you are allowing 200. That's the way competition works. Allowing 14 day temporary commercial message signs, the city could hire a full time sign person, but it will never be enforced and the business community will be riled up as their signs are piled in the back of a pick-up. It puts planning in the position of being the bad cops. It seems more appropriate to say no to commercial sandwich boards.

Regarding different rules for zones, City Planner Abboud explained that different districts have different sign rules, but in relation to allowing temporary signs in one zone and not another, it is an issue of competition and the majority of the Planning Commission felt that the temporary sign rules in town should be the same on the spit.

Point was raised regarding safety and the high winds that blow on the spit, the signs can cause harm to property if they hit buildings, cause injury if they hit a pedestrian, and on the spit, they can end up in the bay. It was expressed that the only way to resolve the problem is to fix it to the ground with posts on the businesses property and then it becomes a permanent sign.

Commissioner Faulkner pointed out that what is legal in the sign ordinance as submitted. Sandwich board signs are the only controversy being stirred up by a half a dozen business owners. The ordinance has a lot in to allow people to do legal signage. City Planner Abboud noted that changeable copy is allowed, for example so business can display their special of the day.

Commissioner Neece added that a lot of times you can't see the sandwich boards because people are crowded around them or people move them out of their way. They are more of a hindrance than a help. There are many communities that don't allow sandwich board signs. They are prolific and dangerous, and something permanent on the side of a building is a better approach.

WAGNER/SARNO MOVED TO RECONSIDER COMMISSIONER FAULKNER'S MOTION.

There was no discussion.

VOTE: YES: NEECE, SARNO, FAULKNER, DAVIS, WAGNER

Motion carried and the following motion was back on the floor:

FAULKNER/NEECE MOVED THAT THE EDC SUPPORTS THE SIGN ORDINANCE AS SUBMITTED TO THE COUNCIL BY THE PLANNING COMMISSION.

Question was raised if this is wise. City Planner Abboud commented that the Planning Commission considered all of the same issues and it isn't as simple when you are considering

ECONOMIC DEVELOPMENT ADVISORY COMMISSION
REGULAR MEETING
FEBRUARY 14, 2012

it for the whole community. There are a lot of businesses that didn't and won't show up because sandwich boards aren't their thing.

VOTE: YES: DAVIS, FAULKNER, SARNO, NEECE, WAGNER

Motion carried.

INFORMATIONAL ITEMS

COMMENTS OF THE AUDIENCE

Franco Venuti stated he is a city resident and a planning commissioner. He also served for six years as a member of the Chamber of Commerce Board of Directors, so he is pro business. He appreciates the EDC supporting the Planning Commission, but they didn't do what City Council asked of them. The Planning Commission worked on it for about year. Last year a city in Brazil made an ordinance that eliminated all signs, imagine the bloodshed over that. He explained the Planning Commission held a public hearing and business people in town argued for sandwich board signs and had good arguments. If he is looking for a hair cut he looks for his barbers sandwich board sign. He said he his talking for himself and not the Commission and many of them may not agree with him on this. He thinks sandwich board signs could be done through a permit and enforceable with a date on the sign. The Council said they wanted the EDC to come up with a solution and they haven't. They shot themselves and the Planning Commission in the foot because now he doesn't think they will have a sign ordinance this year. Things move at a snails pace and change doesn't happen quickly. He doesn't think the EDC did the right thing for the common good. He thinks it would be helpful if the EDC could meet with the PC to have a discussion to hash out the sign ordinance. We can't just say no and have it go in circles.

Commissioner Faulkner asked what his solution would be. Mr. Venuti said that speaking on his own behalf he thinks it should be a permit-able sign with an obvious date attached, not allowed in right away, not within 50 feet of an intersection, readable from 50 feet and provided they haven't exceeded their allotted signage, and to institute a business license and make it self policing. His concern with sandwich boards is safety at intersections.

Chair Davis expressed some frustration in that Planning worked on it for over a year, and then Council asks the EDC to come up with a solution in one night. He would be willing for the commissions to have some discussion if the opportunity arises.

Bumppo Bremicker, city resident, remembers when the sign code got started over the golden arches. This is not a new issue; it's been going on for years and for Council to send it to EDC and say "fix it" is unreasonable. Brad's motion was the only reasonable solution. The sandwich boards have been dealt with, you can have a sign of an allowable size permanently mounted on the property or building, it's been fought out for years. He noted Maura's sign and while he loves to go there, they aren't even open and the sandwich id board on the corner blocking the intersection. It's ridiculous. There has to be a rule. Don't pass rules that can't be enforced. Make it fair, clear, and enforce it. He said he is against sandwich boards. If you have a business you need to have a reasonable plan for a sign on a building or a pole. We've gone through this.



**CITY OF HOMER
CITY HALL**

MEMORANDUM

To: Mayor and Council
Homer Advisory Planning Commission

From: Economic Development Advisory Commission

Date: March 14, 2012

Subject: Ordinance 12-01(S)(A) - Sign Code

At the March 13th meeting of the Economic Development Commission the four members present discussed Ordinance 12-01(S)(A), the Sign Code, in light of recent amendments made by the Homer Advisory Planning Commission.

The Economic Development Commission made a motion to allow a sign with a commercial message to be displayed for up to 14 days in a 90 day period with a permit and to limit the 90 day period to the same quarterly schedule as Kenai Peninsula Borough sales taxes are collected.

The only change from the planning Commission recommendation to the Council on temporary signs is to make the 90 day period consistent with the Kenai Peninsula Borough sales tax quarterly schedule.



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STAFF REPORT PL 12-09

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: February 15, 2012
SUBJECT: sign ordinance

At the direction of the City Council, the sign ordinance is up for additional consideration. I am including all the material provided the Economic Development Committee as back up material. Their meeting is the night before the Planning Commission's and I will have additional feedback at the meeting. The motion is actually for the EDC to review after the PC. This is quite a dilemma because of the knowledge base necessary to review amendments in relation to the workings of the entire ordinance. If this was easier, I might have been able to offer up amendments that could have worked for the City Council. Unfortunately, there was no way to make a simple amendment that would have addressed the desire of the council.

I am looking to see if the PC has any suggestions for direction in light of the concerns of the City Council and the EDC. Please bring past sign ordinance materials for reference.

Att.
EDC memo
CC minutes
Temporary sign ord. excerpt
Memo to CC





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Web Site www.ci.homer.ak.us

MEMORANDUM 12-

TO: Economic Development Committee
FROM: Rick Abboud, City Planner
DATE: February 3, 2012
SUBJ: **Ordinance 12-01(S)(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.040, Definitions; Homer City Code 21.60.060, Signs Allowed on Private Property With and Without Permits; Homer City Code 21.60.070, Permits Required; Homer City Code 21.60.080 Design, Construction, and Maintenance; Homer City Code 21.60.090, Signs in the Public Right-of-Way; Homer City Code 21.60.100, Signs Exempt From Regulation Under This Chapter; Homer City Code 21.60.110 Signs Prohibited Under This Chapter; Homer City Code 21.60.130, Temporary Signs-Private Property; Homer City Code 21.60.150, Time of Compliance-Nonconforming Signs and Signs Without Permits; and Homer City Code 21.60.170, Enforcement and Remedies; and Repealing Homer City Code 21.60.095, Electoral Signs; Homer City Code 21.60.120, General Permit Procedures; Homer City Code 21.60.140, Temporary Signs- Public Rights-of-Way; and Homer City Code 21.60.160, Violations; Regarding the Regulation of Signs. Introduction January 9, 2012, Public Hearing and Second Reading January 23, 2012.

Task of the EDC

The EDC should review proposed policy on temporary sign regulation in consideration of the motions made by the City Council and suggest a direction for additional consideration or not, when so decided by the body.

Introduction

At the January 23 City Council meeting, the council referred the fore mentioned ordinance to the EDC for input. The input requested was provided in motions regarding specific elements of the ordinance. These motions included (some paraphrased):

SEND IT BACK WITH SOMETHING FOR SANDWICH BOARD SIGNS

AMEND THAT THE TEMPORARY SIGN SECTION BE REINSTATED THROUGHOUT THE ENTIRE ORDINANCE AND SOME LIMITATION BE PLACED ON REAL ESTATE SIGNS, AND ELECTORAL SIGNS STAY AT 32 FT.

AMEND THAT THEY COME UP WITH A POLICY FOR SANDWICH SIGNS AND HOW THEY CAN BE USED AS AN ADVERTISING TOOL.

SEND IT BACK WITH AN EMPHASIS BASED ON SAFETY.

Big Picture

While we have heard from several small business owners testifying about how these signs contribute to their bottom line, the Planning Commission did consider the impact to the community as a whole. A point to keep in mind when reviewing a planning ordinance is how it affects the entire community and not just specific individuals.

It has been recognized that there were some problems with sandwich signs (believe it or not, responding to complaints about these signs became one of the most time intensive things with which the office dealt). Basically, current regulations were not being enforced and/or followed. This resulted in an escalation of these types of signs and violations to the requirements for display. The Planning Commission did meet with the City Council and given the 'something must be done' suggestion.

The intent of the sign ordinance relating to temporary signs including sandwich boards currently found in code is that these signs are for special or temporary events and that approximately once a week or the equivalent a temporary sandwich board can be used to advertise the event. It is not meant for permanent display as much of the rest of the sign code provides for permanent display. One sign is allowed per lot for display during 14 days out of a 90 day period, basically once a week. They are not to be off the lot and cannot be blocking a sight triangle, sidewalk, or be placed in a right-of-way. All signs on the lot with a commercial message shall not exceed the total amount allowed in code.

So what exactly are we talking about? The Planning Commission decided that continued escalation of the commercial sandwich board was negatively affecting the community. They do not believe that Homer will be positively served when all businesses start displaying sandwich boards in addition to all the other signage allowed in code. I also believe that consideration was given to fact that these signs and especially their permanent display, leads to either an inequity for those not using them or an escalation to recapture market share. Do people come to see signs? How many signs does it take to see a diminishing return for the signs themselves or for the community as a whole? It might be helpful to call out where the tanning place or hair stylists is located, but do we really want to see "Beer \$8.99 a six" on sandwich boards all over town (just an example)? These messages cannot be distinguished in code so it is either all or none. The Planning Commission chose none but, left an allowance for charitable community events (not nonprofits in general), garage and real estate sales. There was a motion to place some limitation on real estate signs and I am suggesting enforcement of the rules, which do not allow for off-site display.

The City Council sent a less than pointed message, which I will respond to motion by motion.

SEND IT BACK WITH SOMETHING FOR SANDWICH BOARD SIGNS

I take it that they wish for a different policy, 'something'?

AMEND THAT THE TEMPORARY SIGN SECTION BE REINSTATED THROUGHOUT THE ENTIRE ORDINANCE AND SOME LIMITATION BE PLACED ON REAL ESTATE SIGNS, AND ELECTORAL SIGNS STAY AT 32 FT.

Temporary signs – I am interpreting this to mean that they mean to go back to the 14 day out of a 90 day period for display of sandwich boards as suggested by Council member Howard.

Things to consider;

Enforceability – My main issue with this provision is that the prescribed 90 day period is open to interpretation. I would need to know the first day of display and someone might have to keep track of days of display. Everyone could be on different schedules, making it challenging to enforce. Options to consider: Would a set period of display make it easier? Prescribe 4 quarters starting with January 1? Many communities just give a set amount of days for display such as 30 days.

Real Estate Signs – Limitations

Limitations are already placed on these sign: 1 per lot where sale property is located. I am not sure that it is practical to limit a real estate sign for a time of display less than the time for which the transaction takes place. They are required to be removed after the sale.

We can go about making sure that these are not in violation.

Electoral Signs

Easy fix, remove strike out in proposed ordinance. Unfortunately we are headed further away from the recommendations of the Planning Commission (limited to a maximum size of 16sf like any other temporary sign) and City Attorney (recommended that they be treated like any other temporary sign in that they conform to the rules of district in which they are found in size and allowance).

AMEND THAT THEY COME UP WITH A POLICY FOR SANDWICH SIGNS AND HOW THEY CAN BE USED AS AN ADVERTISING TOOL.

The version of the ordinance under consideration by the City Council did have a policy for how sandwich boards could be used as an advertising tool, specifically for special events, garage sales and real estate. So if we are to review other options they might include:

- 1. For temporary commercial display as discussed above.*
- 2. They could be required to be displayed during hours of operation only.*

I have to remind that we should only be concerned with time and size of display for the various zoning districts. Regulation of content or design (such as color) is questionable for code.

SEND IT BACK WITH AN EMPHASIS BASED ON SAFETY.

The current regulations and proposed regulations do have provisions sufficient to ensure the public's safety. I see this as more of an enforcement issue. The Planning Office will need to dedicate more resources to ensure that these regulations are followed.

Testimony

The people that testified generally had a personal stake in sandwich boards and displayed varying degrees of understanding regarding current and proposed regulations. What I heard most of them saying was that they wanted to be able to display sandwich boards continuously. To me this means that they

wish to move from temporary display to permanent display. Although I saw no direct support for this from either the Planning Commission or the City Council, provisions could be made to permit sandwich boards with other permanent signage. They could be allowed within the allowances for the various districts and thought could also be given to whether or not they should be required to be displayed only during business hours.

Task of the EDC

The EDC should review proposed policy on temporary sign regulation in consideration of the motions made by the City Council and suggest a direction for additional consideration or not, when so decided by the body. The actual ordinance is by nature quite complex and I will wait until receiving some specific guidance before crafting any revisions to code.

Attachments

1. Draft Ordinance 11-XX, temporary sign section
2. Memo to City Council.
3. Excerpt of 1-23-12 City Council minutes.

Excerpt from Ordinance 12-01(S)(A)

"Temporary sign." means a Any sign that is not affixed permanently to a building or to a permanent support or foundation, used only temporarily and is not permanently mounted including without limitation menu or sandwich board signs.

Section 14. Homer City Code 21.60.130, Temporary signs-private property, is amended to read as follows:

21.60.130 Temporary signs-Private property. a. General. All temporary signs are subject to the following requirements:

1. A temporary sign may not be an illuminated, animated, or changeable copy sign.
2. Unless a smaller area is required by another provision of this chapter, the area of a temporary sign shall not exceed 16 square feet.
3. A temporary sign whose message pertains to a specific date, event, or time period shall not be displayed for more than seven days after that date or the conclusion of the event or time period.

b. Commercial. A tTemporary signs that bears a commercial message is not allowed except: on private property shall be:

a. Term. A temporary sign shall not be displayed for more than 14 days in any 90-day period, except a sign offering for sale or lease the lot on which the sign is located, which is allowed as long as the property is for sale or lease.

b. Number. Only one temporary sign per lot is allowed.

1. One sign advertising the property on which the sign is located for sale or for rent; or
2. One sign advertising a temporary sale of household goods located on the lot where the sale is held.

c. Non-commercial. Temporary signs that do not bear a commercial message are allowed on private property in any number, subject to the square footage limitations in this chapter.





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MEMORANDUM 12-

TO: Mayor Hornaday and Homer City Council
THRU: Walt Wrede, City Manager
FROM: Rick Abboud, City Planner
DATE: January 4, 2012
SUBJ: Draft Ordinance 12-XX, Sign Ordinance

Introduction

The Planning Commission is forwarding the Draft Ordinance 12-XX for review. The HAPC has had 17 work sessions, 14 regular meetings, 2 public workshops, a joint session with Council, and a public hearing regarding this issue.

Why

Work on the ordinance started out as a response to some specific items. Staff was looking for a directive to deal with noncompliant signage that had not been comprehensively addressed for many years, mostly dealing with the Spit and sandwich boards. The Planning Office was unable to issue a sign permits for new boardwalk businesses because we found that most all boardwalks were far past the sign allowance found in code and thus we could not condone any sign past the legal limits. Additionally, we were getting a large number of complaints about illegal sandwich board signs that were found off-site, in the rights-of-way, on the sidewalk, being displayed beyond the amount of time allowed in code, and in numbers exceeding limits in code. Complaints and comments were provided by a wide array of people including those on the council and commission along with business owners (especially competing businesses) and the general public

What

Measure signage per building from per lot

To make it less complicated and easier to enforce and permit on the spit, changes were made to table 2 part B, line 216 that allows signage to be measured per Principle Building instead of Per Lot. It is proposed that signage be displayed in proportion to the size of individual structures and not limited to 150 square feet per lot (some spit lots have over 12 buildings).

Temporary Signs

Generally, temporary signs are those that are temporary in physical nature and in display term. They are only allowed on-site within the boundary of the parcel and should not be placed on a sidewalk, ROW, or blocking a sight triangle. Additionally, they need to fit within the total amount of allowed signage per lot. These are universal concepts that are not proposed to be compromised. Now it gets more complicated, as I try to explain what is currently allowed to what is proposed.

Currently, one may use a temporary sign on private property (one per lot) for up to 14 days in a ninety day period for advertising, except real estate signs which are allowed until sale and electoral signage (allowed 60 days prior to election and must be removed in week after), which are allowed in any amount up to 32 square feet each. The Commission does not propose changes in real estate or electoral sign other than paring down the size of electoral sign to a max of 16 square feet, which is the maximum allowable size of any other temporary sign.

