

# City Council

Tuesday, March 27, 2018



Worksession 4:00 p.m.

Committee of the Whole 5:00 p.m.

Regular Meeting 6:00 p.m.



City Hall Cowles Council Chambers  
491 E. Pioneer Avenue  
Homer, Alaska







## MARCH – APRIL 2018

**Tuesday 27<sup>th</sup>: CITY COUNCIL**

Worksession 4:00 p.m. Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.

**Wednesday 28<sup>th</sup>: PORT & HARBOR ADVISORY COMMISSION**

Regular Meeting 5:00 p.m.

**Tuesday, April 3<sup>rd</sup>: LIBRARY ADVISORY BOARD**

Regular Meeting 5:30 p.m.

**CITY COUNCIL**

Worksession 4:00 p.m. in Conference Room Upstairs at City Hall

**Wednesday, 4<sup>th</sup>: ADVISORY PLANNING COMMISSION**

Worksession 5:30 p.m. Regular Meeting 6:30 p.m.

**Monday 9<sup>th</sup>: CITY COUNCIL**

Special Meeting 4:00 p.m. Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.

### **Regular Meeting Schedule**

City Council 2<sup>nd</sup> and 4<sup>th</sup> Mondays 6:00 p.m.

Library Advisory Board 1<sup>st</sup> Tuesday 5:30 p.m. with the exception of  
January, June and July

Economic Development Advisory Commission 2<sup>nd</sup> Tuesday 6:00 p.m.

Parks Art Recreation and Culture Advisory Commission 3<sup>rd</sup> Thursday 5:30 p.m. with the exception of  
July, December, January

Advisory Planning Commission 1<sup>st</sup> and 3<sup>rd</sup> Wednesday 6:30 p.m. with the exception of July, November and  
December have one meeting

Port and Harbor Advisory Commission 4<sup>th</sup> Wednesday 5:00 p.m. (May-August 6:00 p.m.)

### **MAYOR AND CITY COUNCILMEMBERS AND TERMS**

BRYAN ZAK, MAYOR – 18

DONNA ADERHOLD, COUNCILMEMBER – 18

HEATH SMITH, COUNCILMEMBER – 18

SHELLY ERICKSON, COUNCILMEMBER – 19

TOM STROOZAS, COUNCILMEMBER – 19

RACHEL LORD – 20

CAROLINE VENUTI – 20

City Manager, Katie Koester

City Attorney, Holly Wells

<http://cityofhomer-ak.gov/cityclerk> for home page access, Clerk's email address is: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us)

Clerk's office phone number: direct line 235-3130



HOMER CITY COUNCIL  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**WORKSESSION**  
**4:00 P.M. TUESDAY**  
**MARCH 27, 2018**  
**COWLES COUNCIL CHAMBERS**

MAYOR BRYAN ZAK  
COUNCIL MEMBER DONNA ADERHOLD  
COUNCIL MEMBER HEATH SMITH  
COUNCIL MEMBER TOM STROOZAS  
COUNCIL MEMBER SHELLY ERICKSON  
COUNCIL MEMBER CAROLINE VENUTI  
COUNCIL MEMBER RACHEL LORD  
CITY ATTORNEY HOLLY WELLS  
CITY MANAGER KATIE KOESTER  
CITY CLERK MELISSA JACOBSEN

### WORKSESSION AGENDA

1. **CALL TO ORDER, 4:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)
3. **NEW POLICE STATION BUILDING**
  - A. How to Pay for the Project - Bonding – Terms and Length  
  
Memorandum 18-039 from City Manager as backup Page 7
4. **COMMENTS OF THE AUDIENCE**
5. **ADJOURNMENT NO LATER THAN 4:50 P.M.**

A Worksession is scheduled for Tuesday, April 3, 2018 at 4:00 p.m. in the Conference Room – Upstairs. The next Regular Meeting is Monday, April 9, 2018 at 6:00 p.m., Special Meeting at 4:00 p.m., and Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.





## **Memorandum 18-039**

TO: Mayor Zak and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: March 21, 2018  
SUBJECT: Memo for March 27 Police Station Worksession

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The purpose of this memo is to provide Council with information on potential scenarios for a bond for the police station with the goal of drafting an Ordinance for consideration by Council this summer and a ballot question for the voters in the fall. Understanding the annual payment that the City would need to come up with will help in selecting a revenue source. For the purposes of this conversation, I have assumed the total project cost will be \$7.5 million and that the City will bond for \$5 million. This takes into account the amount Council already allocated for the project, \$2.5m<sup>1</sup>.

