



# City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-8121 x2222

(f) 907-235-3148

## City Manager's Report

TO: Honorable Mayor Wythe and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: September 9, 2015  
SUBJECT: City Manager's Report

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### **Letters of Support for Kachemak Bay State Park Trail Projects**

Last year City Manager Wrede wrote a letter of support for Kachemak Bay State Parks to apply for a trail restoration project on the Saddle Trail through the Recreation Trail Grant (RTG) Program within AK State Parks. Phase 1 of the project is complete and the Park is requesting City support for another RTP grant to continue with Phase 2.

They are also requesting City support for a RTP Grant for the south end of the Moose Valley and Poot Peak Trails. I have included draft letters of support in the City Manager's report and will forward them on to the local State Park office with your approval.

### **Update on the Natural Gas Special Assessment District (SAD)**

Memo 15-153 includes updates relating to the status of payments on individual parcels and the proposed grace period for the assessment deadline. However, there are other items related to the Natural Gas HSAD I would like to update the Council on.

### First Loan Payment to Borough

The City of Homer made a payment to the Borough on August 31 (\$205,836 in interest and \$4,094,163 in principal). This represented almost a third of the total amount due (\$12.3M) and probably our single largest payment as we were able to combine the assessments that had been paid to date, including many in full, the free main allowance and the payments on City lots. The City will likely make another payment towards principal once the first payments are collected in an effort to minimize the amount of interest the City accrues. The City of Homer has paid \$586,977 in interest so far for 2015. Outstanding balance as of August 31, 2015 is \$8,265,224.

### Change in Due date of Loan Payments

I will be asking the Council to request the Borough to change the date our loan payments are due from April 1 every year to September 1. The City collects payment on July 1, it does not make sense for us to hold on to the payments for 10 months and pay interest on them. The Borough has been very agreeable to this change and I expect to have an Ordinance before you at the next meeting.

### Low Income Deferrals that Come in After September 1

Ordinance 13-07(A)(S) outlining the procedure for low income deferrals states that applications for a low income deferral are due on the first due date of the assessment for the first year and by April 15 every subsequent year. September 14 is the last date for the Council to consider low income deferrals that were filed in a timely manner for 2015. Subsequent years low income deferrals are due by April 15<sup>th</sup>. However, Ordinance 13-07(A)(S), does allow the City to waive the requirement to file a timely application for good cause. There is no provision that says the applicant must be in good standing. Therefore, the Clerk's Office will continue to forward low income deferral requests to Council.

### **CERT Class**

Chief Painter will be conducting a Community Emergency Response Team (CERT) class starting at the end of September. The CERT Program educates people about disaster preparedness for hazards that may impact their area and trains them in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations. See the attached flyer for more information.

### **Homer Public Library Staff Increasing Skills**

Homer Public Library employee Holly Brennan passed her Comp TIA+ test in Anchorage and now is certified in many aspects of IT services at the library. This means that the library has someone on staff to troubleshoot and help with IT issues. Congrats Holly!

### **Janitor Request for Proposal (RFP)**

In an attempt to see if privatizing janitorial services could save the City money, the City Council authorized an RFP for janitorial services. Superintendent Dan Gardner details results of the RFP in the attached memo. Combined with the cost the City would incur in penalties from the state (PERS) for terminating a class of employees, it would not be economical to privatize janitorial services. Public Works will fill the vacant janitor position permanently, that has been filled with a temporary hire all summer. Janitorial staff has not increased at the City in years, meanwhile we have acquired hundreds of square feet of space: new Library, City Hall, Port and Harbor building, etc. Public Works is committed to finding ways to help the current staff keep up, including considering reducing the level of service at facilities with less traffic, such as City Hall.

### **Homer Best Place to Retire in Alaska According to SmartAsset**

According to a study funded by SmartAsset, a financial technology company, Homer is the number one place to retire in Alaska. SmartAsset ranked the cities with the most recreational and social opportunities for retirees. Their index factors in the number of recreation centers and retirement centers available to seniors as well as what percentage of the city's population they represent.