The Commission has recommended regulating commercial and non-commercial messages differently. Temporary Signs are divided into General (21.60.130 (a)), conditions that apply to all temporary signs; Commercial (21.60.130 (b)), only allowing garage sales and real estate signs; and Non-commercial (21.60.130 (c)), most non-commercial messages will be displaying information about an event and would be regulated as indicated in the General section. Things get a bit difficult in deciding just which types of signs may be non-commercial considering the vast amount of fund raising events and activities in Homer. This is left to the City Planner to evaluate. I am concerned about where the line is drawn on non-commercial messages and plan to confer with the City Attorney about the implications prior to the worksession.

There is a current provision for permitting temporary signs in the rights-of-way (ROW). This has been struck because most everyone applying would want a sign in the State ROW, which we do not have the authority to grant (we can only be more restrictive than the state, not less).

Banner

The definition of a banner has changed. Basically, banners must be affixed to a rigid surface all around all edges; once this happens it meets the definition of a sign and will be regulated as such. No more banners blowing with or in the wind.

Appeals

The enforcement procedure has been streamlined with the thought of being able to resolve enforcement in a more reasonable time frame. Someone will have 7 days to file an appeal with the Clerk just as we have 7 days to issue a permit. Once appealed to the Planning Commission (if the decision is not reversed) the item would then go directly to Superior Court. As proposed, the process for appeal to the Planning Commission could take up to 6 months and 7 days before going to court. Currently, the time frame for two appeal hearings, one before the Planning Commission and then before the BOA could take up to a year and seven days get to court. In a nutshell, the proposed change cuts the time to submit the appeal request to the Clerks from 30 days to 7 days and eliminates an additional appeal to the BOA.

Other

Other changes are mostly clarifications to definitions recommended by the Planning Staff, Commission, or Attorney and are not intended to be policy changes.

Staff recommendation:

Adopt Ordinance 12-XX

Attachments

1. Draft Ordinance 11-XX
2. Staff Report 11-108 and minutes
3. Staff Report 11-106 and minutes
4. Staff Report 11-99 and minutes
5. Staff Report 11-93 and minutes
6. Staff Report 11-82 and minutes
7. Staff Report 11-78 and minutes
8. Staff Report 11-68 (Work Session)
9. Staff Report 11-61 and minutes
10. Staff Report 11-53 and minutes
11. Staff Report 11-46 and minutes
12. Staff Report 11-42 and minutes
13. Staff Report 11-37 (Work Session)
14. Staff Report 11-31 (Joint Work Session with City Council)
15. Staff Report 11-16 (Work Session)
16. Staff Report 10-105 and minutes
17. Staff Report 10-97 and minutes
18. Staff Report 10-88 (Work Session)
19. Staff Report 10-97 and minutes



- B. **Ordinance 12-01(S)(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.60.040, Definitions; Homer City Code 21.60.060, Signs Allowed on Private Property With and Without Permits; Homer City Code 21.60.070, Permits Required; Homer City Code 21.60.080 Design, Construction, and Maintenance; Homer City Code 21.60.090, Signs in the Public Right-of-Way; Homer City Code 21.60.100, Signs Exempt From Regulation Under This Chapter; Homer City Code 21.60.110 Signs Prohibited Under This Chapter; Homer City Code 21.60.130, Temporary Signs-Private Property; Homer City Code 21.60.150, Time of Compliance-Nonconforming Signs and Signs Without Permits; and Homer City Code 21.60.170, Enforcement and Remedies; and Repealing Homer City Code 21.60.095, Electoral Signs; Homer City Code 21.60.120, General Permit Procedures; Homer City Code 21.60.140, Temporary Signs-Public Rights-of-Way; and Homer City Code 21.60.160, Violations; Regarding the Regulation of Signs. Introduction January 9, 2012, Public Hearing and Second Reading January 23, 2012.

Memorandum 12-007 from City Planner as backup.

Memorandum 12-008 from City Attorney as backup.

Mayor Hornaday opened the public hearing.

Scott Fraley, city resident, expressed opposition to the changes for sandwich board signs. They are a big benefit to the community, are not a danger, and have not caused any accidents. The Spit and town signage regulations should be separate.

Holly VanPelt, Homer resident, commented signs do more than sell a service or product; they help a business person create business to bring in income. A sign is a source of information and needs to be large enough to inform the public in a safe manner.

Adrienne Sweeney, city resident, commented the ordinance needs updates to ensure fairness. She opposes deleting temporary signs and signboards due to current economic times. To solve the enforcement problem she asked that the 14-day language be stricken. If one sign for a business is allowed 365 days a year with reasonable maintenance and encroachment rules there would be no enforcement problem. It would solve the issue of small businesses versus non profits, real estate, and political signage. The ordinance violates the Alaska Constitution as it unfairly discriminates commercial speech based on the contents.

Nelton Palma, city resident, noted it was hard enough in the winter as a businessman to provide a service and keep people employed. Every owner that puts up a sign cares that it looks well.

Kevin Fraley, Homer resident, commented the Planning Commission is being anti-business with the ordinance. There are no specific incidences cited according to the Police Department that are

reason to make changes. It is the personal choices of planning commissioners, who need to do what is best for the community at large.

Fred Kaatz, Homer resident, spent over \$900 to have a sign made and cannot use it as he expected. The sign now sits so far off the road it is hardly visible. Sign ordinances are anti-business; businesses make this community thrive.

Leonard Wells, city resident, commented the sandwich board advertisements allow people to come through town to make plans for later in the week.

Chip Duggan, city resident, noted the short time for businesses on the Spit and some of them would not be there without the signs. Realtors' signs are everywhere and they leave them up advertising they've sold. He questioned what the safety difference is.

Marilyn Hueper, city resident, believes visuals are a huge important aspect of communicating clearly. Sandwich boards and banners create an energy of something that is happening. She suggested a frame template for all businesses to create uniformity.

Paul Hueper, city resident, agrees with business owners that spoke up. Signage stimulates growth, adds excitement, and increases demand for products offered. Growth stimulates the tax base.

Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 12-01(S)(A) by reading of title only for second and final reading.

WYTHE/ROBERTS - SO MOVED.

WYTHE/ROBERTS - MOVED TO AMEND LINE 18-19 AFTER ELECTORAL SIGNS AND MOVE THAT PRIOR TO THE "AND REPEALING" STATEMENT ON LINE 18.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

WYTHE/HOWARD- MOVED TO AMEND LINES 67 AND 68 WHICH APPEAR AS STRICKEN, TO RETAIN THE DEFINITION FOR ELECTORAL SIGNS.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

LEWIS/ZAK – MOVED TO SEND THIS BACK TO THE PLANNING COMMISSION WITH SOMETHING FOR SANDWICH BOARD SIGNS.

Councilmember Zak asked that additional recommendations be made to make the ordinance pro-business.

Councilmember Hogan would like to see it go to the EDC (Economic Development Advisory Commission).

Councilmember Roberts prefers to send it back to the Planning Commission than the EDC as they know the regulations. The Planning Commission deserves to weigh in again.

WYTHE/ROBERTS – MOVED FOR A FRIENDLY AMENDMENT TO DAVE'S (LEWIS) AMENDMENT THAT IT GO BACK TO THE PLANNING COMMISSION FOR THESE CONSIDERATIONS AND THEN GO ON TO THE EDC FOR REVIEW AND CONSIDERATION BEFORE IT COMES BACK TO THE COUNCIL.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

City Manager Wrede asked that Council be clear in what the Planning Commission is to consider.

Councilmember Hogan intended to vote no with the reluctance we will still have the existing sign ordinance that has poorly served the community. He would like the Planning Commission to look at this from a business perspective and get out of people's hair.

HOWARD/WYTHE – MOVED TO AMEND THAT THE TEMPORARY SIGN SECTION BE REINSTATED THROUGHOUT THE ENTIRE ORDINANCE AND SOME LIMITATION BE PLACED ON REAL ESTATE SIGNS, AND ELECTORAL SIGNS STAY AT 32 FT.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

LEWIS/WYTHER -- MOVED TO AMEND THAT THEY COME UP WITH A POLICY FOR SANDWICH SIGNS AND HOW THEY CAN BE USED AS AN ADVERTISING TOOL.

Councilmember Roberts asked for clarification on sandwich signs, whether they could be moved to another physical location.

City Planner Abboud answered the sandwich sign could be moved within the lot of the business, under some circumstances you can have an off premise sign but not a sandwich sign. There are a lot of options. The Planning Commission knows how to make the ordinance; EDC does not. He would be glad to listen to EDC and bring their concepts to the Planning Commission. The sign code could be reverted to allow for temporary signs for businesses. Sandwich signs are not allowed in public right-of-ways.

Councilmember Howard expressed opposition to allowing signs in right-of-ways. City Planner Abboud answered the City cannot allow anything less restrictive than the State would allow in the right-of-way.

City Manager Wrede advised if the ordinance was referred to EDC they can send their comments to the Council, but asked that EDC does not try to rewrite the ordinance as that would bog things down.

Councilmember Hogan asked that if referred to EDC with their comments to the Planning Commission than it can be referred to Council.

Councilmember Wythe called for a point of order, noting the motion on the floor.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK/HOWARD -- MOVED THAT THEY CONSIDER PIONEER AVENUE AND THE DOWNTOWN SECTION AS TWO SEPARATE AREAS WHEN IT COMES TO SIGNS.

Councilmember Robert expressed opposition, citing all businesses in the city should be treated equally.

VOTE: YES. ZAK

VOTE: NO. HOGAN, LEWIS, ROBERTS, WYTHE, HOWARD

Motion failed.

ZAK/HOGAN – MOVED TO SEND IT BACK WITH AN EMPHASIS PLACED ON BEING PRO-BUSINESS.

Councilmember Howard asked how it could be incorporated legislatively, as different people may view pro-business from two different perspectives. It is asking for philosophical input.

Councilmember Wythe expressed hope the pro-business aspect would be taken care of by sending it to the EDC who would look at how it impacts local businesses.

VOTE: YES. HOGAN, ZAK

VOTE: NO. HOWARD, LEWIS, ROBERTS, WYTHE

Motion failed.

ZAK/HOGAN – MOVED TO SEND IT BACK WITH AN EMPHASIS BASED ON SAFETY.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK – MOVED TO SEND IT BACK WITH BALANCED PRO-BUSINESS WITH AESTHETIC FRAMEWORK

Motion failed for lack of a second.

WYTHE/ROBERTS – MOVED TO HAVE THEM LOOK AT TABLE 3, SPECIFICALLY ITEM E UNDER THE NOTES TO TABLE 3 THAT REFERENCES A COLUMN HEADING THAT DOESN'T SEEM TO APPEAR ON TABLE 3.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (motion to refer as amended) YES. ZAK, HOWARD, HOGAN, LEWIS, ROBERTS,
WYTHE

Motion carried.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 15, 2012

- A. Staff Report PL 12-08, Draft Ordinance 12-xx Amending the Zoning Map to rezone portions of the Rural Residential and General Commercial Two districts to Conservation

City Planner Abboud reviewed his staff report.

Vice Chair Dolma opened the public hearing. There were no public comments and the hearing was closed.

VENUTI/BOS MOVED TO APPROVE THE AMENDMENTS TO THE ZONING MAP TO REZONE PORTIONS OF RURAL RESIDENTIAL AND GENERAL COMMERCIAL TWO DISTRICTS TO CONSERVATION AND FORWARD IT TO CITY COUNCIL FOR ADOPTION.

The Commission briefly discussed the history of the zoning. It was noted that relabeling the land won't make any difference regarding bird strikes, which have been minimal given the proximity to the airport. The Borough had it zoned as Preservation and this change will bring it in line with the City's designation of Conservation.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PLAT CONSIDERATION

- A. Staff Report 12-03 Thompson Subdivision, Upton Addition Preliminary Plat

City Planner Abboud reviewed the staff report.

SONNEBORN/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 12-03 THOMPSON SUBDIVISION, UPTON ADDITION PRELIMINARY PLAT.

There was brief comment that everything appears to be in order.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS

- A. Staff Report PL 12-09, Sign Ordinance

City Planner Abboud reviewed his staff report. He explained that the Economic Development Advisory Commission was tasked by Council to review and make recommendations, and they voted to support the Commission's work as presented.

Some Commissioners expressed that people want sandwich boards and they should be a permitted use. Other Commissioners disagreed noting that there is a small group of business owners calling out for this. There are a lot of communities that don't allow sandwich boards. The proliferation of the signs is a real issue.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 15, 2012

The Commission discussed seasonal options for sandwich boards, allowing them to be out during normal business hours, permitting for a specific amount of time, and outright allowance. They talked about businesses that are challenged with limited space to put a permanent sign and the point was raised that there are businesses off Pioneer that will never be able to put sandwich board out by the road to advertise. City Planner Abboud added that at the Point of View mall a permanent sign was installed for the businesses within the mall and one tenant decided he didn't want to be part of it. If this is the direction the City is headed then there has to be a way for business owners to be held accountable if they get a permit for a temporary sandwich board. Allowing a 30 day permit would work well for grand openings and business owners will need to think about when they want to use their 30 day permit. Imposing a fee for the permit will hopefully make business owners work within the boundaries of the permit.

BOS/HIGHLAND MOVED TO POSTPONE THIS TO THE NEXT WORKSESSION.

There was brief discussion.

VOTE: YES: BOS

NO: HIGHLAND, SONNEBORN, VENUTI, DOLMA, ERICKSON

Motion failed.

HIGHLAND/ERICKSON MOVED TO ALLOW THIRTY DAY TEMPORARY SIGNS WITH A LARGE EXPIRATION DATE BY PERMITTED USE ONLY.

There was brief discussion that sending something back to Council shows they looked at it and while some Commissioners prefer the requirement of a permanent sign, this may look a little more pro business.

ERICKSON/SONNEBORN MOVE TO AMEND THAT THEY COME IN AFTER HOURS OF OPERATION.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was discussion about the expiration date. It was intended to help the planning staff and also people who pass by could see the date. City Planner Abboud wasn't sure it would be beneficial. They also considered cost for the permit, how often it can be renewed if at all, and the varying business hours.

ERICKSON/SONNEBORN MOVED TO AMEND TO ADD THAT IT IS RENEWABLE WITH A FEE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 15, 2012

VOTE: (Main motion as amended): YES: ERICKSON, HIGHLAND, VENUTI
NO: SONNEBORN, DOLMA, BOS

Motion failed.

SONNEBORN/BOS MOVED TO MOVE THIS TO THE NEXT WORKSESSION.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

A. Staff Report PL 12-04, Planning Commission Work List

The Commission reviewed the revised worklist and spent time discussing the items to get a better idea of the intent.

B. Staff Report PL 12-07, Land Allocation Plan

The Commission agreed to address this at the next regular meeting.

INFORMATIONAL MATERIALS

A. City Manager's Report dated January 23, 2012

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

COMMENTS OF STAFF

There were no staff comments.

COMMENTS OF THE COMMISSION

Commissioner Highland commented that it gets so interesting when they work on something for a long time, like the sign ordinance, how things come along. We're working on it, that's for sure.

Commissioners Sonneborn and Erickson had no comments.

Commissioner Bos commented that he likes the remodel in the Council Chambers. It was a good meeting and a good atmosphere.



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STAFF REPORT PL 12-10

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
MEETING: March 7, 2012
SUBJECT: sign ordinance

Introduction:

After reviewing the concerns of the Council, the Planning Commission moved to work on the ordinance in the worksession. While the EDC reviewed the ordinance and recommended support of the ordinance as presented to the City Council, the Commission was still divided.

I do believe that most items that the Council referred to do have an agreed recommendation:

REAL ESTATE SIGNS

It is reasonable to allow one sign per lot to advertise the sale of property or structure for a time period up to the completion of a sale. Rules already prohibit signs displayed off-site and just need to be enforced, along with all such regulations regarding the placement of these signs.

ELECTORAL SIGNS

While paring down the maximum size of an electoral sign would put them (size wise) on par with the maximum allowed for any other temporary sign, it would not put them on a level with all other signs as the City Attorney recommended. Continuing to allow 32 square foot electoral signs has no particular support or opposition from the EDC or PC.

EMPHASIS ON SAFETY

Regulations currently in code sufficiently deal with the safety aspects of displaying signs. Additional attention can be given to enforcing the current regulations.

TEMPORARY SIGNS

The conversation regarding temporary signs basically deals with the display of sandwich boards. More specifically, sandwich boards with commercial messages. Many communities have a more uniformly developed business districts and sandwich boards may either be easily incorporated into the vast expanse of public walkway or might not work at all if minimal setbacks and narrow walkway are prevalent.

In our community, things have not been so orderly developed. Many buildings may be on one lot, some of which might not be positioned well for pedestrian or street exposure. Some were built in the back of a frontage lot. Some may have only minimal setback from the right-of-way or have nothing but parking lot between a business and the street or narrow sidewalk. I mention this because these situations frame the sandwich board controversy.