### **Timeline**

Selecting a revenue source to make bond payments is a tough subject and may require additional worksessions. In order to put a bond question on the October 2018 ballot, the Council would need to pass an ordinance by the last and only meeting in July. This means a decision on details for an Ordinance should be hammered out for introduction in June.

### **Ballot language**

In considering details of the ordinance, Council should think about ballot language and whether or not you want to restrict the revenue source to only making bond payments or present the voters with a question that could allow the revenue to be spent on operations and maintenance and/or other potential capital improvement projects. i.e., does the revenue source (tax) sunset when the bond is paid off.

### **Increased Operations and Maintenance**

In an effort to provide a more precise estimate on what it will cost to operate the new police station, Public Works Director Meyer performed a detailed analysis of major city facilities (earlier figures were from applying an industry formula developed for estimating such costs). The attached spreadsheet demonstrates that using the current square footage cost to operate and maintain the existing Police Station (\$25/SF); the O&M cost for the new station is \$273,075.

One could argue that many O&M costs associated with the station are fixed (no matter what the size of the new building), that the new building will be less costly to heat (new building will be heated with natural gas), and that the cost per square foot to operate the new station will be less per square foot

than the existing. Adjusting for these variables results in an O&M cost of \$20/SF for the new station (see attached adjusted costs); or an annual cost of \$218,460 for the new station.

Subtracting the cost of maintaining the existing station; the additional O&M cost would be \$81,549. Therefore, if we were to eliminate ALL expenses associated with the existing station by selling or mothballing the facility, the City would need to come up with an additional **\$81,549** annually once the building is operational. What the City plans on doing with the existing facility will inform how much additional operations and maintenance revenue will be required of the future City operating budget.

**How much additional revenue does the City need annually for this project?**

Assumptions have to be made to calculate these numbers including length of term and interest rate. The Alaska Bond Bank provided terms that they consider reasonable and conservative: a 20 year term with a 4% interest rate. I also included a 30 year scenario at a 4.5% interest rate as a point of comparison. The term of the bond cannot be beyond the anticipated life of the building. Stability of the revenue source is important to consider when deciding on a revenue target as the City is required to make the bond payment regardless of whether or not the designated revenue stream brings in the predicted revenue. Council has precedent using the 1.25 number as it is applied in decisions related to taking on debt in the HAWSP fund.

**Bond for 5 Million**

Term and Rate	Annual Payment	X 1.25	+ Increased O&M*
20 years at 4%	\$390,660	\$488,325	\$569,874
30 years at 4.5%	\$320,076	\$400,095	\$481,644
*Assumption: \$81,549 in increased operations and maintenance			

Enc: City Building Maintenance Costs per Square Foot

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Balance from Public Safety Building Project	\$73,500
Liquidation of Permanent Fund	\$1,173,864
Mid-year transfer Ordinance 17-34(A)	\$448,422
FY2018 budget transfer from Health Insurance Fund	\$669,212
FY 2019 Community Assistance (not accepted)	\$149,000
<b>TOTAL</b>	<b>\$2,513,998</b>



2017 FACILITY EXPENSES	Square Footage	FUEL/LUBE	EQUIPMENT MAINT.	BUILDING & GROUNDS MAINT.	PROFESSIONAL SERVICES	RENTS & LEASES	TELECOMMUNICATIONS	ELECTRICITY	WATER	SEWER	REFUSE - DISPOSAL	INSURANCE - PROPERTY	INSURANCE - LIABILITY	TOOLS & MINOR EQUIPMENT	SNOW REMOVAL	JANITORIAL	TOTAL	COST PER SQUARE FOOT
Airport Terminal	8,588	\$8,808	\$2,558	\$12,119	\$5,666	\$19,749	\$1,308	\$36,744	\$2,143	\$3,966	\$907	\$908	\$315	\$1,100	\$12,000	\$22,892	\$131,183	\$15
Animal Shelter	4,100	\$9,265	\$0	\$8,148	\$4,000	\$0	\$160	\$8,501	\$650	\$608	\$574	\$250	\$293	\$0	\$4,500	\$10,929	\$47,878	\$12
City Hall	13,321	\$6,843	\$48	\$11,860	\$6,014	\$38,612	\$14,567	\$20,389	\$808	\$835	\$696	\$929	\$210	\$175	\$9,210	\$35,508	\$146,704	\$11
Fire Station	9,000	\$8,229	\$537	\$4,675	\$11,643	\$5,423	\$13,396	\$27,181	\$1,519	\$1,531	\$1,132	\$700	\$1,361	\$4,819	\$7,375	\$23,990	\$113,512	\$13
Library	17,200	\$15,441	\$2,239	\$13,187	\$8,599	\$3,848	\$13,855	\$35,718	\$1,294	\$1,535	\$1,000	\$1,963	\$1,242	\$2,418	\$11,885	\$45,848	\$160,071	\$9
PH Harbormaster Office	4,784	\$8,822	\$559	\$4,933	\$1,895	\$6,532	\$7,610	\$10,249	\$517	\$414	\$1,100	\$6,758	\$2,000	\$920	\$9,000	\$12,752	\$74,062	\$15
Police Station	5,500	\$1,270	\$4,314	\$6,751	\$6,996	\$8,143	\$38,736	\$24,416	\$930	\$1,076	\$1,121	\$526	\$8,190	\$12,141	\$7,640	\$14,661	\$136,911	\$25