**Beach Policy Memo**

As a follow up to the conversation surrounding City of Homer Beach Policy and the Kachemak Bay Critical Habitat Area, City Attorney Klinkner has drafted the attached memo, regulation of motorized vehicles on beaches.

ENC:

Letters of support for Kachemak Bay State Park trail grants

CERT flyer

Memo from Public Work's Superintendent Dan Gardner on Janitor RFP

SmartAsset email on Homer best place to retiree rank

Memo from City Attorney Klinkner: Regulation of Motorized Vehicles on Beaches





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491 East Pioneer Avenue  
Homer, Alaska 99603

(p) 907-235-8121

(f) 907-235-3140

Alaska State Trails Program  
RTP Grant Administrators  
550 W. 7<sup>th</sup> Ave, Suite 1380  
Anchorage AK 99501-3561

September 15, 2015

To Whom It May Concern,

I am writing to express the City of Homer's support for the Recreational Trail Grant proposal/application submitted by The Homer Office, Kenai Area of Alaska State Parks for Kachemak Bay State Park.

The Trails in Kachemak Bay State Park are highly valued by the people of Homer. This specific project, phase 2 of Saddle Trail re-route, includes re-routing a major section of the Saddle Trail. These improvements will reduce steep grades, implement erosion control measures and open up views to hikers. Improving this steep section of trail will increase access to our local State Park to user groups of all ages and abilities. The City of Homer supported Phase 1 of the Saddle Trail Re-route, which has been successfully completed.

I encourage the approval of this application to improve the Saddle Trail and increase access to Kachemak Bay State Park. Thank you for taking the time to consider this important project.

Sincerely,

Katie Koester

City Manager





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I am writing to express the City of Homer's support for the Recreational Trail Grant proposal/application submitted by The Homer Office, Kenai Area of Alaska State Parks for Kachemak Bay State Park.

The Trails in Kachemak Bay State Park are highly valued by the people of Homer. This project will rehabilitate the south end of the Moose Valley and Poot Peak trails. Vegetation has overtaken both trails, the hiking surface is currently sloughing away, and lack of trail markers in sub-alpine are making these trails difficult for the public to navigate. Clearing brush from the trail corridor, reconstructing tread in areas that are needed, realigning trail corridors out of wet areas onto nearby slopes, and installing trail markers will allow these important trails to be "re-opened" to the public. This would enable visitors to make a loop hike up Moose Valley, around Poot Peak, and back to their starting point in either Halibut Cove Lagoon or China Poot Lake.

I encourage the approval of this application to improve the south end of the Moose Valley and Poot Peak trails and increase access to Kachemak Bay State Park. Thank you for taking the time to consider this important project.

Sincerely,

Katie Koester

City Manager





# Community Emergency Response Team Training

**Description:** The **Community Emergency Response Team (CERT)** Program educates people about disaster preparedness for hazards that may impact their area and trains them in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations. Using the training learned in the classroom and during exercises, CERT members can assist others in their neighborhood or workplace following an event when professional responders are not immediately available to help. CERT members also are encouraged to support emergency response agencies by taking a more active role in emergency preparedness projects in their community.

**Purpose:** Educate community about disaster preparedness

**Instructor:** Robert L. Painter, BBA, MS, EFO, CEM®  
Fire Chief/Director of Emergency Services

**Target Audience:** Open to All

**Cost:** FREE

**Location:** South Peninsula Hospital Training Center  
203 West Pioneer Ave., Homer, AK 99603

## Attendance Required at all Sessions

**Monday, September 28: 6 – 10 pm**

Unit 1: Disaster Preparedness  
Unit 2: Fire Safety and Utility Control

**Tuesday, September 29: 6 – 10 pm**

Unit 2: Fire Safety and Utility Control, cont.  
Unit 3: Disaster Medical Operations – Part 1

**Wednesday, September 30: 6 – 10 pm**

Unit 3: Disaster Medical Operations – Part 1 cont.  
Unit 4: Disaster Medical Operations – Part 2

**Thursday, October 1: 6-10 pm**

Unit 5: Light Search & Rescue

**Friday, October 2: 6-10 pm**

Unit 6: CERT Organization  
Unit 7: Disaster Psychology

**Saturday, October 3: 9 am-4 pm**

Unit 8: Terrorism & CERT  
Unit 9: Course Review, Final Exam, & Disaster Exercise