The display of these signs is anything but uniform and many they function in different ways depending of the situation. Like with many things, it is near impossible to satisfy everyone's desire. In many places on the spit, there are few places to legally display sandwich boards and they are soon found in the rights-of-way. Every business has opportunities for display of permanent and free standing signs. The difference between a sandwich board and a freestanding sign is basically a few posts and a little effort, but you are limited to one freestanding sign per lot.

I am presenting a series of question that can be used to consider regulation of sandwich boards.

Do we wish to recommend an allowance for the display of temporary commercial signs?

The considerations are the same as previously presented. Will the display of sandwich be detrimental to the City as a whole? Will their use escalate so that all the main drags in town are covered in sandwich boards? Will it detract from the marketability of Homer as a destination? Are there already reasonable options other than the display of sandwich boards?

This conversation starts with considerations for individual businesses and blossoms into a conversation to what the impact is to all of Homer. Some points that I recall include: Are these signs actually bringing more business into town or is it just a shift in the market share for those that use them? Will others that do not use them have to start to regain their market share? Many businesses pay a premium for location.

Is anything other than allowing for the outright permitted use of sandwich board year round going to appease? Are we ready for the implications? If you can agree that a provision must be made, only then should we move on. I suggest a motion on the record indicating that the Planning Commission wishes or does not wish to make an allowance for temporary commercial signs.

Qualities to consider for the regulation of sandwich boards.

After being part of all the conversations about the display of sandwich boards, I believe that there are some things that are pretty much accepted.

- Only display on-premises, no off-premises displays
- One per lot
- 16 square foot maximum
- Display shall be during time of business operation only when staff is on-site and open to the public
- Current regulation regarding placement adequately deals with safety and needs to be enforced

Now the challenging part,
The period of display.

- Current regulations allow for display of 14 days out of a ninety day period.

As you may know, as far as displaying a temporary goes, I really like the intent here. This basically allows for a display once a week. I believe it was intended for the 'special' event and not for continuous display. This works great for the once a week sale. The sign is brought out for that occasion and goes in afterward.

Theoretically, not everyone would have their sign out at once. It gives an option for use, but sandwich boards should not dominate the landscapes. If people actually respected the timeframe, I would not have a hard time allowing this display to be above the limits for permanent signs and no permit should be needed.

The regulations primary downfall is that it is rather difficult to discern when ninety days have started. If you decide to recommend this, I would recommend that a breakdown of the ninety day period be made in code, perhaps quarterly starting on the same date.

- Many communities allow temporary signs to be permitted for a straight amount of time.

A common period of display is 30 days and requires a permit. Then you may want to consider if a renewal period is appropriate. This concept has many options. You could renew in a timeframe, say ninety days and/or you could limit the amount of renewals, say once every six months. I would recommend that this type of display require a permit so the activity could be tracked better. It should be limited as part of the calculations for the total signage allowed per lot especially in consideration of more frequent display.

The possible advantage of this is that it allows for a continuous display, which might be seen as a disadvantage when everyone has their sign out during the summer.

Recommendation

Review the premises that on things that I believe we agree upon, if this is correct please make a motion to accept. Give consideration to the direction you wish to take sandwich boards. If you have some more concerns that I have not listed bring them up. The decision is yours.



Shelly Rosencrans

From: Melissa Jacobsen
Sent: Friday, February 24, 2012 2:38 PM
To: Shelly Rosencrans; Jo Johnson
Subject: EDC Unapproved Minutes Excerpt re: Sign Ordinance

Here is the excerpt on the EDC discussion of Ord. 12-01(S)(A) Sign Ordinance

NEW BUSINESS

A. Review of Sign Ordinance 12-01(S)(A) and EDC Recommendations

City Planner Abboud reviewed his staff report provided in the packet and gave an overview of the Planning Commissions work regarding temporary signs.

FAULKNER/NEECE MOVED THAT THE EDC SUPPORTS THE SIGN ORDINANCE AS SUBMITTED TO THE COUNCIL BY THE PLANNING COMMISSION.

Commissioner Faulkner expressed his reasoning for supporting the sign ordinance as follows:

- There are so many sixty day businesses on the spit that don't care to read and follow the sign ordinance.
- When one business displays a sandwich board, neighboring businesses do the same and the signs proliferate.
- The Planning Commission prepared a good ordinance that addresses issues that needed to be changed.

Commissioner Sarno questioned if the signs work and if they are taken away will it harm businesses? City Planner Abboud commented that we are at the end of the road and businesses don't have to stop people before they get to Fritz Creek, as an example. A temporary sign takes a market share from another local business, and then when everyone has one their returns diminish. He posed the question do the temporary signs make more people come back to our community? Commissioner Sarno commented regarding safety

Chair Davis and Commissioner Wagner felt that the issue is finding a way to allow them but make it enforceable. Chair Davis questioned the legality of prohibiting commercial temporary signs but allowing them for charitable events. City Planner Abboud explained that the City Attorney advised that the restriction is allowable as long as non commercial messages are given more leniency than commercial messages.

VOTE: YES: FAULKNER, NEECE
NO: DAVIS, WAGNER, SARNO

Motion failed.

The Commission had discussion of options. Comments included a city issued decal that includes a date to be displayed on temporary signs; changing the 14 days out of 90 to 14 days out of a quarter; designating different zones with separate rules; and seasonal allowances.

Comments were reiterated that if you allow one sandwich board on the spit or along Pioneer Avenue you are allowing 200. That's the way competition works. Allowing 14 day temporary commercial message signs, the city could hire a full time sign person, but it will never be enforced and the business community will be riled up as their signs are piled in the back of a pick-up. It puts planning in the position of being the bad cops. It seems more appropriate to say no to commercial sandwich boards.

Regarding different rules for zones, City Planner Abboud explained that different districts have different sign rules, but in relation to allowing temporary signs in one zone and not another, it is an issue of competition and the majority of the Planning Commission felt that the temporary sign rules in town should be the same on the spit.

Point was raised regarding safety and the high winds that blow on the spit, the signs can cause harm to property if they hit buildings, cause injury if they hit a pedestrian, and on the spit, they can end up in the bay. It was expressed that the only way to resolve the problem is to fix it to the ground with posts on the businesses property and then it becomes a permanent sign.

Commissioner Faulkner pointed out that what is legal in the sign ordinance as submitted. Sandwich board signs are the only controversy being stirred up by a half a dozen business owners. The ordinance has a lot in to allow people to do legal signage. City Planner Abboud noted that changeable copy is allowed, for example so business can display their special of the day.

Commissioner Neece added that a lot of times you can't see the sandwich boards because people are crowded around them or people move them out of their way. They are more of a hindrance than a help. There are many communities that don't allow sandwich board signs. They are prolific and dangerous, and something permanent on the side of a building is a better approach.

WAGNER/SARNO MOVED TO RECONSIDER COMMISSIONER FAULKNER'S MOTION.

There was no discussion.

VOTE: YES: NEECE, SARNO, FAULKNER, DAVIS, WAGNER

Motion carried and the following motion was back on the floor:

FAULKNER/NEECE MOVED THAT THE EDC SUPPORTS THE SIGN ORDINANCE AS SUBMITTED TO THE COUNCIL BY THE PLANNING COMMISSION.

Question was raised if this is wise. City Planner Abboud commented that the Planning Commission considered all of the same issues and it isn't as simple when you are considering it for the whole community. There are a lot of businesses that didn't and won't show up because sandwich boards aren't their thing.

VOTE: YES: DAVIS, FAULKNER, SARNO, NEECE, WAGNER

Motion carried.

INFORMATIONAL ITEMS

COMMENTS OF THE AUDIENCE

Franco Venuti stated he is a city resident and a planning commissioner. He also served for six years as a member of the Chamber of Commerce Board of Directors, so he is pro business. He appreciates the EDC supporting the Planning Commission, but they didn't do what City Council asked of them. The Planning Commission worked on it for about year. Last year a city in Brazil made an ordinance that eliminated all signs, imagine the bloodshed over that. He explained the Planning Commission held a public hearing and business people in town argued for sandwich board signs and had good arguments. If he is looking for a hair cut he looks for his barbers sandwich board sign. He said he his talking for himself and not the Commission and many of them may not agree with him on this. He thinks sandwich board signs could be done through a permit and enforceable with a date on the sign. The Council said they wanted the EDC to come up with a solution and they haven't. They shot themselves and the Planning Commission in the foot because now he doesn't think they will have a sign ordinance this year. Things move at a snails pace and change doesn't

happen quickly. He doesn't think the EDC did the right thing for the common good. He thinks it would be helpful if the EDC could meet with the PC to have a discussion to hash out the sign ordinance. We can't just say no and have it go in circles.

Commissioner Faulkner asked what his solution would be. Mr. Venuti said that speaking on his own behalf he thinks it should be a permit-able sign with an obvious date attached, not allowed in right away, not within 50 feet of an intersection, readable from 50 feet and provided they haven't exceeded their allotted signage, and to institute a business license and make it self policing. His concern with sandwich boards is safety at intersections.

Chair Davis expressed some frustration in that Planning worked on it for over a year, and then Council asks the EDC to come up with a solution in one night. He would be willing for the commissions to have some discussion if the opportunity arises.

Bumppo Bremicker, city resident, remembers when the sign code got started over the golden arches. This is not a new issue; it's been going on for years and for Council to send it to EDC and say "fix it" is unreasonable. Brad's motion was the only reasonable solution. The sandwich boards have been dealt with, you can have a sign of an allowable size permanently mounted on the property or building, it's been fought out for years. He noted Maura's sign and while he loves to go there, they aren't even open and the sandwich board on the corner blocking the intersection. It's ridiculous. There has to be a rule. Don't pass rules that can't be enforced. Make it fair, clear, and enforce it. He said he is against sandwich boards. If you have a business you need to have a reasonable plan for a sign on a building or a pole. We've gone through this.

COMMENTS OF CITY STAFF

COMMENTS OF THE COUNCIL MEMBER

COMMENTS OF THE COMMISSION MEMBERS

Commissioner Neece remembers the first battle over the signs in '84. This has been going on for a while.

Commissioner Wagner commented that he is working on a LION investment group based on a model out of Port Townsend. He has been involved with local loans for 7 years and later in March hopes to put it out. It's a legal way to introduce people with money to people who need money.

Commissioner Faulkner commented the message they are sending Council is that the Planning Commission wrote a good sign ordinance and the EDC is against sandwich boards. If the Council wants to change it, that's fine, but if you need a sandwich board you can put some pole in the ground make it a permanent sign, with changeable copy, that isn't a hazard. He also commented that he attended the gas line working group meeting. It seems the City is leaning toward financing the low pressure lines in the core area with reinstituting of the seasonal sales tax. This would be everyone else in Homer paying for the highest density people to have their gas lines laid. It's like skimming the cream off the top, and we all pay for it. His advice to the group was if they are going to tax groceries to put gas in, the line should go up West Hill, across Skyline, down East Hill and taxes us to put the trunk lines in for the whole town. If they don't, everyone already paying for the core area will have to pay for the low density, which will cost more, and no one will be helping them out. He hopes the Commission can have it as an agenda item at the next meeting so the Commission would look at funding the gas line and whether the sales tax should facilitate gas for the core area or city wide. The gas line is probably the biggest thing going right now in relation to economic development.

Commissioner Sarno commented the entire group probably feels the pressure of being the nexus of the economic pressure in town. It is not an easy Commission. She encouraged them to do more work and thinking about the signs. She hopes the group stays together to deal with these serious issues. She isn't comfortable with what happened today, but feels like the discomfort can get the Commission towards where they want to be.

Student Representative Davis had no comment.

Chair Davis expressed that this was a lose-lose situation for the Commission. He doesn't know what else they could have done, there is no silver bullet or they would have found it. He feels good about the Commissions work tonight. They did have a recommendation to Council, that they take a strong look at the hard work that's already been done by the Planning Commission. He agrees that what they do is important and it isn't easy. He appreciates when people bring the history out.

*Melissa Jacobsen, CMC
Deputy City Clerk
City of Homer, Alaska*

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CITY OF HOMER
HOMER, ALASKA

Planning/City Attorney

ORDINANCE 12-01(S)(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.60.040, DEFINITIONS; HOMER CITY CODE 21.60.060, SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS; HOMER CITY CODE 21.60.070, PERMITS REQUIRED; HOMER CITY CODE 21.60.080 DESIGN, CONSTRUCTION, AND MAINTENANCE; HOMER CITY CODE 21.60.090, SIGNS IN THE PUBLIC RIGHT-OF-WAY; HOMER CITY CODE 21.60.095, ELECTORAL SIGNS; HOMER CITY CODE 21.60.100, SIGNS EXEMPT FROM REGULATION UNDER THIS CHAPTER; HOMER CITY CODE 21.60.110 SIGNS PROHIBITED UNDER THIS CHAPTER; HOMER CITY CODE 21.60.130, TEMPORARY SIGNS-PRIVATE PROPERTY; HOMER CITY CODE 21.60.150, TIME OF COMPLIANCE-NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS; AND HOMER CITY CODE 21.60.170, ENFORCEMENT AND REMEDIES; AND REPEALING HOMER CITY CODE 21.60.095, ELECTORAL SIGNS; HOMER CITY CODE 21.60.120, GENERAL PERMIT PROCEDURES; HOMER CITY CODE 21.60.140, TEMPORARY SIGNS-PUBLIC RIGHTS-OF-WAY; AND HOMER CITY CODE 21.60.160, VIOLATIONS; REGARDING THE REGULATION OF SIGNS.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.60.040, Definitions, is amended to read as follows:

21.60.040 Definitions. ~~In~~ For the purpose of this chapter, in addition to terms defined in HCC §21.03.040, the following words and phrases shall have the meanings set forth in this section chapter.

"Abandoned sign-" means a ~~Any sign containing copy~~ that refers to a business or activity that is no longer being conducted or pursued.

"Animated sign-" means a ~~Any sign~~ that uses flashing lights, movement or change of lighting to depict action or create a special effect or scene, or that includes characters, letters, or illustrations whose message changes at least one time per day; provided that a changing- ~~A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature does not cause a sign to be shall be considered a time and temperature portion of a sign and not an animated sign for purposes of this chapter.~~

"Banner-" means a ~~Any sign of lightweight~~ sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed of non-durable fabric or similar materials, including without limitation cardboard, cloth and plastic, ~~that is mounted to a pole or a building by a permanent frame at~~

[**Bold and underlined added.** Deleted language stricken through.]

44 one or more edges. **Banner material attached to a rigid frame on all edges or A** flag shall
45 not be considered a banner.

46 "Beacon-" **means a** Any sign **that emits** with one or more beams **of light**, capable of
47 being directed in **one or more** any director or directions or capable of being rotated or moved.

48 "Building marker-" **means a wall** Any sign cut or etched into masonry, bronze, or similar
49 material that includes only the building name, date of construction, or historical data on historic
50 site.

51 "Building sign-" **means a** Any sign **that is** attached to **and/or supported by** any part of a
52 building, **but that is not a freestanding sign** unless it is supported in whole or in part by
53 structures or supports that are placed on, or anchored in, the ground and that are independent
54 from any building or other structure.

55 "Changeable copy sign-" **means a** A sign **that includes** or portion thereof with
56 characters, letters, or illustrations that can be changed or rearranged without altering the face or
57 the surface of the sign, **and** A sign on which the message changes **less often** more than one time
58 per day shall be considered an animated sign and not a changeable copy sign for purposes of this
59 chapter; **provided that a A-changing** sign on which the only copy that changes is an electronic
60 or mechanical indication of time or temperature **does not cause a sign to be** shall be considered
61 a time and temperature portion of a sign and not a changeable copy sign for purposes of this
62 chapter.

63 "Commercial message-" **means letters, graphic material or a combination thereof** Any
64 sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls
65 attention to a business, brand, product, service or other commercial activity.

66 "Department-" The Planning and Zoning division or department of the City.

67 "Electoral sign-" Any sign used for the purpose of advertising or promoting a political
68 party, or the election or defeat of a candidate initiative, referendum or proposition at an election.

69 "Flag-" **means the flag** Flags of the United States, the State, the City, **a** foreign nations
70 having diplomatic relations with the United States, and any other flag adopted or sanctioned by
71 an elected legislative body of competent jurisdiction. A flag shall not be considered a banner for
72 purposes of this chapter.

73 "Freestanding sign-" **means a** Any sign supported, in whole or in part, by structures or
74 supports that are placed on, or anchored in, the ground and that are independent **of** from any
75 building or other structure.

76 "Ground sign-" **means** A ground sign is a freestanding sign that is placed directly on the
77 ground having or appearing to have a foundation or solid base beneath 50 percent or more of the
78 longest horizontal dimension of the sign.

79 "Handbill-" Any flyer, notice or brochure advertising or promoting any product, business,
80 cause, political candidate or issue, and intended for distribution to the general public.

81 "Incidental sign-" **means an** A sign, generally informational, **or directional sign** that is
82 **incidental and subordinate** has a purpose secondary to **a principal** the use of the lot on which
83 it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar

[**Bold and underlined added.** Deleted language stricken through.]

84 ~~directives. No sign with a~~ **and that bears no** commercial message **that is** legible from **outside**
85 **that** a position off the lot on which the sign is located shall be considered incidental.