New Police Station	10,923	times \$25/SF =	\$273,075
		minus existing bldg cost =	<u>\$136,911</u>
		<b>Addnl Cost to Maintain =</b>	<b>\$136,164</b>

Prorated Cost - NewPolice Sta.	\$2,522	\$8,568	\$13,407	\$13,894	\$16,171	\$76,930	\$48,491	\$1,846	\$2,138	\$2,227	\$1,045	\$16,265	\$24,111	\$15,173	\$29,116	\$271,905	\$25
Adjusted Cost - New Police Sta.	\$9,000	\$8,568	\$13,407	\$10,000	\$16,171	\$49,000	\$30,000	\$1,400	\$1,600	\$1,800	\$1,045	\$16,265	\$18,000	\$15,173	\$29,116	\$220,545	\$20

New Police Station	10,923	times \$20/SF =	\$218,460
		minus existing bldg cost =	<u>\$136,911</u>
		<b>Addnl Cost to Maintain =</b>	<b>\$81,549</b>



How to Pay for it - Council Options for Police Station, in order of Priority from 2/26/2018 Worksession

3/14/2018

REVENUE	ANNUAL EST VALUE	PRO	CON	BARRIER	HOW WOULD BECOME EFFECTIVE	NOTES
<b>Voter Action Required</b>						
<b>1% seasonal sales tax increase (6 months of year)</b>	\$1,166,736	Captures more visitor revenue. Closes gap.	Same.	Need a vote of City residents.	Council would pass an ordinance to increase the sales tax before August for consideration at regular election	based on 2016 actual
<b>Raise Sales Tax .5%</b>	\$871,264	Easily adjustable to raise sufficient funds. Taxes non-residents who use City services.	Places burden on local business. Makes rents more expensive.	Need a vote of City residents.	Council would pass an ordinance to increase the sales tax before August for consideration at regular election	Current COH sales tax is 4.5% COH and 3% KPB. (Based on 2016 actual)
<b>BOROUGH ACTION REQUIRED</b>						
<b>Bed Tax</b>	4% = \$500,000- \$580,000	Captures revenue from visitors	Targets one industry. Argument revenue should be dedicated to economic development. Not significant revenue unless very high.	Requires Borough action. Has been attempted recently to put on ballot and did not pass Assembly	Borough would allow COH to institute a tax OR pass one themselves. Then would need a vote. If Borough allowed City to collect tax, we would have to get in the business of tax collection.	Estimate provided by KPB in July of 2017.
<b>NO NEW TAXES</b>	<b>VALUE</b>	<b>PRO</b>	<b>CON</b>	<b>BARRIER</b>	<b>HOW WOULD BECOME EFFECTIVE</b>	<b>NOTES</b>
<b>General Fund Fund Balance</b>	Approximately \$5 million	Money we already have	Fund balance is a savings account. Recommendation is 6 months operating budget (\$6.2m). Needed for cash flow and emergencies. Spending this down would hamper ability to handle any emergency or future project.		City Council by Ordinance	

**How to Pay for it - Council Options for Police Station, in order of Priority from 2/26/2018 Worksession**

**3/14/2018**

<b>REVENUE</b>	<b>ANNUAL EST VALUE</b>	<b>PRO</b>	<b>CON</b>	<b>BARRIER</b>	<b>HOW WOULD BECOME EFFECTIVE</b>	<b>NOTES</b>
<b>Reappropriate General Fund Reserves to Police Station</b>	Just shy of \$2,000,000 (end of 2017 snapshot)	Money we already have	Reserves are important for maintenance, vehicle replacement & projects. City spends approx.. \$500,000 annually on such projects.		City Council by Ordinance	
<b>COUNCIL ACTION REQUIRED</b>	<b>VALUE</b>	<b>PRO</b>	<b>CON</b>	<b>BARRIER</b>	<b>HOW WOULD BECOME EFFECTIVE</b>	<b>NOTES</b>
<b>Raise Property Tax 1 Mill</b>	\$755,687 per mill based on 2017 valuation	Can be implemented by Council.	Increases taxes on residents when many of the services City provides are to entire Homer area.		Council pass a resolution by July 1, 2017 increasing the mill rate.	Currently COH taxpayers pay 4.5 COH, 4.5 KPB and 2.3 SPH (total 11.3). According to HCC if property taxes increase to 6 mills, sales tax is eliminated. Estimate includes oil and personal property