## For Registration:

**Call:** Homer Volunteer Fire Department  
Non-Emergency Phone: 235-3155







## CITY OF HOMER PUBLIC WORKS DEPARTMENT

Dan Gardner, PW Superintendent  
3575 Heath St.  
Homer, Alaska 99603

Telephone: (907)235-3170

Fax: (907)235-3145

EMAIL : [dgardner@ci.homer.ak.us](mailto:dgardner@ci.homer.ak.us)

### Memorandum

To: Katie Koester, City Manager  
From: Dan Gardner, PW Superintendent  
Date: September 8, 2015  
Subject: Janitorial Invitation to Bid Results

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As you are aware, the City received bids for performing janitorial services on 9/3/15. On August 20, 2015, a mandatory walk-through of the buildings was performed with the three planholders that were planning to bid on the work. Bidders had the option to bid a lump sum to perform the janitorial services on all the city buildings, or they could bid cafeteria style on one or more buildings. The eight buildings included in the Invitation to Bid were – Airport Terminal, City Hall, Harbormaster Office, Library, Police Department, Port Maintenance, Public Works, Sewer Treatment Plant Operations.

Ultimately, only two bids were received. One bidder provided a lump sum bid for all buildings and the other bidder provided only individual bids for the Harbormaster Office and the Harbor Maintenance building. Bids were as follows:

- Alaska Bay Services – Lump Sum All Buildings \$193,000
- Protocol Alaska
  - Harbormaster Building \$14,630
  - Port Maintenance Building \$2,080

The bids received do not give the City a very useful tool in evaluating the privatization idea, but it does appear that there is no savings to go with the lump sum bid, and in reality, it looks as though it would cost more (FY2015 Janitorial budget is 168,018). I did speak with the third potential bidder and asked him why he didn't bid. This man has a cleaning company that currently cleans the local banks and various borough and other professional offices. He indicated that he didn't believe that he could do it for less than the city is currently paying and knew that he would have to gear up with additional personnel. He was figuring on acquiring three employees were he to do the work.

The other factor to consider is the penalties the City would incur from the State (PERS) by eliminating a class of employees. If the City eliminated both janitor positions, it would trigger a termination study. The City would incur an estimated onetime penalty of \$15,000 to \$25,000 and an estimated annual penalty of \$20,000. Based on the bids received and the termination study fines, it is my recommendation that we retain the two existing janitor positions.



**From:** Kara Gibson [<mailto:kgibson@smartasset.com>]  
**Sent:** Tuesday, September 01, 2015 8:04 AM  
**To:** Katie Koester  
**Subject:** Study: Homer Has One of the Best Senior Social Scenes in Alaska

Hi Katie,

Retirement presents a chance for many Americans to meet new people and create new experiences and according to a new study Homer is among the best places to do it in Alaska. The study, by [SmartAsset](#), a financial technology company, ranked the [cities with the most recreational and social opportunities for retirees](#). SmartAsset’s index factors in the number of recreation centers and retirement centers available to seniors as well as what percentage of the city’s population they represent.

See where Homer ranks in Alaska on SmartAsset’s index below:

Rank	City	Tax	Doctors' Offices per 1,000 People	Recreation Centers per 1,000 People	Retirement Centers per 1,000 people	% of Seniors	Recreation & Social Index
1	Homer, AK	10.8%	3.8	1.2	3.4	13.3%	79.91
2	Wasilla, AK	5.1%	9.1	1.6	3.7	10.7%	71.89
3	Palmer, AK	3.6%	7.0	1.0	3.0	7.7%	64.52
4	Kenai, AK	9.4%	2.5	0.6	1.4	9.2%	63.81
5	Fairbanks, AK	4.0%	3.6	0.3	2.2	8.3%	59.17
6	Kodiak, AK	10.4%	2.1	0.2	2.9	8.4%	54.98
7	Ketchikan, AK	9.9%	1.2	0.1	3.0	8.5%	51.59
8	Juneau, AK	8.4%	1.5	0.1	1.1	8.3%	42.94
9	Anchorage, AK	3.6%	1.5	0.4	0.4	7.5%	40.07
10	Bethel, AK	9.4%	0.7	0.2	0.3	3.8%	24.32

These rankings functioned as part of SmartAsset’s greater study on the Best Cities to Retire in the US, released earlier this year. For a full look at the methodology and interactive map, you can visit the website:

<https://smartasset.com/retirement/retirement-calculator#US>

Please let me know if you would like any more information regarding the study, I would be happy to help. Thanks!