86 "Lot." See HCC § 21.32.030.

87 "Marquee." ~~Any permanent roof like structure projecting beyond a building or extending~~
88 ~~along and projecting beyond the wall of the building, generally designed and constructed to~~
89 ~~provide protection from the weather.~~

90 "Marquee sign." **means a** ~~Any sign attached in any manner to, in any manner, or made a~~
91 ~~part of, a~~ **permanent roof-like structure projecting beyond a building, generally designed**
92 **and constructed to provide protection from the weather** marquee.

93 "Non-conforming sign." ~~Any lawfully pre-existing sign that does not conform to~~
94 ~~regulations of this chapter that became applicable after erection of the sign.~~

95 "**Official traffic control device**" **means a sign not inconsistent with Alaska Statutes**
96 **Title 28, placed or erected by authority of a state or municipal agency or official having**
97 **jurisdiction, for the purpose of traffic regulating, warning and guiding.**

98 "Off-premises sign." **means a** ~~A sign containing a commercial or non-commercial~~
99 ~~message drawing attention to goods or services, business or other activity not offered or~~
100 ~~conducted on the lot on which the sign is located.~~

101 "Pennant." **means a** ~~Any lightweight plastic, fabric, or other material, whether or not~~
102 ~~containing a message of any kind suspended from a rope, wire, or string, usually in series,~~
103 ~~designed to move in the wind.~~

104 "**Permanent sign**" **means a sign that is not a temporary sign.**

105 "~~Portable sign.~~" ~~means a Any sign not permanently attached to the ground or other~~
106 ~~permanent structure, or a sign designed to be transported, including signs designed to be~~
107 ~~transported by means of wheels; signs converted to A or T frames; menu and sandwich board~~
108 ~~signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on~~
109 ~~vehicles parked and visible from the public right of way, unless said vehicle is used in the~~
110 ~~normal day to day operations of the business.~~

111 "Principal building." **means a** ~~The building in which is conducted the principal use of the~~
112 ~~lot is conducted on which it is located. Lots with multiple principal uses may have multiple~~
113 ~~principal buildings, but storage buildings, garages, and other accessory structures shall not be~~
114 ~~considered principal buildings.~~

115 "Projecting sign." **means a** ~~Any building sign attached affixed to a building or wall~~ **and**
116 **that protrudes** ~~in such a manner that its leading edge extends more than six inches beyond the~~
117 ~~surface of the such building or wall.~~

118 "Public sign." **means A** ~~Public Sign is an~~ **off-premises** ~~off premises sign~~ **other than an**
119 **official traffic control device,** ~~that provides direction~~ **or information,** ~~or identifies public~~
120 ~~facilities such as parks, playgrounds, libraries, or schools or to a distinct area of the City, such as~~
121 ~~Pioneer Avenue, the Homer spit, Old Town and entrances to the City. Public Signs may identify~~
122 ~~categories of services available, but may not carry any other commercial message. Public signs~~
123 ~~are non-regulatory.~~

[**Bold and underlined added.** Deleted language stricken through.]

124 "Residential sign-" means a Any-sign located in the Rural Residential, Residential Office
125 or Urban Residential zoning districts that contains no commercial message except for advertising
126 for goods or services legally offered on the premises where the sign is located, if offering such
127 services at such location conforms to with-all requirements of the zoning code.

128 "Roof sign, integral." means a Any-sign erected and constructed as an integral part of a
129 ~~normal the-roof of a building~~ structure, such that no part of the sign extends vertically more than
130 two feet above the highest portion of that roof of which it is a part.

131 "Setback-" means the The-distance between a sign located on a lot and the closest lot
132 line and the sign.

133 "Sign-" means a Any-device, fixture, placard, or structure that uses any color, form,
134 graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the
135 purpose of a person or entity, or to communicate information of any kind to the public.

136 "Suspended sign." A sign that is suspended from the underside of a horizontal plane
137 surface and is supported by such surface.

138 "Temporary sign-" means a Any-sign that is not affixed permanently to a building or
139 to a permanent support or foundation, ~~used only temporarily and is not permanently mounted~~
140 including without limitation menu or sandwich board signs.

141 "Wall sign-" means a Any-sign attached parallel to, but within six inches of, a wall,
142 painted on the ~~wall-surface of,~~ or erected and confined within the limits of an outside wall of any
143 building or structure, which is supported by such ~~wall-or~~ building or structure, and which
144 displays only one sign surface.

145 "Window sign-" means a Any-sign, pictures, symbol, or combination thereof, designed to
146 ~~communicate information about an activity, business, commodity, event, sale, or service,~~ that is
147 placed inside a window or upon the window panes or glass and is visible from the exterior of the
148 building window.

149
150 Section 2. The title and subsection (a) of Homer City Code 21.60.060, Signs allowed on
151 private property with and without permits, are amended to read as follows:

152
153 21.60.060 Signs allowed on private property with and without permits. a. Signs shall be
154 allowed on private property in the City ~~in accordance with,~~ and only in accordance with Table 1.
155 If the letter "A" appears for a sign type in a column, such sign type is allowed without prior
156 permit approval in the zoning district represented by that column. If the letter "P" appears for a
157 sign type in a column, such sign type is allowed only with prior permit approval in the zoning
158 districts represented by that column. Special conditions may apply in some cases. If the letter
159 "N" appears for a sign type in a column, such a-sign type is not allowed in the zoning districts
160 represented by that column under any circumstances. If the letters "PH" appear for a sign
161 type in a column, such sign type is allowed in the zoning districts represented by that
162 column only with prior approval by the Commission after a public hearing.

163 b. Although permitted under the previous paragraph, a sign designated by an "AP"
164 or "PS" in Table 1 shall be allowed only if:

[Bold and underlined added. Deleted language stricken through.]

1. The sum of the area of all building and free standing signs on the lot does not exceed ~~conforms with~~ the maximum permitted sign area for the zoning district in which the lot is located as specified in Table 2; and

2. The characteristics of the sign conform to ~~with~~ the limitations of Table 3; Permitted Sign Characteristics, and with any additional limitations on characteristics listed in Table 1 or Table 2.

c. Any sign type that is not listed on the following tables is prohibited ~~are not permitted, with or without a permit.~~

Section 3. The Key to Tables 1 through 3 that follows Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

KEY to Tables 1 through 3	
RR Rural Residential	GBD Gateway Business District
UR Urban Residential	GC1 General Commercial 1
RO Residential Office	GC2 General Commercial 2
INS Institutional Uses Permitted in Residential Zoning Districts (a)	<u>EEMU East End Mixed Use</u>
CBD Central Business District	MC Marine Commercial
TC Town Center District	MI Marine Industrial
	OSR Open Space Recreation
	PS Public Sign Uses Permit
<u>A</u> P = Allowed without sign permit	
<u>P</u> S = Allowed only with sign permit	
N = Not allowed	
PH = Allowed only upon approval by the Planning Commission after a public hearing	
For parenthetical references, e.g., "(a)," see Notes following graphical portion of table.	

Section 4. Table 1 following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC 1	GC 2	<u>EEM</u> <u>U</u>	MC	MI	OSR	PS
<u>Freestanding</u>														
Residential (b)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	N	<u>N</u>	N	N	<u>AP</u>	PI
Other (b)	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u> (ik)	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	PI
Incidental (c)	N	N	<u>AP</u> (d)	<u>AP</u> (d)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	N	N
<u>Building</u>														
Banner	N	N	N	N	<u>NS</u>	<u>NS</u>	N	<u>NS</u>	<u>NS</u>	<u>N</u>	<u>NS</u>	<u>NS</u>	N	N
Building Marker (e)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N
Identification (d)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	N
Incidental (c)	N	N	<u>AP</u> (f)	<u>AP</u> (e)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	N	N
Marquee (g)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Projecting (g)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Residential (b)	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	<u>AP</u>	<u>AP</u>	<u>AP</u>	N	N	<u>N</u>	N	N	<u>AP</u>	N
Roof	N	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N
Roof, Integral	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Suspended (g)	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Temporary (gh)	<u>AN</u>	<u>AN</u>	<u>AN</u>	<u>AN</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>
Wall	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	<u>AP</u>	<u>A</u>
Window	N	N	<u>AP</u>	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
<u>Miscellaneous</u>														
Banner (e)	N	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>	N	N
Flag (hi)	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>
Portable	N	N	N	N	S	S	S	S	S		S	S	N	N

[**Bold and underlined added.** Deleted language stricken through.]

Notes to Table 1:

- a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an established organization or corporation of a public, non-profit, or public safety/benefit nature, i.e., schools, churches, and hospitals.
- b. No commercial message allowed on sign, except for a commercial message drawing attention to goods or services legally offered on the lot, ~~except signs approved by the state of Alaska Department of Transportation and signs that meet the requirements of HCC § 21.60.092.~~
- c. No commercial message of any kind allowed on sign if such message is legible from any location off the lot on which the sign is located.
- d. Only address and name of occupant allowed on sign.
- e. May include only building name, date of construction, or historical data on historic site; must be cut or etched into masonry, bronze, or similar material.
- f. No commercial message of any kind allowed on sign.
- ~~g. If such a sign is suspended or projects above a public right of way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for such a sign in such form and such amount as the City planner may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least \$500,000 per occurrence per sign.~~
- gh. The conditions of HCC § 21.60.130 of this ordinance apply.
- hi. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the stars and stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.
- ~~j. Permitted on the same terms as a temporary sign, in accordance with HCC § 21.60.130, except that it may be free standing.~~
- jk. The main entrance to a development in GBD may include one ground sign announcing the name of the development. such sign shall consist of natural materials. Around the sign grass, flowers and shrubs shall be placed to provide color and visual interest. The sign must comply with applicable sign code requirements.

Section 5. Table 2 following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

Table 2. Maximum Total Sign Area Per Lot by Zoning District

Table 2 Part A

The maximum combined total area of all signs, in square feet, except incidental, building marker and flags (b) shall not exceed the following according to district:

R	UR	RO	RO (e)	INS (a)	OSR	PS (d)
4	4	6	50	20	4	32

[Bold and underlined added. Deleted language stricken through.]

Table 2 Part B

In all other districts not described in Table 2 Part A, the maximum combined total area of all signs, in square feet, except incidental, building marker and flags, shall not exceed the following:

<u>Square feet of wall frontage (c):</u>	<u>Maximum allowed sign area per lot</u> Principle Building:
750-s.f. and over	150 s.f.
650 to 749	130 s.f.
550 to 649	110 s.f.
450 to 549	90 s.f.
350 to 449	70 s.f.
2000 to 349	50 s.f.
<u>0 to 199</u>	<u>30 s.f.</u>

In all districts covered by Table 2 Part B, on any lot with multiple principal buildings or with multiple independent businesses or occupancies in one or more buildings, the total allowed sign area may be increased beyond the maximum allowed signage as shown in Table 2 Part B, by 20%. This additional sign area can only be used to promote or identify the building or complex of buildings.

In all districts covered by Table 2 Part B, freestanding signs, when otherwise allowed, shall not exceed the following limitations:

Only one freestanding sign is allowed per lot, except one freestanding Public Sign may be additionally allowed. A freestanding sign may not exceed ten (10) feet in height. The sign area on a freestanding sign (excluding a Public Sign) shall be included in the calculation of maximum allowed sign area per lot and shall not exceed the following:

One business or occupancy in one building – 36 sq ft

Two independent businesses or occupancies or principal buildings in any combination – 54 sq ft

Three independent businesses or occupancies or principal buildings in any combination – 63 sq ft

Four or more independent businesses or occupancies or principal buildings in any combination – 72 sq ft

Section 6. Table 3 following Homer City Code 21.60.060, Signs on private property, is amended to read as follows:

Table 3.												
Sign Type	RR	UR	RO	INS (a)	CBD	TC	GBD	GC1	GC2	<u>EEMU</u>	MC	MI
Animated (b)	N	N	N	N	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	N	<u>P</u>	<u>PS</u>	N
Changeable Copy (c)	N	N	N	N	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>
Illumination Internal	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	N	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>
Illumination External	N	N	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>P</u>	<u>PS</u>	<u>PS</u>

[**Bold and underlined added.** Deleted language stricken through.]

Neon (d)	N	N	N	N	PS	PS	N	PS	PS	P	PS	PS
Notes to Table 3												
<p>a. The INS column does not represent a zoning district. It applies to institutional uses permitted under the zoning code in the RR, UR and RO zoning districts. Institutional is defined as an established organization or corporation of a public, non-profit or public safety/benefit nature, <i>i.e.</i>, schools, churches and hospitals.</p> <p>b. Animated signs may not be neon or change colors or exceed three square feet in area.</p> <p>c. Changeable Copy signs must be wall or pole mounted, and may not be flashing.</p> <p>d. Neon signs may not be flashing and may not exceed 32 square feet.</p> <p>e. The PS column does not represent a zoning district. It applies to Public Signs permitted under the zoning code, in all zoning districts.</p>												

Section 7. Homer City Code 21.60.070, Permits required, is amended to read as follows:

21.60.070 Sign permits ~~Permits required.~~ a. **No person may place, construct, erect or modify a sign for which** ~~If a sign requiring a provision of this chapter requires a permit without first obtaining a permit for the sign under this section the provisions of this chapter is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of HCC § 21.60.120.~~

b. **Applications. An application for a sign permit shall be submitted to the Department on an application form or in accordance with application specifications published by the Department. An application for a permit for a sign that is not an off-premises sign shall be submitted by the owner of the lot where the sign is to be located, or by a tenant leasing all or part of the lot when the sign names, advertises, or calls attention to a business, brand, product, service or other commercial activity of the tenant. No sign shall be erected in the public right-of-way except in accordance with HCC § 21.60.090 and the permit requirements of HCC § 21.60.140.**

c. **Fees. An application for a sign permit shall be accompanied by the applicable fees established by the Homer City Council from time to time by resolution.**

d. **Action. Within seven working days after the submission of a complete application for a sign permit, the Department shall:**

1. If the sign is allowed only with the prior approval of the Commission after a public hearing, refer the application to the next available Commission meeting for a public hearing.

2. If the sign is subject to administrative permit approval, either

i. Issue the sign permit, if each sign that is the subject of the application conforms in every respect with the requirements of this chapter; or

ii. Reject the sign permit if a sign that is the subject of the application fails in any way to conform to the requirements of this chapter.

[Bold and underlined added. Deleted language stricken through.]

In case of rejection, the Department shall specify in the rejection the section or sections of this chapter to which the sign does not conform.

Section 8. Subsection (b) of Homer City Code 21.60.080, Design, construction, and maintenance, is amended to read as follows:

b. Except for banners flags, temporary signs and window signs conforming in all respects to with the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

Section 9. Homer City Code 21.60.090, Signs in the public right-of-way, is amended to read as follows:

21.60.090 Permanent sSigns in the public rights-of-way. No person may place, construct or erect a permanent sign shall be allowed in a the public right-of-way, except for the following:

- a. ~~Permanent Signs. Only the following permanent signs, including:~~
 - a1. Official traffic control devices.**
 - b. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
 - c2. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;**
- and
- d3. Signs containing commercial messages that have been must be approved by the State of Alaska Department of Transportation, Tourist Oriented Directional Signing Program.**
- b. ~~Temporary Signs. Temporary signs for which a permit has been issued in accordance with HCC § 21.60.140, which shall be issued only for signs meeting the following requirements:~~
 - 1. ~~The signs shall contain no commercial message; and~~
 - 2. ~~The signs shall be no more than two square feet in area each.~~
 - 3. ~~Notwithstanding (1) and (2), such signs calling attention to civic events shall be no more than four square feet in area, if freestanding, or if street banner, may not exceed the width of traveled portion of road.~~
- e. ~~Emergency signs. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.~~
- d. ~~Other Signs Forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the City and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.~~

[Bold and underlined added. Deleted language stricken through.]

290
291 Section 10. Homer City Code 21.60.095, Electoral signs, is repealed. Subsection (d) of
292 Homer City Code 21.60.095, Electoral Signs, is amended to read as follows:

293
294 d. An electoral sign shall not exceed 32-16 square feet in area and shall not
295 exceed the height limitation applicable to non-electoral signs within the same zoning
296 district.

297
298 Section 11. Homer City Code 21.60.100, Signs exempt from regulation under this
299 chapter, is amended to read as follows:

300
301 21.60.100 Signs exempt from regulation under this chapter. The following signs shall be
302 exempt from regulation under this chapter:

303 a. Any sign bearing only a public notice or warning required by a valid and
304 applicable federal, state, or local law, regulation, or ordinance.

305 b. Any emergency warning sign erected by a governmental agency, a public
306 utility company, or a contractor doing authorized or permitted work within a public
307 right-of-way.

308 c. Any sign inside a building, not attached to a window or door, that is not legible
309 from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign
310 is located,

311 de. Works of art that do not contain a commercial message;

312 ed. Holiday lights between October 15 and April 15;

313 fe. Traffic control signs on private property, such as a stop sign, a yield sign, and
314 similar signs, the face of which meet Department of Transportation standards and that contain no
315 commercial message of any sort.