HOMER CITY COUNCIL  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



**COMMITTEE OF THE WHOLE**  
**5:00 P.M. TUESDAY**  
**MARCH 27, 2018**  
**COWLES COUNCIL CHAMBERS**

MAYOR BRYAN ZAK  
COUNCIL MEMBER DONNA ADERHOLD  
COUNCIL MEMBER HEATH SMITH  
COUNCIL MEMBER TOM STROOZAS  
COUNCIL MEMBER SHELLY ERICKSON  
COUNCIL MEMBER CAROLINE VENUTI  
COUNCIL MEMBER RACHEL LORD  
CITY ATTORNEY HOLLY WELLS  
CITY MANAGER KATIE KOESTER  
CITY CLERK MELISSA JACOBSEN

### COMMITTEE OF THE WHOLE AGENDA

1. **CALL TO ORDER, 5:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)
3. **WORKSESSION AGENDA**
4. **CONSENT AGENDA**
5. **REGULAR MEETING AGENDA**
6. **COMMENTS OF THE AUDIENCE**
7. **ADJOURNMENT NO LATER THAN 5:50 P.M.**  
A Worksession is scheduled for Tuesday, April 3, 2018 at 4:00 p.m. in the Conference Room – Upstairs. The next Regular Meeting is Monday, April 9, 2018 at 6:00 p.m., Special Meeting at 4:00 p.m., and Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
AGENDA APPROVAL





HOMER CITY COUNCIL  
491 E. PIONEER AVENUE  
HOMER, ALASKA  
[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)



REGULAR MEETING  
6:00 P.M. TUESDAY  
MARCH 27, 2018  
COWLES COUNCIL CHAMBERS

MAYOR BRYAN ZAK  
COUNCIL MEMBER DONNA ADERHOLD  
COUNCIL MEMBER HEATH SMITH  
COUNCIL MEMBER TOM STROOZAS  
COUNCIL MEMBER SHELLY ERICKSON  
COUNCIL MEMBER CAROLINE VENUTI  
COUNCIL MEMBER RACHEL LORD  
CITY ATTORNEY HOLLY WELLS  
CITY MANAGER KATIE KOESTER  
CITY CLERK MELISSA JACOBSEN

## REGULAR MEETING AGENDA

Worksession 4:00 p.m., Committee of the Whole 5:00 p.m. in Homer City Hall Cowles Council Chambers.

### 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Department Heads may be called upon from time to time to participate via teleconference.

### 2. AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

### 3. MAYORAL PROCLAMATIONS AND RECOGNITIONS

A. City Recognition of Top 40 Under 40 City Manager Katie Koester Page 25

### 4. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

### 5. RECONSIDERATION

### 6. CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

A. Homer City Council unapproved Special and Regular Meeting Minutes of March 12, 2018. City Clerk. Recommend adoption. Page 33

B. **Memorandum 18-036** from Mayor re: Re-appointment to the Library Advisory Board. Recommend adoption. Page 47

C. **Resolution 18-030**, A Resolution of the Homer City Council, Homer, Alaska, Approving a Five-Year Sublease at the Homer Airport Terminal for Flying Whale Coffee and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption. Page 51

D. **Resolution 18-031**, A Resolution of the City Council of Homer, Alaska, Amending the Library Advisory Board Bylaws to Correct the Regular Meeting and Establish Guidelines for An Honorary Student Representative Position on the Board. City Clerk/Library Advisory Board. Recommend adoption. Page 55

Memorandum 18-038 from Library Advisory Board as backup Page 61

E. **Resolution 18-032**, A Resolution of the City Council of Homer, Alaska, Requesting That the Alaska State Legislature Work Together to Find New Revenue Sources to Solve the State Fiscal Crisis and Fund Necessary Programs in the Capital Budget. Mayor/Council. Recommend adoption. Page 63