Cheers,  
 Kara Gibson





**Birch Horton Bittner & Cherot**

*a professional corporation*

## **MEMORANDUM**

**TO: KATIE KOESTER  
CITY MANAGER, CITY OF HOMER**

**FROM: THOMAS F. KLINKNER**

**RE: REGULATION OF MOTORIZED VEHICLES ON BEACHES**

**FILE NO.: 506,742.1003**

**DATE: AUGUST 26, 2015**

This memorandum supplements and replaces my memorandum of August 18, 2015, on this subject, providing supporting citations and a more detailed analysis of the relationship between City regulation of motorized vehicle use in beach areas and state regulation of activities in beach areas within the Kachemak Bay Critical Habitat Area ("KBCHA"). I begin by discussing what constitutes the "beach area" under the current Homer City Code and proposed Ordinance 15-29, the geographic terms conventionally used to categorize the components of the "beach area," and how those terms are related to property boundaries in the "beach area." I then describe state regulation of motorized vehicle use in the KBCHA, and compare it to the regulation of motorized vehicle use under proposed Ordinance 15-29.

What is the "Beach Area"? Both current HCC 19.16.020 and proposed Ordinance 15-29 define the term "beach area" to include "the zone of sand, gravel and other unconsolidated materials that extends landward from the low water line to the place where there is a marked change in material or physiographic form." This definition differs from the usual categorization of areas along a shoreline: (i) the area below the elevation of mean low water, referred to as "submerged lands"; (ii) the area between the elevations of mean low water and mean high water, referred to as "tidelands"; and (iii) the area above the elevation of mean high water, referred to as "uplands".<sup>1</sup> The "beach area" as defined in HCC 19.16.020 and proposed Ordinance 15-29 begins at the elevation of mean low water—the boundary between submerged lands and tidelands—and extends landward to a "place where this is a marked change in material or physiographic form"—the bottom of road and other embankments on the Spit, and the toe of the bluff at most other locations—which includes uplands above the elevation of mean high water as well as tidelands.

<sup>1</sup> *City of Saint Paul v. State, Dept. of Natural Resources*, 137 P.3d 261, 262 (Alaska 2006).

Property Ownership in the “Beach Area.” Subject to the exception discussed below, the City owns the tidelands within the beach area,<sup>2</sup> while most of the uplands within the beach area are privately owned.<sup>3</sup> In most cases, the boundary between tideland and upland property is “ambulatory,” moving seaward or landward with the erosion or accretion of material on the beach that determines the current mean high water line.<sup>4</sup> The exception to this general rule occurs when the mean high water line changes as the result of a sudden subsidence or uplifting of the beach area caused by an event such as an earthquake. In such a case, the boundary of property ownership continues to be located at the mean high water line that existed before the sudden subsidence or uplifting event.<sup>5</sup> This exception may affect property boundaries in beach areas in the City that experienced sudden subsidence during the 1964 earthquake. Where such subsidence occurred, the boundary of an upland parcel may extend seaward of the current mean high water line, resulting in private ownership of some beach areas that presently are tidelands. Determining the precise boundary of property ownership in such cases would require a detailed investigation of changes in the beach area topography at and after events such as the 1964 earthquake.

Regulation of Motorized Vehicle Use in the KBCHA. The KBCHA initially included all beach areas within the City that are below mean high water.<sup>6</sup> In 2014, the legislature excluded certain areas on the north side of the Spit in and around the Homer Harbor from the KBCHA.<sup>7</sup> This was done to accommodate the long-term docking of a jack-up rig at the Deep Water Dock, which it was believed otherwise would conflict with the regulations governing the KBCHA.<sup>8</sup>

Two regulations govern activities in the KBCHA. One regulation, 5 AAC 95.610, adopts by reference the goals and policies of the Kachemak Bay and Fox River Flats Critical Habitat Areas Management Plan (the “Plan”). Although the Plan provides that off-road use of motorized vehicles generally is not permitted in the KBCHA, the Plan states that it does not apply to City of Homer lands.<sup>9</sup> Thus, the Plan’s provisions regarding off-road use of motorized vehicles do not apply to beach areas in the City.