316 gf. Signs in existence before February 11, 1985, but such signs shall not be replaced,
317 moved, enlarged, altered, or reconstructed except in compliance with this chapter.

318
319 Section 12. Homer City Code 21.60.110, Signs prohibited under this chapter, is amended
320 to read as follows:

321
322 21.60.110 Signs prohibited under this chapter. All signs not expressly permitted under
323 this chapter or exempt from regulation hereunder in accordance with HCC § 21.60.100 are
324 prohibited in the City. Without limiting the foregoing, examples of prohibited signs include:

325 a. Banners;

326 ba. Beacons;

327 cb. Pennants;

328 de. Strings of lights not permanently mounted to a rigid background, except those
329 exempt under HCC § 21.60.100;

330 ed. Inflatable signs and tethered balloons;

[Bold and underlined added. Deleted language stricken through.]

331 fe. Animated signs that are neon, change colors, or exceed three square feet in area;
332 gf. Placement of hand bills, flyers, or bumper stickers on parked vehicles other than
333 by owner;

334 h. Signs placed on or painted on a motor vehicle or trailer parked with the primary
335 purpose of providing signage not otherwise allowed by the Code; Prohibited is any sign displayed
336 on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to
337 advertise a product, service, business, or other activity. This regulation shall permit the use of
338 business logos, identification or advertising on vehicles primarily and actively used for business
339 purposes and/or personal transportation.

340 ig. Abandoned signs, which shall be removed by the owner or lessee, if any, of the
341 lot upon which the signs are located. If such owner or lessee fail to remove such signs after an
342 opportunity for a hearing before the Planning Commission and fifteen days written notice to
343 remove given by the City, then (i) the owner or lessee has committed a violation, and (ii) the City
344 may remove the signs and collect the cost of removal from such owner or lessee, who shall be
345 jointly and severally liable for such cost.

346
347 Section 13. Homer City Code 21.60.120, General permit procedures, is repealed.

348
349 Section 14. Homer City Code 21.60.130, Temporary signs-private property, is amended
350 to read as follows:

351
352 21.60.130 Temporary signs-Private property. a. General. All temporary signs are
353 subject to the following requirements:

354 1. A temporary sign may not be an illuminated, animated, or changeable
355 copy sign.

356 2. Unless a smaller area is required by another provision of this chapter,
357 the area of a temporary sign shall not exceed 16 square feet.

358 3. A temporary sign whose message pertains to a specific date, event, or
359 time period shall not be displayed for more than seven days after that date or the
360 conclusion of the event or time period.

361 b. Commercial. A temporary sign that bears a commercial message is not
362 allowed except on private property shall be:

363 a. Term. ~~A temporary sign shall not be displayed for more than 14 days in any 90-~~
364 ~~day period, except a sign offering for sale or lease the lot on which the sign is located,~~
365 ~~which is allowed as long as the property is for sale or lease.~~

366 b. Number. ~~Only one temporary sign per lot is allowed.~~

367 1. One sign advertising the property on which the sign is located for sale
368 or for rent; or

369 2. One sign advertising a temporary sale of household goods located on
370 the lot where the sale is held.

[Bold and underlined added. Deleted language stricken through.]

371 c. Non-commercial. Temporary signs that do not bear a commercial message
372 are allowed on private property in any number, subject to the square footage limitations in
373 this chapter.

374
375 Section 15. Homer City Code 21.60.140, Temporary signs-Public right-of-way, is
376 repealed.

377
378 Section 16. Homer City Code 21.60.150, Time of compliance-Nonconforming signs and
379 signs without permits, is amended to read as follows.

380
381 21.60.150 Time of compliance-Nonconforming signs and signs without permits. a.
382 Except as otherwise provided herein, the owner of any lot or other premises on which exists a
383 sign that does not conform to with the requirements of this chapter or for which there is no
384 current and valid sign permit must remove such sign or, in the case of a nonconforming sign,
385 bring it into conformity with the requirements of this chapter.

386 b. Signs that were prohibited by Ordinance 84-33(S), as amended by Ordinances 86-
387 18; and 89-8, and that are prohibited by ~~in~~ this chapter are illegal and must be removed
388 immediately.

389 c. Any sign that was constructed and continues to be maintained in accordance with
390 the applicable ordinances and other laws that existed prior to an amendment to this code, but
391 which becomes unlawful as a result of an amendment to this code, is lawfully nonconforming. A
392 sign that is lawfully nonconforming under this subsection may remain in place and continue to
393 be maintained until the information on the face of the sign is changed, or for a period of one
394 year after the effective date of the amendment, whichever occurs first. If any action is taken that
395 increases the degree or extent of the nonconformity with the amended code, the sign loses lawful
396 nonconforming status and must be removed immediately. ~~A change in the information on the~~
397 ~~face of an existing nonconforming sign is allowed.~~ At the end of the period during which the
398 lawfully nonconforming sign is allowed to remain in use, the sign shall either be removed or the
399 owner must obtain a permit, if required, and complete all other steps and make any modifications
400 necessary to bring it into full compliance with this code.

401 d. Any sign that was constructed and continues to be maintained in accordance with
402 the applicable laws that governed territory prior to its annexation to the City, but which becomes
403 unlawful under this code as a result of annexation to the City, is lawfully nonconforming. A sign
404 that is lawfully nonconforming under this subsection may remain in place and continue to be
405 maintained until the information on the face of the sign is changed, or for a period of one year
406 after the later of (i) the effective date of the annexation of the territory or (ii) the effective date of
407 the ordinance that assigns the territory in which the sign is located to a zoning district under the
408 Homer zoning code, whichever occurs first. If any action is taken that increases the degree or
409 extent of the nonconformity with the code, the sign loses lawful nonconforming status and must
410 be removed immediately. ~~A change in the information on the face of an existing nonconforming~~
411 ~~sign is allowed.~~ At the end of the period during which the lawfully nonconforming sign is

[**Bold and underlined added.** Deleted language stricken through.]

allowed to remain in use, the sign shall either be removed or the owner must obtain a permit, if required, and complete all other steps and make any modifications necessary to bring it into full compliance with this code.

e. Notwithstanding the remainder of this section, a nonconforming banner or temporary sign shall be removed no later than March 1, 2012.

Section 17. Homer City Code 21.60.160, Violations, is repealed.

Section 18. Homer City Code 21.60.170, Enforcement and remedies, is amended to read as follows:

21.60.170 Enforcement and remedies. In addition to the remedies provided in HCC Chapter 21.90, violations of this chapter are subject to the following remedies:

a. A person designated to enforce this title under HCC 21.90.020 may remove a temporary sign placed in a public right-of-way in violation of this chapter. The person responsible for the illegal placement shall be liable for the cost incurred in removing the sign. Any violation or attempted violation of this chapter or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to law.

b. Notwithstanding any other provision of this title:

1. An appeal to the Planning Commission from an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be filed within seven days after the date of distribution of the enforcement order to the person whose property is the subject of the enforcement order.

2. An appeal from a final decision of the Planning Commission regarding an enforcement order that requires the abatement or removal of a temporary sign placed on private property in violation of this chapter must be taken directly to the Superior Court A violation of this chapter shall be considered a violation of the zoning code of the City, subject prosecution and, upon conviction, subject to fines pursuant to HCC § 21.90.100.

c. The City shall have and may exercise all remedies provided for or allowed by City code or other law for the violation of the zoning code.

d. All remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

Section 19. Sections 1 through 18 of this Ordinance are of a permanent and general character and shall be included in the City Code.

[Bold and underlined added. Deleted language stricken through.]

Section 20. This Ordinance shall become effective on March 1, 2012.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
_____ 2011.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt E. Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

[Bold and underlined added. Deleted language stricken through.]



**Excerpt from March 13, 2012 Economic Development Advisory Commission
Unapproved Meeting Minutes**

PENDING BUSINESS

A. Sign Code: Temporary Commercial Signs

City Planner Abboud related the City Council referred the sign ordinance back to the Planning Commission and asked that the EDC look at the sign code, specifically temporary commercial signs. The Planning Commission reviewed the sign code again and voted that a permit was needed for the temporary commercial signs with a 14-day limitation. The permit could include when they are displaying the sign within a 90-day period. He asked that the EDC weigh in on the temporary commercial signs and make a recommendation to Council.

Commissioner Faulkner asked if there was a 90 day period defined on a quarterly fashion.

City Planner Abboud answered the requestor could prescribe the 90-day period when applying for the permit. The temporary sign would be one sign per lot.

Commissioner Faulkner noted it liberalizes temporary signage a little during the prime tourist season, and makes enforcement easier. There could be a quarterly time, such as taxes are computed.

Commissioner Wagner pointed out the need to select the dates and display them on the permit. He asked if there was any way to enforce the regulation.

City Planner Abboud answered he would dedicate staff time for enforcement.

Commissioner Faulkner had talked with the sandwich board sign people and had his ear chewed off with City Council meddling in sandwich board signs. He determined the sandwich board signs might not be so bad.

Commissioner Wagner prefers to keep it simple to enforce the rule.

Chair Sarnos would like to abide by the quarterly method, keeping it simple. It could be self-enforcing.

Other cities are all over the board with no regulations in Soldotna. A lot of towns are designed better for temporary signs. Here every sign is unique since right-of-way is not standardized any way throughout the town.

Commissioner Neece commented Homer is an artist's community. Some consideration must be given for the temporary signs. In some areas they look really good and work.

It was suggested a prominent sticker be displayed with the permitted dates posted.

Chair Sarnos asked that the policy be a simple one page rule and be self-enforcing. We could

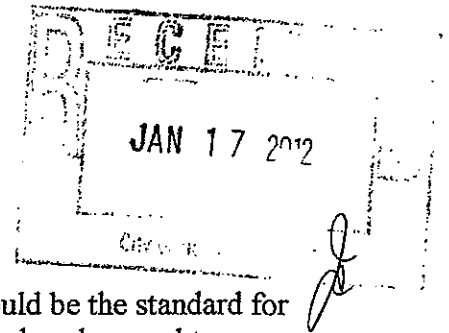
follow how it makes it through the summer.

FAULKNER/NEECE - MOVED THAT THE 90-DAY PERIOD FOR TEMPORARY SIGNS SHALL BE CONSIDERED QUARTERLY AS DEFINED BY KBP TAX QUARTERS SO YOU COULD HAVE 14 DAYS WITHIN ANY QUARTER WHICH LIBERIZES THIS SOMEWHAT DURING THE SUMMER SEASON.

There was no additional discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.



To the Homer City Council and Zoning Office,

As a concerned citizen of the city, here is what I believe should be the standard for Homer's sign ordinance. I see many businesses that are for sale or closed around town, and am afraid there will be many more if we don't do all that is possible to help them. There is only one way that the merchants are going to survive this very difficult economic time in our history, and that is to help them gain every dollar from the coming tourist season, and also from what local business there is. If they want to advertise a sale, let them. If they want the public know they are open, let them. Whatever message they need to have in front of, or on their place of business to attract all the customers they can let them do it. I don't understand why we would ever have a sign ordinance that would be detrimental to the very livelihood of our own citizens. I also don't understand why the City of Homer would not do all that is possible to help these owners, not hinder them. If they don't get every tourist dollar they can, they won't make it. Every dollar that is not spent and stays in the tourists pocket will subtract from the sales tax collected, and the city needs every dime it can find to just keep the basic services going right now. These are hard, hard times, do all that you can to help them. I don't want giant billboards put up and don't think that is appropriate at all. I don't think however that there is anything at all wrong or unattractive with sandwich signs out by the street, or temporary signs that are put on the place of business. We have got to let these business owners have every opportunity to attract the visiting public to their shops. I urge you to adopt these measures and try to keep these hard working people in business, and to also get every bit of tax money we can for our city instead of letting it go up the road to be spent somewhere else. I hope, anything other than that doesn't make any sense to anyone that lives here or that is on the City Council. Help these people make it, don't contribute to their going out of business.

ALL CITY COUNCIL

PLEASE READ

NEW BUSINESS


Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-049

TO: MAYOR AND CITY COUNCIL
FROM: JO JOHNSON, CMC, CITY CLERK 
DATE: MARCH 19, 2012
SUBJECT: RESIGNATION OF COUNCILMEMBER KEVIN HOGAN

Councilmember Hogan submitted a formal notice of resignation effective March 12, 2012.

Homer City Code 1.24.040 (I) Bylaws for Council Procedure and HCC 1.24.050 Filling a Vacancy state:

I. Vacancies:

An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the Council. The Council shall declare an elective office vacant when the person elected:

1. Fails to qualify or take office within thirty days after his election or appointment;
2. Resigns and his resignation is accepted;
3. Is physically or mentally unable to perform the duties of the office as determined by two-thirds vote of the Council;
4. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the Council concur in expelling the person elected;
5. Misses three consecutive regular meetings unless excused;
6. Is convicted of a felony or of an offense involving a violation of the oath of office;
7. Is convicted of a violation of AS 15.13 concerning Alaska Public Offices Commission reporting requirements;
8. No longer physically resides in the municipality and the City Council by two-thirds vote declares the seat vacant; and
9. Is physically absent from the municipality for ninety consecutive days unless excused by the City Council.

1.24.050 Filling a vacancy. a. If a vacancy occurs in the City Council the remaining members shall, within thirty days, appoint a qualified person to fill the vacancy. If less than thirty days remain in a term, a vacancy may not be filled.

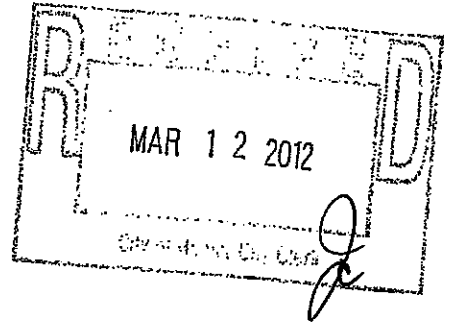
b. Notwithstanding (a) of this section, if the membership is reduced to fewer than the number required to constitute a quorum, the remaining members shall, within seven days appoint a number of qualified persons to constitute a quorum.

c. A simple majority, not a quorum, vote of the remaining Councilmembers is required to select and appoint persons to fill Council vacancies.

- d. A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.
- e. A vacancy in the office of Mayor occurring within six months before a regular election shall be filled by the Council. The person appointed serves until the next regular election when a successor is elected to serve the balance of the term. If a member of the Council is appointed Mayor, the member shall resign the seat on the Council. If a vacancy occurs more than six months before a regular election, the governing body shall call a special election to fill the unexpired term. (Ord. 05-60, 2005; Ord. 90-22, 1990)

RECOMMENDATION:

Accept Councilmember Hogan's resignation and declare the seat vacant. Authorize the Clerk to advertise the vacant seat and determine a deadline for applicants to apply.



Personal Memo

From the desk of

Kevin Hogan
4735 Tamara St.
Homer AK 99603

To: The Honorable James Hornaday
Mayor City of Homer

Dear Jim

It is with regret that I must inform you that I find it necessary to resign my seat on the Homer City Council effective at the close of the 3/12/12 council meeting.

It has been a great honor to serve with you and the other council members.

Best Wishes

Kevin

RESOLUTION(S)

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/Permanent Fund
Committee

RESOLUTION 12-022

**A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, RE-ADOPTING THE ESTABLISHED
INVESTMENT POLICIES OF THE PERMANENT FUND.**

WHEREAS, Pursuant to Homer City Code 3.10.130(b)(2) the City Council shall review the investment policies of the Permanent Fund at least once a year during the first quarter and shall by formal resolution, re-adopt or modify said policies; and

WHEREAS, The Permanent Fund Committee met on February 9, 2012 to review the investment policies of the Permanent Fund as outlined in Homer City Code Chapter 3.12; and

WHEREAS, By unanimous consent the Permanent Fund Committee voted that the fund remain as it is currently established and invested.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, re-adopts the established investment policies of the Permanent Fund.

PASSED AND ADOPTED by the Homer City Council this 27th day of March, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A

Chapter 3.10INVESTMENT AND COLLATERALIZATION OF PUBLIC FUNDSSections:

- 3.10.010 Scope.
- 3.10.015 Objectives.
- 3.10.020 Delegation of authority.
- 3.10.030 Prudence.
- 3.10.040 Authorized investments.
- 3.10.050 Placement of City investments.
- 3.10.060 Diversification.
- 3.10.070 Collateralization.
- 3.10.080 Safekeeping.
- 3.10.090 Agreements.
- 3.10.100 Internal controls.
- 3.10.110 Reporting.
- 3.10.120 Definitions.
- 3.10.130 Governance of Homer Permanent Fund Assets.

3.10.010 Scope. This chapter applies to the investment of all City monies, unless otherwise provided expressly by ordinance. (Ord. 93-14 § 3, 1993)

3.10.015 Objectives. The City investment portfolio shall be managed so that the portfolio, as a whole, meets the objectives set forth below. All persons selecting investments for City monies shall adhere to these objectives, which are listed in order of relative importance.

- (1) Safety of principal;
- (2) Maintain sufficient liquidity to meet the City's cash flow requirements; and
- (3) Achieving a reasonable market rate or return.