D. **Resolution 18-033**, A Resolution of the City Council of Homer, Alaska, Approving the Award of the Wastewater Treatment Plant HVAC Rehabilitation Project to the Firm of Woods Plumbing and Heating, Inc. of Anchorage, Alaska, in the Amount of \$322,816 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption. Page 65

Memorandum 18-037 from Public Works Director as backup Page 67

## 7. VISITORS

A. Kachemak Bay Water Trail Committee, Dave Brann Page 71

## 8. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS (10 minute limit per report)

A. Borough Report

B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks Art Recreation and Culture Advisory Commission
5. Port and Harbor Advisory Commission

9. PUBLIC HEARING(S)

- A. **Ordinance 18-11**, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, and 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800, 14.04.130, 19.02.100, And Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 to Conform Homer City Code to State Law and to Clarify that Certain Code Violations may be Disposed of by Bail Forfeiture without a Court Appearance as Indicated in the Homer City Code Fine Schedules, and all other Violations Require a Court Appearance and are Subject to the General Penalty. City Clerk. Introduction March 12, 2018, Public Hearing and Second Reading March 27, 2018

Page 81

Memorandum 18-029, from City Attorney as backup

Page 97

- B. **Ordinance 18-12**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson. Introduction March 12, 2018, Refer to Advisory Planning Commission March 27, 2018, Public Hearing and Second Reading April 23, 2018.

Page 99

- C. **Ordinance 18-13**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation Project. City Manager/Public Works Director. Introduction March 12, 2018 Second Reading and Public Hearing, March 27, 2018.

Page 105

Memorandum 18-030 from Public Works Director as backup

Page 109

- D **Ordinance 18-14**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.18.020 to define the Term “Impartial,” Amending Homer City Code 1.18.030 by requiring City Council members to comply with Homer Workplace Policies, Procedures; Repealing Homer City Code 1.18.050 and Moving it to the Newly Enacted Homer City Code Chapter 1.19, Board of Ethics - Complaints, to Clarify the Preliminary Review process for Ethics complaints by the City Clerk and City Attorney prior to their transfer to the Board of Ethics or a Hearing Officer; Amending Homer City Code 1.18.060 to Prohibit Ethics Complaints based upon Actions taken in Accordance with Advice from City Attorney; and Repealing Homer City Code Chapter 2.80. Aderhold. Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018.

Page 111

Memorandum 18-031 from City Attorney as backup

Page 141

- E. **Ordinance 18-15**, An Ordinance of The City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter. City Manager/Public Works Director. Recommended dates: Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018

Page 145

Memorandum 18-032 from Public Works Superintendent as backup Page 149

## 10. **ORDINANCE(S)**

- A. **Ordinance 18-16**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Chapter 18.08, Codifying Certain Lease Policy and Procedures; Expanding Lease Review to include Recommendations by Appropriate City Commissions; Removing References to the Lease Committee; and Requiring Essential Lease Terms to be Approved by City Council. Erickson/Smith. Recommended dates: Introduction March 27, 2018, Refer to Port and Harbor Advisory Commission; Second Reading and Public Hearing May 14, 2018.

Page 153

Memorandum 18-035 from City Attorney as backup

See Supplemental Packet

## 11. **CITY MANAGER’S REPORT**

- A. City Manager’s Report

Page 173

- B. Bid Report

## 12. **CITY ATTORNEY REPORT**

## 13. **COMMITTEE REPORT**

- A. Employee Committee Report
- B. Americans with Disabilities Act Compliance Committee

**14. PENDING BUSINESS**

**15. NEW BUSINESS**

**16. RESOLUTIONS**

- A. **Resolution 18-034**, A Resolution of the Homer City Council Requesting the Alaska Department Of Transportation And Public Facilities (AKDOT/PF) Install a Crosswalk on Lake Street where Grubstake meets Lake Street as Part of the Homer Lake Street Rehabilitation Project. Smith. Recommend adoption. Page 191

**17. COMMENTS OF THE AUDIENCE**

**18. COMMENTS OF THE CITY ATTORNEY**

**19. COMMENTS OF THE CITY CLERK**

**20. COMMENTS OF THE CITY MANAGER**

**21. COMMENTS OF THE MAYOR**

**22. COMMENTS OF THE CITY COUNCIL**

**23. ADJOURNMENT**

A Worksession is scheduled for Tuesday, April 3, 2018 at 4:00 p.m. in the Conference Room – Upstairs. The next Regular Meeting is Monday, April 9, 2018 at 6:00 p.m., Special Meeting at 4:00 p.m., and Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