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<sup>2</sup> Before Alaska statehood, the federal government owned all of the tide and submerged lands in Alaska. Upon Alaska’s admission as a state, the Alaska Statehood Act transferred tide and submerged lands to the State of Alaska. *City of St. Paul*, 137 P.3d at 262 n. 1. The state later transferred to the City the tide and submerged lands located within the City limits.

<sup>3</sup> Upland parcels owned by the City are identified in the City’s Land Allocation Plan.

<sup>4</sup> *DeBoer v. United States*, 653 F.2d 1313, 1314-1315 (9<sup>th</sup> Cir. 1981).

<sup>5</sup> *Honsinger v. State*, 642 P.2d 1352, 1354 (Alaska 1982).

<sup>6</sup> AS 16.20.590(a).

<sup>7</sup> Ch. 3 SLA 2014, enacting AS 16.20.590(b).

<sup>8</sup> 5 AAC 95.420(a)(5) requires a special area permit for “natural resource or energy exploration, development, production or associated activities” in the KBCHA.

<sup>9</sup> “The plan does not apply to federal or municipal lands within the critical habitat areas.” Plan, p. 1. “Both state land and private land are included in the critical habitat areas but



The other regulation, 5 AAC 95.420, requires a special permit from the Commissioner of Fish and Game to engage in certain activities in the KBCHA. Among those restricted activities is “off-road use of wheeled or tracked equipment unless the commissioner has issued a general permit under 5 AAC 95.770.”<sup>10</sup> The restrictions in 5 AAC 95.420 are not subject to an exception for City of Homer lands, and therefore apply within the beach areas in the City that lie within the KBCHA. However, the Commissioner of Fish and Game has invoked the exception in 5 AAC 95.420(a)(7) by issuing a general permit under 5 AAC 95.770 that permits the off-road use in the KBCHA of vehicles of 10,000 pounds or less gross vehicle weight on unvegetated tidelands below mean high tide in motorized vehicle corridors that extend westward from Bidarki Creek and eastward from Miller’s Landing, to provide “normal personal and recreational transit.”<sup>11</sup>

Comparing Proposed Ordinance 15-29 to the KBCHA Regulations. Proposed Ordinance 15-29 would permit motorized vehicle use in beach areas (i) on the southern side of the Spit from October 1 through March 31, and (ii) by owners of property immediately adjacent to a beach area as reasonably necessary to maintain the owner’s property, in accordance with the terms of a permit issued for that purpose by the chief of police. There are three distinct parts to the relationship between the permission of motorized vehicle use under proposed Ordinance 15-29 and the state’s regulation of motorized vehicle use in the KBCHA:

- To the extent that Ordinance 15-29 permits motorized vehicle use in beach areas above the mean high water line, it does not conflict with the state’s regulation of motorized vehicle use in the KBCHA, as beach areas above the mean high water line lie outside the KBCHA.
- To the extent that proposed Ordinance 15-29 permits motorized vehicle use in beach areas below the mean water line, it does not conflict with the Plan as incorporated in 5 AAC 95.610, because the Plan does not apply to City of Homer lands.
- The permission of motorized vehicle use in beach areas below the mean water line in proposed Ordinance 15-29 does conflict with 5 AAC 95.420(a)(7), which prohibits such use except under the general permit for motorized vehicle use in the areas west of Bidarki Creek and east of Miller’s Landing.

TFK/lcj

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municipal (City of Homer and City of Seldovia tidelands) and federal lands are not under critical habitat area authority.” Plan, p. A-1.

<sup>10</sup> 5 AAC 95.420(a)(7).

<sup>11</sup> Special Area Permit 15-V-0005-GP-SA, issued December 16, 2014.