Notwithstanding the above objectives, no person shall invest City monies in a manner which violates any provision of this chapter or the administrative procedures established hereunder.
(Ord. 93-14 § 3, 1993)

3.10.020 Delegation of authority. Management responsibility for the investment program is hereby delegated to the Finance Director/Treasurer who shall establish written procedures for the operation of the investment program, consistent with this investment policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Finance Director/Treasurer. The Finance Director/Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinates. (Ord. 93-14 § 3, 1993)

3.10.030 Prudence. All persons having responsibility for making decisions regarding the investment of City monies shall utilize the same judgement and care, under the circumstances then prevailing, that an institutional investor would use in the conduct of an enterprise of a like character and with like aims, not for speculation but for investment, considering the probable safety of capital as well as the probable income to be derived in accordance with the stated objectives. (Ord. 93-14 § 3, 1993)

3.10.040 Authorized investments.

a. City monies shall be invested only in the following instruments: All securities purchased by the City, and all other City investments, must mature not later than the time indicated below, measured from the date of the City's investment transaction:

1. U.S. Treasury securities - 3 years;
2. Other obligations by the U. S. Government, its agencies and instrumentalities - 3 years.
3. Repurchase agreements of acceptable securities listed in subsections 1 and 2 of this section which meet a margin requirement of 102%; provided, however, the maturity limitations specified in those subsections do not apply if the securities in the repurchase agreement are marked to market daily;
4. Units of the Alaska Municipal League Investment Pool in accordance with an executed common Investment Agreement and in conformance with AS 37.23.010--37.23.900.
5. Certificates of deposit and other deposits at banks and savings and loan associations collateralized as provided in Section 3.10.070 - 3 years.

6. Uncollateralized deposits at banks and savings and loan associations, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation - 3 years;
7. Taxable bonds or notes which are issued by any state or political subdivision thereof, and which are graded AA or higher by Moody's Investor's Service, Inc., or Standard and Poor's Corporation - 3 years;
8. Commercial paper graded A1 or higher by Moody's Investor's Service, Inc., or P1 or higher by Standard and Poor's Corporation - 270 days;
9. Bankers' acceptances offered by banks rates at least "AA" by Moody's or Standard and Poor's;
10. Money market mutual funds whose portfolios consist entirely of instruments specified in subsection 1, 2 and 3 above - with net asset value of \$1.00.

b. No person shall invest any City monies in any instrument which is not listed in subsection a. This prohibition includes but is not limited to, investment of City monies in any mutual fund (except as otherwise provided in subsection a (10), common or preferred stock, precious metals, zero coupon bonds, corporate bonds, option contract or futures contract.

c. This chapter represents the maximum amount of authority and discretion which the Finance Director/Treasurer may utilize in investing City monies. Nothing in this chapter shall be construed, however, to prohibit the Finance Director/Treasurer for adopting standards, rules, policies and procedures which are more restrictive than those contained in this chapter. The enumeration in this chapter of instruments which are authorized for City investments shall not be construed as requiring the Finance Director/Treasurer to invest in all, or any particular instrument contained in said list at any given time. The Finance Director/Treasurer may invest in some or all of said instrument as deemed appropriate. Similarly, the enumeration of instruments which are acceptable as collateral for City investments shall not be construed as requiring the Finance Director/Treasurer to accept all or any particular, instrument contained in said list at any given time. The Finance Director/Treasurer may accept some of said instruments, and reject others. (Ord. 93-14 § 3, 1993)

3.10.050 Placement of City investments.

a. Because of rapid fluctuations of interest rates and the brief period of availability of some securities, bids may be solicited, received, and accepted, either orally or in writing. Solicitation, receipt, and acceptance of bids by telephone is authorized. In order for a bid to be responsive, it must meet all the specifications and requirements of the bid solicitation. The Finance Director/Treasurer shall not consider nonresponsive bids.

b. The Finance Director/Treasurer shall award a bid to the financial institution whose bid best fulfills the investment objectives contained in 3.10.010, considering the City investment portfolio as a whole.

c. All securities transferred to or from the City, except securities transferred as collateral, shall be transferred using the delivery versus payment method. Securities transferred as collateral shall be actually received by the custodial bank designated by the Finance Director/Treasurer may require financial institutions to deliver collateral to a custodial bank prior to bidding on City investments. (Ord. 93-14 § 3, 1993)

3.10.060 Diversification. City investments shall be diversified to minimize the risk of loss resulting from over concentration of investments in a specific maturity, a specific issuer, a specific class of security or a specific financial institution. Investments will be diversified to maintain a degree of liquidity. The Finance Director/Treasurer shall adopt administrative procedures to implement this section. (Ord. 93-14 § 3, 1993)

3.10.070 Collateralization.

a. If City monies are invested in certificates of deposit or other deposits, the entire amount of principal and interest which will be payable to the City upon maturity of the investment must be collateralized by a combination of the following securities, at the following margin requirements and maturities.

<u>COLLATERAL TYPE</u>	<u>MARGIN REQUIREMENT</u>
1. U.S. Treasury Securities with a maturity date 5 years or less from the date of the City's investment transaction.	102%

2. Actively traded U.S. Government agency or Instrumentality Securities, except mortgage pass-through securities with a:
 - a. Maturity date 1 year or less from the date of the City's investment transaction. 103%
 - b. Maturity date between 1 and 5 years from the date of the City's investment transaction 107%
3. Government National Mortgage Association mortgage pass-through securities. 120%
4. Obligations of the State of Alaska and its political subdivisions secured by the full faith, credit and taxing power thereof;
 - a. Maturity date 1 year or less from the date of the City's investment transaction 102%
 - b. Maturity date between 1 and 5 years from the date of the City's investment transaction 107%
5. FDIC and FSLIC Insurance 100%
6. Securities underlying units in the Alaska Municipal Investment Pool.

b. A financial institution shall not release, assign, sell, mortgage, lease, transfer, pledge or grant a security interest in, encumber, substitute or otherwise dispose of or abandon all or any part of pledged collateral without prior written authorization of the City. (Ord. 93-14 § 3, 1993)

3.10.080 Safekeeping. Procedures and criteria for selection of a custodial or safekeeping institution shall be established under Section 3.10.020 of this chapter. Selection of an institution shall be in accordance with those procedures and the City purchasing code. The Finance Director/Treasurer shall enter into agreements with one or more financial institutions to provide custodial and safekeeping services for City investments. All investments purchased by the City and all securities used as collateral for certificates of deposit, or other deposits, shall be either held directly by the City, or held by a third party custodial bank as agent for the City. Collateral for overnight repurchase agreements shall be pledged to the City but may be held by the financial institution. (Ord. 93-14 § 3, 1993)

3.10.090 Agreements. Security agreements instituting this policy will be entered into prior to the purchase of a certificate of deposit or repurchase agreements. (Ord. 93-14 § 3, 1993)

3.10.100 Internal controls. The Finance Director/Treasurer shall establish a system in internal controls, which shall be documented in writing. The City's external auditor shall review and evaluate, at least annually, the system of internal controls to ensure that they are adequate for the purposes stated in this section. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees or officers. (Ord. 93-14 § 3, 1993)

3.10.110 Reporting. The Finance Director/Treasurer shall submit quarterly to the City Manager an investment report that summarizes the portfolio in terms of investment securities, maturities, risk categories, returns and other features. The City Manager shall present this report to the City Council in its entirety. (Ord. 93-14 § 3, 1993)

3.10.120 Definitions. As used in this chapter, the following definitions apply:

1. "Actively traded" means a security which is frequently bought or sold on a nationally recognized market.
2. "Delivery vs. Payment" means that a security will be delivered to safekeeping before cash is paid for the security.
3. "Financial institution" means a bank, savings and loan association, or securities dealer.
4. "Margin requirement" means the amount by which the market value of the securities collateralizing a transaction exceeds the amount lent.
5. "Marked to market" means to value a security at its current sales price.
6. "Money market mutual funds" means a mutual fund which maintains a constant share price regardless of market fluctuations and which has an average maturity for its entire portfolio of one year or less.

7. "Pledged" means specific securities set aside as collateral which are identified to a specific account.
8. "Bankers' acceptances" means an order to pay a certain amount of money on a certain date and bearing an unconditional promise of a bank to pay the draft at maturity. Bankers acceptances are secured by the credit worthiness of the bank and a U.S. Corporation as well as goods underlying the transaction.
9. "Commercial paper" means an unsecured promissory note of a corporation backed by a line of credit with a bank, issued for a specific amount and maturing on a specific day.
10. "Repurchase agreements" means short term transactions consisting of the purchase of a security with the promise to return it at a later date.
11. "U.S. Government agency or instrumentality securities" means obligations of the U.S. Government issued on behalf of U.S. Government departments through the Federal Financing Bank and securities issued by U.S. Government-sponsored enterprises or quasi-public corporations.
12. "U.S. Treasury Securities" means a security that is backed by the full faith and credit of the U.S. Government.
13. "Net Asset Value" means the invested fund's value remains the same. Any value above that is treated as income, i.e. invest \$1.00 today and withdraw \$1.00 tomorrow plus interest earned. (Ord. 93-14 § 3, 1993)

3.10.130 Governance of Homer Permanent Fund Assets. a. In investing and managing the monies of the Permanent Fund established pursuant to HCC Chapter 3.12, the persons having responsibility for making decisions shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation, but in regard to the long term investment of funds considering the probable safety of capital as well as probable income, in accordance with the stated objectives of the Permanent Fund.

b. In order to ensure sound investment strategy, the city council will take action in the following manner:

1. The city council shall establish written investment policies by formal resolution which shall be adhered to without exception;
2. The city council shall review the investment policies of the permanent fund at least once each year during the first quarter and shall, by formal resolution, re-adopt or modify said policies;

3. The city council shall establish, by formal resolution, a plan for the allocation of investment assets each year that provides for the following:

(a) That earnings available for annual appropriation and distribution shall be confined to the interest, dividends or coupon discounts derived from the investments of the fund. Realized or unrealized gains to the portfolio value are not considered earnings,

(b) The portfolio of growth sub-fund will be invested primarily in equities, and is exempt from HCC 3.10.040.

(c) The portfolio of the income sub-fund will be invested primarily in bonds and the other fixed rate securities authorized by HCC 3.10.040.

(d) The income sub-fund may be used as a revolving loan for various city capital projects as provided in HCC Chapter 3.12.

(e) Sets forth portfolio duration, and which establishes performance benchmarks, and which estimates the percentage or amount of that year's annual earnings that would be necessary to retain to inflation-proof the fund principal;

4. The city council shall establish a permanent fund investment committee consisting of the finance director, the city clerk, two members of the city council, and two members of the community at-large. The term of each appointment shall be two years, with initial terms of the city council members and members at-large staggered so that half of the terms will expire each year. The committee shall be appointed by the mayor and confirmed by the city council. The appointment of any city official will automatically terminate on the date when the person no longer holds such city office. Any city council member or member at-large may be removed from the committee at any time by the City Council.

5. The committee shall meet at least quarterly to provide direction as required for maintenance of the fund. The committee shall provide regular reports of its activity to the city council.

6. The city administration shall maintain on file within the offices of the Finance Department monthly reports which indicate transactions affecting the investment account, to include, at a minimum, transfers of cash into and out of the account, and interest or dividends received by the account;

7. The city administration shall order an objective performance evaluation of the investment program every year;

8. The city administration shall retain one or more bank custodians to hold all investment cash and fixed income securities of the permanent fund and require that the custodians shall render monthly reports to the administration regarding assets held at both book and market values, and individual transactions which have taken place; that the banks shall have adequate fidelity insurance, and that written contracts be entered into between the city and the custodian banks.

c. The city, with the approval of the city council, shall retain one or more professional investment managers to design portfolios and invest funds in accordance with the written investment policies adopted by the city council. The investment managers shall be registered financial advisers with both the United States Securities and Exchange Commission and the state of Alaska, unless otherwise exempt from registration, and the investment managers shall agree to serve as a fiduciary to the city. Each investment manager shall carry professional liability insurance in an amount satisfactory to the city, and the terms of the investment relationship shall be memorialized in a written contract entered into between the city and the respective investment advisers. (Ord. 05-14(S) §2), 2006)

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Chapter 3.12PERMANENT FUNDSections:

- 3.12.010 Homer Permanent Fund Established.
- 3.12.020 Contributions.
- 3.12.030 Allocation to sub-funds.
- 3.12.040 Additions to fund.
- 3.12.050 Investment of fund.
- 3.12.060 Expenditures of income.
- 3.12.070 Loans from income sub-fund.
- 3.12.080 Expenditure of principal.

3.12.010 Homer Permanent Fund Established. There is hereby established the Homer Permanent Fund. The Permanent Fund shall be governed by this chapter. (Ord. 05-14(S) §1, 2006)

3.12.020 Contributions. a. If monies from the distribution of the Exxon Valdez settlement or other forms of "wind-fall monies" become available to the City, 95% of such funds shall be placed in the Homer Permanent Fund.

b. "Wind-fall monies" shall be defined as any new monies received by the City from any source other than standard budgeted operating revenues and not allocated to any specific purpose. "Wind-fall monies" do not include bond proceeds, grant funds allocated to a specified purpose, or the proceeds of non-Exxon Valdez litigation when such proceeds are recovered as damages to compensate or reimburse the city for expenditures previously made by the city. In all cases, the City Council's determination of whether monies are "wind-fall" is final and conclusive.

c. The remaining five percent of Exxon Valdez settlement funds and other wind-fall monies are available to be appropriated by the City Council for grants to the Homer Foundation or other local non-profit organizations for the benefit of the community. (Ord. 05-14(S))

3.12.030 Allocation to sub-funds. When a contribution is made to the Permanent Fund pursuant to HCC 3.12.020, the money received shall be allocated to two sub-funds as follows:

a. Sixty percent of each contribution shall be allocated to an income sub-fund.

b. Forty percent of each contribution shall be allocated to a growth sub-fund. (Ord. 05-14(S) §1, 2006)

3.12.040 Additions to fund. The City Council may elect to contribute
a
monies to the Permanent Fund. Unless otherwise allocated by the council, such contributions shall be allocated to sub-funds pursuant to HCC 3.12.030. (Ord. 05-14(S) §1, 2006)

3.12.050 Investment of fund. The sub-funds of Permanent Fund shall be invested and managed in accordance with HCC 3.10.130. (Ord. 05-14(S) §1, 2006)

3.12.060 Expenditures of income. a. Expenditures of Permanent Fund income may be made only as authorized in this chapter.

b. The income from the income sub-fund may be appropriated by the City Council and be expended for general governmental purposes, including but not limited to ordinary operating expenses.

c. The income from the growth sub-fund shall not be expended. It shall be added to the principal of the growth sub-fund and reinvested. (Ord. 05-14(S) §1, 2006)

3.12.070 Loans from income sub-fund. The principal of the income sub-fund may be used as a source of loan funds for city capital projects, and not as a grant. To be eligible for such a loan the project must receive a majority of its funding from other sources. Such loans shall be on terms approved by resolution of the City Council, which must provide for the repayment of the loan over a reasonable period of time. (Ord. 05-14(S) §1, 2006)

3.12.080 Expenditure of principal. a. Expenditures of Permanent Fund principal may be made only as authorized in this section.

b. Except as a source of loan funds as provided in subsection 3.12.070, the principal of both the income sub-fund and the growth sub-fund shall neither be distributed nor spent without the authorization of sixty percent of city voters at a regular or special election.

c. Prior to submitting to the voters the question of whether to distribute or spend funds from the principal of the Permanent Fund, the City Council shall find that all reasonable options for borrowing have been exhausted, including the option of borrowing from the Homer Permanent Fund pursuant to section 3.12.070. (Ord. 05-14(S) §1, 2006)

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Session 12-01 a Regular Meeting of the Permanent Fund Committee was called to order on February 9, 2012 at 5:15 p.m. by Chair Barbara Howard at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMITTEE MEMBERS: BARBARA HOWARD, JO JOHNSON, MATT NORTH, BETH WYTHE

ABSENT: REGINA MAURAS (excused)

APPROVAL OF AGENDA

WYTHE/JOHNSON - MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

APPROVAL OF MINUTES

A. Synopsis of Regular Meeting of November 10, 2011

WYTHE/NORTH - MOVED TO APPROVE THE MINUTES OF NOVEMBER 10, 2011 AS PRESENTED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

Accounting Supervisor Laurie Moore provided a report on the Permanent Fund earnings with U.S. Bank.

PUBLIC HEARING

PENDING BUSINESS

NEW BUSINESS

- A. Review and Recommendations of the Investment Policies of the Permanent Fund Pursuant to HCC 3.10.130(b)(2)

JOHNSON/WYTHE - MOVED TO APPROVE THE POLICIES OF THE PERMANENT FUND AS WRITTEN AND MAKE THAT RECOMMENDATION TO COUNCIL.