MAYORAL PROCLAMATIONS  
AND RECOGNITIONS





**CITY OF HOMER  
HOMER, ALASKA**

**MAYOR'S RECOGNITION**

**TOP 40 UNDER 40 AWARD**

**Katie Koester**

**WHEREAS**, The *Alaska Journal of Commerce* selected Katie Koester for their highly competitive Top Forty Under 40 award, an award recognizing emerging young leaders from Alaska's private, public and nonprofit sectors; and

**WHEREAS**, This award is based on professional accomplishments wherein Katie Koester's leadership demonstrates professional excellence and commitment to the City of Homer; and

**WHEREAS**, The award is also based on community work wherein Katie Koester's volunteer work inspires citizens to make a positive impact on the lives of others; and

**WHEREAS**, The City of Homer's greatest resource is its people.

**NOW, THEREFORE**, I Bryan Zak, Mayor of the City of Homer, Alaska, on behalf of the Homer City Council and the citizens of Homer am proud to celebrate Katie Koester, 2018 Top Forty Under 40 award and her capable leadership as City Manager of Homer, Alaska.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Homer, Alaska, to be affixed this 9<sup>th</sup> day of April, 2018.

CITY OF HOMER

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BRYAN ZAK, MAYOR

ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK



PUBLIC COMMENTS  
UPON MATTERS  
ALREADY ON THE AGENDA



# RECONSIDERATION



# CONSENT AGENDA





Session 18-07 a Regular Meeting of the Homer City Council was called to order on March 12, 2018 at 6:00 p.m. by Mayor Bryan Zak at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

Mayor Zak called for a motion to allow Councilmember Stroozas to participate telephonically.

ADERHOLD/ERICKSON MOVED TO ALLOW COUNCILMEMBER STROOZAS TO PARTICIPATE BY TELEPHONE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**PRESENT:** COUNCILMEMBERS: STROOZAS (telephonic), ADERHOLD, VENUTI, SMITH, LORD, ERICKSON

STAFF: CITY MANAGER KOESTER  
DEPUTY CITY CLERK KRAUSE  
CITY ATTORNEY WELLS  
FINANCE DIRECTOR WALTON  
IT MANAGER POOLOS  
CITY PLANNER ABBOUD  
LIBRARY DIRECTOR DIXON  
PORT AND HARBOR DIRECTOR HAWKINS  
PUBLIC WORKS DIRECTOR MEYER

Council met for a Special Meeting at 4:00 p.m. and as Committee of the Whole 5:00 p.m. to discuss the 2018 Land Allocation Plan, also consent agenda and regular agenda items in Homer City Hall Cowles Council Chambers.

Department Heads may be called upon from time to time to participate via teleconference.

### **AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

The following changes were made: **PUBLIC HEARING Ordinance 18-10**, An Ordinance of the City Council of Homer, Alaska, Accepting the Modified ADEC Municipal Matching Grant (MMG #40909) for an Expanded Water Storage and Distribution Improvement Project, Accepting the Responsibility to Operate and Maintain the Improvements, Agreeing to the Terms and

Conditions of the Grant, and Authorizing the City Manager to Execute the Appropriate Documents. Grant Letter and Agreement as backup

Mayor Zak asked for a motion to approve the agenda as amended.

ADERHOLD/VENUTI – MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **MAYORAL PROCLAMATIONS AND RECOGNITIONS**

### **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

Larry Slone, city resident, commented on Ordinance 18-14 recommending exercising caution in restricting the public's rights, providing the City Council total protection from an ethics complaints based upon the attorney's advice during the meeting or in the course of business which he opined is just an opinion not a fact of law.

## **RECONSIDERATION**

### **CONSENT AGENDA**

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Regular Meeting Minutes of February 26, 2018. City Clerk. Recommend adoption.
- B. **Memorandum 18-028**, from City Clerk re: Vacation of a portion of the Starboard Way Right-of-Way adjacent to Lots 4-8 Block 1 and Lots 4 and 5 Block 2 Mariner Village Subdivision as dedicated on Mariner Village Subdivision, Plat HM 68- 657. Recommend Approval.
- C. **Ordinance 18-11**, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, and 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800,

14.04.130, 19.02.100; and Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 to Conform Homer City Code to State Law and to Clarify that Certain Code Violations may be Disposed of by Bail Forfeiture without a Court Appearance as Indicated in the Homer City Code Fine Schedules, and all other Violations Require a Court Appearance and are Subject to the General Penalty. City Clerk. Recommended dates: Introduction March 12, 2018, Public Hearing and Second Reading March 27, 2018.

Memorandum 18-029 from City Attorney as backup

- D. **Ordinance 18-12**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson. Recommended dates: Introduction March 12, 2018, Public Hearing and Second Reading March 27, 2018.
  