Discussion on the 5% for nonprofits ensued with the understanding the earnings only on the 5% will be available for distribution. The committee will work on the language that the 5% be invested in a similar manner. The 5% fund could become self-supporting to nonprofits, with earnings on the 60% available for distribution. A running accounting of the 5% is maintained by Finance. The committee decided to work on the language this year to make the language on the 5% clearer.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. U.S. Bank Reports for period ending December 31, 2011

Accounting Supervisor Laurie Moore reported on the Permanent Fund for 2011:

Beginning balance of income fund - \$560,961.67
Administrative fees - \$4,236.28
Interest and Dividends - \$12,867.36
Unrealized Gain - \$11,102.81
Accrued Interest - \$436.52
Balance as of December 31, 2011 - \$581,132.08

Beginning balance of gross fund - \$971,468.73
Administrative fees - \$7,209.35
Interest and Dividends - \$8,973.22
Recognized Gains and Losses - \$11,538.36
Unrealized Gains/Losses <\$77,510.02>
Balance as of December 31, 2011 - \$907,260.94

Total Balance as of January 1, 2011 - \$1,532,430.34
Ending Balance as of December 31, 2011 - \$1,488,393.02
Loss of fund - <\$44,037.38>

Committee Member North commented this is in line for 2011; the statement will be significantly different for January/February 2012. On fixed income the value of the bonds fluctuates. The recognized shows a gain while the unrealized shows the current market is down.

INFORMATIONAL MATERIALS

COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)

There were no comments of the audience.

COMMENTS OF THE CITY STAFF

There were no comments from the staff.

COMMENTS OF THE COUNCILMEMBER

Councilmember Wythe had no comment.

COMMENTS OF THE CHAIR

Chair Howard had no comment.

COMMENTS OF THE COMMISSION

Committee members North and Johnson had no comment.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 5:32 p.m. The next Regular Meeting is scheduled for Thursday, May 10, 2012 at 5:15 p.m. in the Homer City Hall Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

Submitted by Jo Johnson

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/

Port and Harbor Advisory Commission

RESOLUTION 12-023

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE FEE SCHEDULE FOR PORT
AND HARBOR LONG TERM PARKING FEES.

WHEREAS, The Port and Harbor Advisory Commission reviewed the 2011 parking season that included the new parking requirements; and

WHEREAS, To accommodate the customers who need to park their vehicle for more than seven days and likely less than ninety days in a calendar year, the commission recommended a monthly parking fee option for long-term parking; and

WHEREAS, The option of a month-to-month long-term parking fee will decrease the amount of office transactions and reduce enforcement efforts to encourage compliance.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends the City of Homer Fee Schedule as follows:

PARKING FEES

Parking fees to be collected at Ramp 1, Ramp 2, Ramp 3 and Ramp 4 seasonally (Memorial Day through Labor Day). Parking fee is \$5 per calendar day. Posted parking time limits will be established and enforced as per Homer city code 10.04.100.

Seasonal permits for day use parking (Ramps 1-4): \$250.00.

Long Term parking permits required for Vehicles 20' or less parked in excess of seven (7) consecutive 24-hour days.

Long Term Parking annual permit (January 1st through December 31st): fee \$200.00.

Long Term Parking annual permit fee for vessel owners paying annual moorage in the Homer Harbor: fee \$100.00.

Vehicles over 20' and trailers are not eligible for long term parking permits.

Monthly parking permit for vehicles less than 20': fee \$70.00 for 30 consecutive days.

Monthly parking permit for vehicles over 20': fee \$85.00 for 30 consecutive days in a portion of Lot 9 only.

Long term parking will be enforced year around.

Parking lot restrictions for long term parking, May 1 through October 1, as depicted on attached map (Attachment A).

Existing code definitions for restricted parking, vehicles, junk vehicles, and fines for violations apply.

Fines, \$25.00 per calendar day, limited to \$250.00 fine per calendar year, with \$200.00 of the fine credited towards the long term parking annual permit.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this _____ day of _____, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Revenue amounts not defined in CY2012 budget.



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM 12-050

TO: HOMER CITY COUNCIL & CITY MANAGER WALT WREDE
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER
DATE: MARCH 16, 2012
SUBJECT: CHANGES TO HOMER SPIT PARKING PLAN TO INCLUDE MONTHLY PARKING FEES

Background

The 2011 parking season and possible changes to the Spit parking plan was discussed at the Port and Harbor Advisory Commission's last two regular meetings, dated January 25 and February 22, 2012. The commission recommended to staff to research the process for council action and code changes to put a monthly parking fee in place.

After much review and public feedback, staff recommends including monthly parking pass fees for long-term parking to the Port of Homer Terminal Tariff No. 600. The two proposed rates are described as follows:

1. A monthly pass for vehicles less than 20 feet. Proposed fee: \$70.00. This fee is set at a rate to encourage parkers to purchase an annual if they are planning to park longer than one month. In other words, we don't want to have folks purchase month-to-month passes instead of an annual because that would increase the amount of office transactions and the level of effort on enforcement needed in order to encourage compliance.
2. A monthly pass for oversize vehicles (over 20 feet). Proposed fee: \$85.00. A portion of Lot 9 will be designated for these oversize vehicles parking long-term. This will help accommodate the AMHS ferry customers who are traveling for more than seven days and want to park on the Spit, commonly their motor home. Currently our Tariff has a fee for non-fishing gear storage at a rate of \$0.17 per square foot, minimum of 1,000 square feet for a total of \$170.00 per month. Due to the fact that you can park two of these oversized vehicles on one lot, we came to the amount of \$85.00 per month per vehicle.

Both passes would require special mirror tags and the pay through date would be based on 30 consecutive days rather than a calendar month.

Recommendations

Approve Resolution 12-023 amending the City of Homer Fee Schedule Long Term Parking and Resolution 12-024 amending Port of Homer Terminal Tariff No. 600 to include monthly parking pass fees of \$70.00 for vehicles less than 20 feet, and \$85 for oversized vehicles (over 20 feet).

Attached: PHC Regular Meeting Minutes dated January 25, 2012
PHC Regular Meeting Minutes dated February 22, 2012

PORT AND HARBOR ADVISORY COMMISSION
REGULAR MEETING
JANUARY 25, 2012

Hawkins noted that he anticipates seeing the results of the engineer's estimates in early February. He outlined a set of parameters for the consultant to consider on the Harbormaster's office building, including public restrooms and possibly public showers as well office space and a small workshop. There were comments that the City shouldn't build office space to lease. The building needs to be built to accommodate the harbor's needs as it grows in the years to come.

HOWARD/WEDIN MOVED TO FORWARD THE RANKINGS OF THE SIX PROJECTS TO THE PORT AND HARBOR IMPROVEMENT COMMITTEE.

The Commission discussed that this ranking is a recommendation of order of precedence for the funding of the projects.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- B. Memorandum to Port and Harbor Advisory Commission regarding amending the Bylaws regarding the Regular Meeting time for the months of May, June, July, and August from 5:00 p.m. to 6:00 p.m.

HOWARD/HARTLEY MOVED TO APPROVE THE RECOMMENDATION FOR THE MEETING SCHEDULE AND FORWARD IT TO COUNCIL FOR ADOPTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

A. Memorandum to Port and Harbor Commission from Port Director Re: Homer Moorage Rates dated November 28, 2011

- a) Letter from Christens Regarding Parking dated February 2, 2011
- b) Email from Homer Hockey Assoc. Regarding Kevin Bell Arena Parking dated June 24, 2011
- c) Letter from Ilia Dillon Regarding Parking dated July 14, 2011
- d) Letter from Seldovia City Manager Regarding Parking dated July 28, 2011
- e) 2011 Parking Pass Revenue Stats
- f) 2011 Ramp 1-4 Parking Revenue Stats
- g) 2012 Parking Passes

Harbormaster Hawkins reviewed his parking report and explained that the staff worked to be proactive using warnings and courtesy calls before issuing tickets. Their goal is compliance and changing behavior, not to write a bunch of tickets. Although some people don't like it, he feels that folks are getting used to it.

There was discussion of the idea of monthly parking fees. The reviewed the suggestions in the staff report, which includes a monthly rate of \$70 for vehicles less than 20 feet and

PORT AND HARBOR ADVISORY COMMISSION
REGULAR MEETING
JANUARY 25, 2012

designating a portion of Lot 9 for oversized vehicles (longer than 20 feet) at a rate of \$85. There was concurrence that the monthly fee will help resolve some people's issues.

WEDIN/HARTLEY MOVED TO ASK STAFF TO RESEARCH PROCESS FOR COUNCIL ACTION AND CODE CHANGES TO PUT THE MONTHLY PARKING FEES IN PLACE.

There was brief discussion that the monthly fee breaks down to be slightly higher than the annual fee. It was noted that the goal is to keep people who benefit from the annual pass from purchasing several monthly passes and thereby increasing administrative costs.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

The Commission briefly addressed the park and sell corner. Comments were made that there could be a fee set to park there to sell the vehicle. Another approach would be to put the lot out for RFP and see if someone in the private sector would be interested in pursuing something like that.

B. 2012 Strategic Plan Update

Chair Ulmer asked that a revised copy of their strategic plan be brought back that shows what the group has completed and for Commissioners to come back with ideas for their 2012 plan.

INFORMATIONAL ITEMS

- A. Monthly Statistical & Performance Report
- B. Weekly Crane and Ice Report
- C. Deep Water Dock Report
- D. Pioneer Dock Report & Pioneer Dock Ferry Landings Report
- E. Memorandum from Port and Harbor Director Re: End of Year Update
- F. Commissioner Attendance Schedule for City Council Meetings 2012
- G. Lease Expirations as of 1/5/12

There was brief discussion of the parking signs.

COMMENTS OF THE AUDIENCE

There were no audience comments.

COMMENTS OF CITY STAFF

Harbormaster Hawkins advised that tomorrow they will be taking public comments at the LIO office regarding HB184. It's a winner for Homer.

COMMENTS OF THE COUNCILMEMBER

No Councilmembers were present.

COMMENTS OF THE CHAIR

Chair Ulmer had no comment.

Port Maintenance

In addition to routine maintenance tasks around the Port, we have been busy with snow removal, especially the week of January 30. The increased snow fall has led to a number of equipment failures on snow blowers, the Sweepster, and the snow plow frame on Truck 426. All were repaired and returned to service in a timely manner. We're also glad to do our part to facilitate the increased dock and barge ramp traffic by sanding/plowing/ice removal.

- Maintenance assisted Harbor Officers in the dewatering of a 30 foot vessel to prevent it from sinking. It was a good collaboration of Team Port!

B. Lease Committee

Commissioner Zimmerman reported that the Lease Committee met last week to discuss a lease for Dockside II. The proposal was incomplete and the applicant didn't show up so it got put aside and the property might go out for RFP. The four leases that have been approved for signing by City haven't been completed for various reasons and Administration is working to get them done.

PUBLIC HEARING

None

PENDING BUSINESS

- A. Memorandum to the Port and Harbor Commission fro Port Director Re: Parking Results & Review of 2011 Season
- a.) Memorandum from Deputy City Clerk Re: Correction of Notice for Parking Results & Review of the 2011 Season and Adoption of the Motion Regarding Monthly Parking Fees

HOWARD/WEDIN MOVED TO APPROVE THIS MEMORANDUM TO RESOLVE IMPROPER MEETING NOTICE AND THEREBY ADOPT THE MOTION RECOMMENDING STAFF MOVE FORWARD ON THE MONTHLY PARKING FEES.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. Harbor Improvement Cost Estimate Summary

Barbara Howard, Chair of the Port and Harbor Improvement Committee reviewed her power point presentation that was also included in the meeting packet. The presentation included information regarding:

- A brief history of the Committees work to date.
- Engineer's Estimated Project Costs for the five projects is \$12,468,000
- Alternatives for the harbor office building, including availability of two properties available for sale.
- Availability of matching funds.

City Clerk/

HOMER, ALASKA

Port and Harbor Advisory Commission

RESOLUTION 12-024

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, AMENDING THE PORT OF HOMER TERMINAL
TARIFF NO. 600 TO PROVIDE FOR LONG TERM PARKING
FEES.

WHEREAS, A Long Term Parking Plan was adopted via Resolution 11-034(S), with parking fees included in the Port of Homer Terminal Tariff No. 600 via Resolution 11-040(A); and

WHEREAS, To accommodate the customers who need to park their vehicle for more than seven days and likely less than ninety days in a calendar year, the commission recommended a monthly parking fee option for long-term parking; and

WHEREAS, The option of a month-to-month long-term parking fee will decrease the amount of office transactions and reduce enforcement efforts to encourage compliance.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends the Port of Homer Terminal Tariff No. 600 as follows:

RULE: 34.31 – PARKING FEES

Parking fees to be collected at Ramp 1, Ramp 2, Ramp 3 and Ramp 4 seasonally (Memorial Day through Labor Day). Parking fee is \$5 per calendar day. Posted parking time limits will be established and enforced as per Homer City Code 10.04.100.

(a) LONG TERM PARKING PERMITS

Vehicles over 20' and trailers are not eligible for long term parking permits.

(1) Seasonal permits for day use parking (Ramps 1-4): \$250.00.

(2) Long Term parking permits required for vehicles 20' or less parked in excess of seven (7) consecutive 24-hour days.

(3) Long Term Parking annual permit fee for vessel owners paying annual moorage in the Homer Harbor: fee \$100.00.

(4) Long Term parking annual permit (January 1st through December 31st): fee \$200.00.

(5) Monthly parking permit for vehicles less than 20': fee \$70.00 for 30 consecutive days.

(6) Monthly parking permit for vehicles over 20': fee \$85.00 for 30 consecutive days in a portion of Lot 9 only.

~~(57)~~ Long term parking will be enforced year around.

~~(68)~~ Parking lot restrictions for long term parking, May 1 through October 1, as depicted on harbor map (Resolution 11-036(A)).

~~(79)~~ Existing code definitions for restricted parking, vehicles, junk vehicles, and fines for violations apply. Fines, \$25.00 per calendar day, provided that the fine for overtime parking in long term parking area will be limited to \$250.00 fine per calendar year, with \$200.00 of the fine credited towards the long term parking annual permit.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this _____ day of _____, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Revenue amounts not defined in CY2012 budget.



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM 12-050

TO: HOMER CITY COUNCIL & CITY MANAGER WALT WREDE
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER
DATE: MARCH 16, 2012
SUBJECT: CHANGES TO HOMER SPIT PARKING PLAN TO INCLUDE MONTHLY PARKING FEES

Background

The 2011 parking season and possible changes to the Spit parking plan was discussed at the Port and Harbor Advisory Commission's last two regular meetings, dated January 25 and February 22, 2012. The commission recommended to staff to research the process for council action and code changes to put a monthly parking fee in place.

After much review and public feedback, staff recommends including monthly parking pass fees for long-term parking to the Port of Homer Terminal Tariff No. 600. The two proposed rates are described as follows:

1. A monthly pass for vehicles less than 20 feet. Proposed fee: \$70.00. This fee is set at a rate to encourage parkers to purchase an annual if they are planning to park longer than one month. In other words, we don't want to have folks purchase month-to-month passes instead of an annual because that would increase the amount of office transactions and the level of effort on enforcement needed in order to encourage compliance.
2. A monthly pass for oversize vehicles (over 20 feet). Proposed fee: \$85.00. A portion of Lot 9 will be designated for these oversize vehicles parking long-term. This will help accommodate the AMHS ferry customers who are traveling for more than seven days and want to park on the Spit, commonly their motor home. Currently our Tariff has a fee for non-fishing gear storage at a rate of \$0.17 per square foot, minimum of 1,000 square feet for a total of \$170.00 per month. Due to the fact that you can park two of these oversized vehicles on one lot, we came to the amount of \$85.00 per month per vehicle.

Both passes would require special mirror tags and the pay through date would be based on 30 consecutive days rather than a calendar month.

Recommendations

Approve Resolution 12-023 amending the City of Homer Fee Schedule Long Term Parking and Resolution 12-024 amending Port of Homer Terminal Tariff No. 600 to include monthly parking pass fees of \$70.00 for vehicles less than 20 feet, and \$85 for oversized vehicles (over 20 feet).

Attached: PHC Regular Meeting Minutes dated January 25, 2012
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PORT AND HARBOR ADVISORY COMMISSION
REGULAR MEETING
JANUARY 25, 2012

Hawkins noted that he anticipates seeing the results of the engineer's estimates in early February. He outlined a set of parameters for the consultant to consider on the Harbormaster's office building, including public restrooms and possibly public showers as well office space and a small workshop. There were comments that the City shouldn't build office space to lease. The building needs to be built to accommodate the harbor's needs as it grows in the years to come.

HOWARD/WEDIN MOVED TO FORWARD THE RANKINGS OF THE SIX PROJECTS TO THE PORT AND HARBOR IMPROVEMENT COMMITTEE.

The Commission discussed that this ranking is a recommendation of order of precedence for the funding of the projects.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- B. Memorandum to Port and Harbor Advisory Commission regarding amending the Bylaws regarding the Regular Meeting time for the months of May, June, July, and August from 5:00 p.m. to 6:00 p.m.

HOWARD/HARTLEY MOVED TO APPROVE THE RECOMMENDATION FOR THE MEETING SCHEDULE AND FORWARD IT TO COUNCIL FOR ADOPTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

A. Memorandum to Port and Harbor Commission from Port Director Re: Homer Moorage Rates dated November 28, 2011

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Harbormaster Hawkins reviewed his parking report and explained that the staff worked to be proactive using warnings and courtesy calls before issuing tickets. Their goal is compliance and changing behavior, not to write a bunch of tickets. Although some people don't like it, he feels that folks are getting used to it.

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PORT AND HARBOR ADVISORY COMMISSION
REGULAR MEETING
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designating a portion of Lot 9 for oversized vehicles (longer than 20 feet) at a rate of \$85. There was concurrence that the monthly fee will help resolve some people's issues.

WEDIN/HARTLEY MOVED TO ASK STAFF TO RESEARCH PROCESS FOR COUNCIL ACTION AND CODE CHANGES TO PUT THE MONTHLY PARKING FEES IN PLACE.

There was brief discussion that the monthly fee breaks down to be slightly higher than the annual fee. It was noted that the goal is to keep people who benefit from the annual pass from purchasing several monthly passes and thereby increasing administrative costs.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

The Commission briefly addressed the park and sell corner. Comments were made that there could be a fee set to park there to sell the vehicle. Another approach would be to put the lot out for RFP and see if someone in the private sector would be interested in pursuing something like that.

B. 2012 Strategic Plan Update

Chair Ulmer asked that a revised copy of their strategic plan be brought back that shows what the group has completed and for Commissioners to come back with ideas for their 2012 plan.

INFORMATIONAL ITEMS

- A. Monthly Statistical & Performance Report
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- G. Lease Expirations as of 1/5/12

There was brief discussion of the parking signs.

COMMENTS OF THE AUDIENCE

There were no audience comments.

COMMENTS OF CITY STAFF

Harbormaster Hawkins advised that tomorrow they will be taking public comments at the LIO office regarding HB184. It's a winner for Homer.

COMMENTS OF THE COUNCILMEMBER

No Councilmembers were present.

COMMENTS OF THE CHAIR

Chair Ulmer had no comment.

PORT AND HARBOR ADVISORY COMMISSION
REGULAR MEETING
FEBRUARY 22, 2011

Port Maintenance

In addition to routine maintenance tasks around the Port, we have been busy with snow removal, especially the week of January 30. The increased snow fall has led to a number of equipment failures on snow blowers, the Sweepster, and the snow plow frame on Truck 426. All were repaired and returned to service in a timely manner. We're also glad to do our part to facilitate the increased dock and barge ramp traffic by sanding/plowing/ice removal.

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PUBLIC HEARING

None

PENDING BUSINESS

- A. Memorandum to the Port and Harbor Commission from Port Director Re: Parking Results & Review of 2011 Season
- a.) Memorandum from Deputy City Clerk Re: Correction of Notice for Parking Results & Review of the 2011 Season and Adoption of the Motion Regarding Monthly Parking Fees

HOWARD/WEDIN MOVED TO APPROVE THIS MEMORANDUM TO RESOLVE IMPROPER MEETING NOTICE AND THEREBY ADOPT THE MOTION RECOMMENDING STAFF MOVE FORWARD ON THE MONTHLY PARKING FEES.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. Harbor Improvement Cost Estimate Summary

Barbara Howard, Chair of the Port and Harbor Improvement Committee reviewed her power point presentation that was also included in the meeting packet. The presentation included information regarding:

- A brief history of the Committees work to date.
- Engineer's Estimated Project Costs for the five projects is \$12,468,000
- Alternatives for the harbor office building, including availability of two properties available for sale.
- Availability of matching funds.

CITY OF HOMER
HOMER, ALASKA

Mayor

RESOLUTION 12-025

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE CITY OF HOMER FEE SCHEDULE TO PROVIDE THAT A MULTIFAMILY RESIDENTIAL ACCOUNT CUSTOMER IS CHARGED ONLY A SINGLE MONTHLY SEWER AND WATER CUSTOMER CHARGE.

BE IT RESOLVED by the City Council of Homer, Alaska:

Section 1. The City of Homer Fee Schedule is amended as follows:

SEWER FEES:

Sewer Connection and Extension Permit Fee

Single Family/Duplex \$255

Multi-Family/Commercial/Industrial \$330

Sewer Rate Schedule.

All sewer utility services shall be billed according to the following schedule. This schedule is for monthly sewer services and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$20	\$0.00997	\$ 9.97
Multi-Family Residential	\$20	\$0.00997	\$ 9.97
Commercial	\$20	\$0.01264	\$12.64

Seasonal monthly sewer customer charge will be \$10.00 or one half off the regular monthly customer charge.

*-Customer classification definitions for determining water rates:

Single Family Residential - A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household; contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

Sewer System Residential or Residential Equivalent Dischargers Who Are Not Water System Users:

Sewer system dischargers who are not water system users shall be charged at the rate of \$54.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge \$20. The City reserves the right to adjust this rate based on the characteristics of the service for non-residential or non-residential equivalent users. Customers who receive septic service shall be charged an additional \$6.00* per month.

Sewer System Dischargers Who Are Members of Kachemak City LID:

Kachemak City Local Improvement District (LID) members have contributed to the initial cost of the sewer treatment plant and the collection system. Kachemak City LID dischargers connected within the LID and the City of Homer shall bill Kachemak City in one lump sum at the rate of \$60.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge of \$20 plus septage cost \$6.00* per month for each residential or residential equivalent discharger. Kachemak City shall be responsible for payment to the City of Homer.

Domestic sewer service customers who use large quantities of City water in addition to their domestic use shall be allowed, with the Public Works Director's approval, to install an additional water meter on the domestic water use line for the purpose of metering and charging for domestic sewer system use. Sewer system use will be billed monthly.

The City will allow, upon approval by Public Works and a permit from the Public Works Department, a second water usage meter – called a seasonal sewer meter – for each customer that desires to measure the flow of City water that is not discharged to the sewer system during the summer growing season, June 15 through September 15. Rates noted above do not apply.

Seasonal Sewer Meter Fee is \$211.97.

WATER FEES:

Water Connection Fee

Single Family/Duplex \$300

Multi-Family/Commercial/Industrial \$375

Water Rate Schedule.

All water utility services shall be billed according to the following schedule. This schedule is for monthly water service and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$25	\$0.00442	\$ 4.42
Multi-Family Residential	\$25	\$0.00442	\$ 4.42
Commercial	\$25	\$0.01140	\$11.40
Bulk	\$25	\$0.01269	\$12.69

Seasonal monthly water customer charge will be \$12.50 or one half off the regular monthly customer charge.

***-Customer classification definitions for determining water rates:**

Single Family Residential - A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

Section 2. This resolution shall be effective upon the adoption of Ordinance 12-16.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this _____ day of _____, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Annual loss \$172,000 to sewer/water revenues. Ordinance 12-16 proposed to offset loss.

CITY OF HOMER
HOMER, ALASKA

Lewis

RESOLUTION 12-026

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE CITY OF HOMER FEE SCHEDULE TO PROVIDE THAT A MULTIFAMILY RESIDENTIAL ACCOUNT CUSTOMER IS CHARGED ONLY A SINGLE MONTHLY SEWER AND WATER CUSTOMER CHARGE AND INCREASING THE WATER AND SEWER CUSTOMER CHARGE FOR ALL CUSTOMERS TO COVER THE RESULTING BUDGET DEFICIT.

WHEREAS, The Homer City Council, through adoption of Resolution 11-094(S), established new water and sewer customer service charges for individual units within multi-family dwellings and lowered the consumption levy for these units from commercial to residential rates;

WHEREAS, The Council has since received testimony that the new customer service charges place an undue burden on property owners, the elderly, and low income residents; and

WHEREAS, It is in the public interest to redistribute the costs of maintaining and operating the water and sewer system and to insure that the utility fund budget is balanced; and

WHEREAS, It is the intent of this resolution to provide that multifamily residential unit account customers pay only a single monthly water and sewer customer service charge, that these units continue to pay residential rates for consumption, and that the budget be balanced by increasing the water and sewer customer service charge for all customers across the board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska, that the City of Homer Fee Schedule is amended as follows:

SEWER FEES:

Sewer Connection and Extension Permit Fee

Single Family/Duplex \$255

Multi-Family/Commercial/Industrial \$330

Sewer Rate Schedule.

All sewer utility services shall be billed according to the following schedule. This schedule is for monthly sewer services and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$25.52	\$0.00997	\$ 9.97
Multi-Family Residential**	\$25.52	\$0.00997	\$ 9.97
Commercial	\$25.52	\$0.01264	\$12.64

Seasonal monthly sewer customer charge will be \$12.76 or one half off the regular monthly customer charge.

*-Customer classification definitions for determining water rates:

Single Family Residential - A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

**** Multi-Family Residential Units pay one customer service charge**

Sewer System Residential or Residential Equivalent Dischargers Who Are Not Water System Users:

Sewer system dischargers who are not water system users shall be charged at the rate of \$54.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge \$20. The City reserves the right to adjust this rate based on the characteristics of the service for non-residential or non-residential equivalent users. Customers who receive septic service shall be charged an additional \$6.00* per month.

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The City will allow, upon approval by Public Works and a permit from the Public Works Department, a second water usage meter - called a seasonal sewer meter - for each customer that desires to measure the flow of City water that is not discharged to the sewer system during the summer growing season, June 15 through September 15. Rates noted above do not apply.

Seasonal Sewer Meter Fee is \$211.97.

WATER FEES:

Water Connection Fee

Single Family/Duplex \$300

Multi-Family/Commercial/Industrial \$375

Water Rate Schedule.

All water utility services shall be billed according to the following schedule. This schedule is for monthly water service and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$32.50	\$0.00442	\$ 4.42
Multi-Family Residential**	\$32.50	\$0.00442	\$ 4.42
Commercial	\$32.50	\$0.01140	\$11.40
Bulk	\$32.50	\$0.01269	\$12.69

Season monthly water customer charge will be \$16.25 or one half off the regular monthly customer charge.

*-Customer classification definitions for determining water rates:

Single Family Residential - A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

**** Multi-Family Residential dwellings pay one Customer Service Charge**

PASSED AND ADOPTED by the City Council of Homer, Alaska, this _____ day of _____, 2012.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

143 ATTEST:

144

145

146

147 JO JOHNSON, CMC, CITY CLERK

148

149 Fiscal Note: Annual loss \$172,000 covered by increases to water and sewer customer charges for
150 all customers. Revenue Neutral.

CITY OF HOMER
HOMER, ALASKA

City Clerk

RESOLUTION 11-094(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, MAINTAINING THE CITY OF HOMER FEE
SCHEDULE AT THE CURRENT RATES, AND AMENDING
CUSTOMER CLASSIFICATIONS IN THE WATER AND
SEWER RATE SCHEDULES.

WHEREAS, Fees are reviewed annually during the budget cycle; and

WHEREAS, Ordinance 11-43 amends HCC 14.08.037 regarding the number of water
meters per lot; and

WHEREAS, It was determined that there were no rate adjustments to the City of Homer
Fee Schedule needed at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska, that
the City of Homer Fee Schedule is amended as follows:

SEWER FEES:

Sewer Connection and Extension Permit Fee

Single Family/Duplex \$255

Multi-Family/Commercial/Industrial \$330

Sewer Rate Schedule.

All sewer utility services shall be billed according to the following schedule. This schedule is
for monthly sewer services and is in addition to any charges for connecting or disconnecting
the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$20	\$0.00997	\$ 9.97
Multi-Family Residential	\$20 (per unit)	\$0.00997	\$ 9.97
Commercial	\$20	\$0.01264	\$12.64

***-Customer classification definitions for determining water rates:**

Single Family Residential - A unit providing housing for one household; with less than
25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household;
contained within one building or several building within one complex. Examples of multi-
family units include duplexes, four-plexes and up, apartments, condominiums, co-

housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

Sewer System Residential or Residential Equivalent Dischargers Who Are Not Water System Users:

Sewer system dischargers who are not water system users shall be charged at the rate of \$54.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge \$20. The City reserves the right to adjust this rate based on the characteristics of the service for non-residential or non-residential equivalent users. Customers who receive septic service shall be charged an additional \$6.00* per month.

Sewer System Dischargers Who Are Members of Kachemak City LID:

Kachemak City Local Improvement District (LID) members have contributed to the initial cost of the sewer treatment plant and the collection system. Kachemak City LID dischargers connected within the LID and the City of Homer shall bill Kachemak City in one lump sum at the rate of \$60.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge of \$20 plus septage cost \$6.00* per month for each residential or residential equivalent discharger. Kachemak City shall be responsible for payment to the City of Homer.

Domestic sewer service customers who use large quantities of City water in addition to their domestic use shall be allowed, with the Public Works Director's approval, to install an additional water meter on the domestic water use line for the purpose of metering and charging for domestic sewer system use. Sewer system use will be billed monthly.

The City will allow, upon approval by Public Works and a permit from the Public Works Department, a second water usage meter - called a seasonal sewer meter - for each customer that desires to measure the flow of City water that is not discharged to the sewer system during the summer growing season, June 15 through September 15. Rates noted above do not apply.

Seasonal Sewer Meter Fee is \$211.97.

WATER FEES:

Water Connection Fee

Single Family/Duplex \$300

Multi-Family/Commercial/Industrial \$375

Water Rate Schedule.

All water utility services shall be billed according to the following schedule. This schedule is for monthly water service and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$25	\$0.00442	\$ 4.42
Multi-Family Residential	\$25 (per unit)	\$0.00442	\$ 4.42
Commercial	\$25	\$0.01140	\$11.40
Bulk	\$25	\$0.01269	\$12.69

*-Customer classification definitions for determining water rates:

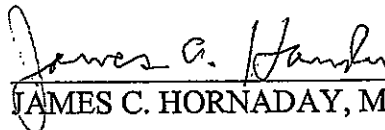
Single Family Residential - A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

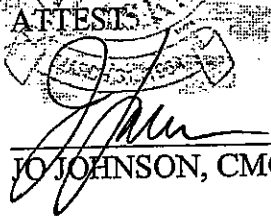
Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 12th day of December, 2011.

CITY OF HOMER


JAMES C. HORNADAY, MAYOR

ATTESTS


JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Revenue amounts not defined in CY2012 budget.

CITY OF HOMER

JAMES C. HORNADAY, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Unknown at this time. Possible staff overtime and consultant or legal fees.

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/
Public Works Director

RESOLUTION 12-028

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, AWARDED A CONTRACT TO PACIFIC PILE AND
MARINE, LP, OF SEATTLE, WASHINGTON, IN THE AMOUNT
OF \$70,500 FOR THE DEEP WATER DOCK FENDER REPAIR
PROJECT AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The corner fenders on the City's Deep Water Dock were damaged during a
storm in November 2011; and

WHEREAS, The Public Works Department has coordinated the preparation of repair
plans and secured disaster relief assistance through the State of Alaska and FEMA; and

WHEREAS, An Invitation to Bid for the project was advertised for the project in local
papers on March 13 and 20, 2012 and posted on the City's website as required by the City's
Procurement Manual; and

WHEREAS, Bids for the project were obtained in conformance with the City's
Procurement Manual, four bids were received and publicly opened on March 15, 2012, and
Pacific Pile and Marine, LP of Seattle, Washington, was determined to be the low responsive
bidder (see Memorandum #12-052); and

WHEREAS, This proposed award is not final until written notification is received by
either firm from the City of Homer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska,
approves the award of the construction of the Deep Water Dock Fender Repair Project to Pacific
Pile and Marine, LP, of Seattle, Washington, in the amount of \$70,500 and authorizes the City
Manager to execute the appropriate documents to complete construction.

PASSED AND ADOPTED by the Homer City Council this 27th day of March, 2012.

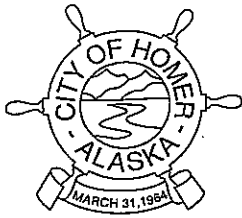
CITY OF HOMER

ATTEST:

JAMES C. HORNADAY, MAYOR

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: \$70,500, Acct. No. 456-380



CITY OF HOMER

PUBLIC WORKS

3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170

FACSIMILE (907)235-3145

MEMORANDUM 12-052

To: Walt Wrede, City Manager
From: Carey Meyer, Public Works Director
Date: March 20, 2012
Subject: **Deep Water Dock Fender Repair Project
Construction Contract Award Recommendation**

The City opened bids for the above referenced project on March 15. Four bids were received:

Firm	Total Bid
West Construction Company, Inc. (Anchorage)	\$ 124,000
Hopkins Brothers Construction, Inc. (Seldovia)	\$ 124,200
Pacific Pile and Marine, LP (Seattle)	\$ 70,500
Endries Company (Soldotna)	\$ 118,000
Engineer's Estimate	\$ 150,000

Public Works has discussed the low bid with the Contractor and determined that it is in the best interest of the City to proceed. The Contractor understands the scope of work, is committed to completing the project as bid, and is qualified to complete the work.

Recommendations:

The City Council award the construction contract for the Deep Water Dock Fender Replacement project to Pacific Pile and Marine, LP, of Seattle, Washington in the amount of \$70,500, and authorize the City Manager to execute all appropriate documents to complete construction.

Note: The costs incurred on this project are eligible for reimbursement through the State of Alaska and FEMA as part of the City's application for disaster relief

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