- E. **Ordinance 18-13**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation Project. City Manager/Public Works Director. Recommend dates: Introduction March 12, 2018, Public Hearing and Second Reading, March 27, 2018.

Memorandum 18-030 from Public Works Director as backup

- F. **Ordinance 18-14**, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 1.18.020 to Define the Term “Impartial”; Amending Homer City Code 1.18.030 by Requiring City Council Members to Comply with Homer Workplace Policies and Procedures; Repealing 1.18.050 and Incorporating it Under the Newly Enacted Homer City Code Chapter 1.19, “Board Of Ethics - Complaints”, to Clarify the Preliminary Review Process for Ethics Complaints by the City Clerk and City Attorney; Amending Homer City Code 1.18.060 to Prohibit Ethics Complaints Based Upon Actions Taken in Accordance with Advice from the City Attorney; and Repealing Homer City Code Chapter 2.80. Aderhold. Recommended dates: Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018.

Memorandum 18-031 from City Attorney as backup

- G. **Ordinance 18-15**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter. City Manager/Public Works Director. Recommended dates: Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018

Memorandum 18-032 from Public Works Superintendent as backup

- H. **Resolution 18-027**, A Resolution of the City of Homer, Alaska Requesting the Alaska Congressional Delegation Reinstate Funds in the Federal Budget for the National Estuarine Research Reserve System to Ensure Future Continuation of Important Ecological and Economic Contributions from the Kachemak Bay National Estuarine Research Reserve to the City of Homer, Other Kachemak Bay Communities, and the Lower Kenai Peninsula. Aderhold. Recommend adoption.
- I. **Resolution 18-028**, A Resolution of the Homer City Council Expressing Results of the February 26, 2018 Police Station Worksession and Providing Direction for the Next Step. Council/City Manager. Recommend adoption.

Moved to Resolutions. Aderhold.

- J. **Resolution 18-029**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Solid Waste Collection and Disposal Contract to Moore & Moore Services, Inc. of Homer, Alaska, for a Three Year Contract with Two One Year Renewal Options, in the Amount of \$45,890.11 Per Year and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port & Harbor Director. Recommend adoption.

Memorandum 18-033 from Port Director/Harbormaster as backup

Resolution 18-028 was moved to Resolutions, Item A. (Aderhold)

Mayor Zak requested a motion to approve the consent agenda as read.

ERICKSON/LORD – SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## VISITORS

### ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS (10 minute limit per report)

#### A. Borough Report

Assembly person Kelly Cooper provided a report on the actions taken by the Assembly at the March 6, 2018 meeting. She noted the following actions of the Assembly:

- Ordinance 2017-29 Amending Chapter 5.18 to Establish a 6% Area wide Sales Tax on Temporary Lodging and Overnight Camping Facilities Failed
- Ordinance 2018-09 Amending KPB Code to Provide for Financial Support for the Promotion of Tourism and Economic Development Failed
- Resolution 2018-10 Authorizing the Reestablishment of a Cost Allocation Plan for Service Area Operating Funds and Certain Funds Approved
  - o This will be a 2.5% administrative fee
- Ordinance for a .5% Sales Tax increase will be on the April 3<sup>rd</sup> Agenda for Public Hearing. Please contact her if there is anyone interested in testifying from Homer by next Wednesday, March 14th.
- The Mayor has put forward an ordinance to move \$3 million from the Lane Trust Fund to the General Fund to Balance the Budget. This is a stop gap measure.
- Reported that the School District has reduced their budget \$8 million dollars in the last 4 years being very responsible with their funds.
- Possible Fuel Tax in the future. This would be an excise tax and does not have to go before the voters for approval.
- Open to suggestions on balancing the budget.
- Sealed Bid Offering if approved in April will be due in May. Regular Over the Counter Land Sales will be in October

Ms. Cooper responded that there was a great number of testimony in opposition and how it would affect the industry itself and that there was more favor for a broad based tax; a bed tax would make the overall tax up to 13.5% and not everyone has that disposable income that comes into the area. The fiscal note also showed that it did not raise the revenue as expected it was only going to create approximately \$2.5 million. She noted that there is still a potential

for a mil rate increase. However if the sales tax increase passes in April it will be on the October ballot this year but would not be in effect until 2019. There is a member of assembly who may bring forward a temporary mil rate increase. The Assembly meetings in April are budget meetings. A reduction in the property exemption back to \$20,000 has not been looked at by the Assembly. She noted that they do not currently generate enough revenue in sales tax to fund the school district so they supplement from the general fund. Reducing the exemption amount is not something she believes would be supported in response to questions from Councilmembers Smith, Stroozas and Erickson.

B. Commissions/Board Reports:

1. Library Advisory Board

Mark Massion, Library Advisory Commissioner, updated the Council on the Board's business regarding meeting schedule for 2018 and student representative position plus research into a few new programs for patrons and business people.

2. Homer Advisory Planning Commission

3. Economic Development Advisory Commission

4. Parks Art Recreation and Culture Advisory Commission

5. Port and Harbor Advisory Commission

Steve Zimmerman, Port and Harbor Advisory Commissioner, reported on the initial Commission request to Council to approve zoning on the spit for retail marijuana and elaborated on the request of 10% of the revenues from parking tickets.

There was a brief exchange between Councilmember Smith and Commissioner Zimmerman on the accounting methods employed between the general fund and the enterprise fund.

Mayor Zak thanked Mr. Zimmerman and mentioned a previous joint worksession between Council and the Commission and invited them to come speak with Council and maybe they can discuss and/or address some of these issues soon.

Councilmember Lord stated that she would be willing to work with the Commission and Harbormaster Hawkins to bring forward a resolution or ordinance.

6. Cannabis Advisory Commission

## PUBLIC HEARING(S)

- A. **Ordinance 18-08**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.28.020, Permitted Uses and Structures; Adding Marijuana Retail Facilities in the Marine Commercial District. Aderhold/Cannabis Advisory Commission. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Memorandum 18-021 from City Planner as backup

Mayor Zak opened the Public Hearing.

Jim Preston, city resident of 40 years, commented that his family is in opposition of commercial marijuana on the Spit.

Robert Roth, non-resident, commented in opposition he stated that there were enough problems on the spit with too much traffic, the road is not wide enough, they don't need it out there with one shop in town and every time they have a cruise ship his stuff doesn't work.

Larry Slone, city resident, commented in favor and provided information on the length of use over the centuries, medical hindrance by being a Schedule 1 drug, the other worse drugs including alcohol, caffeine, sugar and over the counter drugs by comparison marijuana minor.

Cassie Lawver, city resident, commented in opposition, if they have one on Ocean Drive what is the point having it on the spit, there are families that visit out there and they don't need it on the spit.

Steve Zimmerman, city resident, commented in favor, it was made legal by the voters, sugar is way worse and we allow and sell alcohol on the spit all over, marijuana is only going to be allowed on private property and if they want a commercial business out there they should be allowed to have it; he noted that there are too many reasons why it should be allowed in his opinion.

Wes Schact, city resident, expressed some concerns since there are no places for consumption but it has been consumed on the spit since 1967, he is not admitting anything but has smelled it, he also had concerns with banning the Cannabis Advisory Commission and not having a source to answer questions from the public on cannabis.

Mayor Zak closed the public hearing seeing no further members of the audience coming forward to testify.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI – MOVED TO ADOPT ORDINANCE 18-08 BY READING OF TITLE ONLY.

Discussion ensued on the topic of commercial retail marijuana on the spit pointing out the pros and cons as follows:

- Marijuana was legalized by Alaskans and the majority of Homer voters
- This is supported by the Port & Harbor, Planning and Cannabis Advisory Commissions
- It is a substance not unlike alcohol or cigarettes and should be allowed in areas where we allow those businesses
- The current individual license that was permitted still has not opened; controversial issue and recommended postponing to see how this business evolves
- Support businesses that want to have this happen on the spit
- Not prohibiting the opportunity just because of personal dislike
- If the business/permit holder has completed all the paperwork then they should be allowed to have a business in an area that allows other retail or similar businesses
- Possible hindrance to receiving federal funding for the Harbor projects
- Let the businesses in town get a foothold
- Not having it on the spit will bring people in to town
- The City must serve the residents in the best interests insuring visitors and residents safety
- No property owners came forward in support
- This is a debatable amenity for the vitality of the marine industry that is on the spit
- The intent is to forward think and serve into the future not just one or a few individuals
- Ramifications and responsibilities of the private property owner

City Attorney Wells provided the disclosure that while this may be lawful under state law it is still unlawful under federal law.

VOTE. YES. ADERHOLD, LORD, VENUTI

VOTE. NO. ERICKSON, SMITH, STROOZAS

Mayor Zak broke the tie with a NO vote.

Motion failed.

- B. **Ordinance 18-09**, An Ordinance of the City Council of Homer, Alaska, Disbanding the Cannabis Advisory Commission and Repealing Homer City Code Chapter 2.78 Outlining the Duties of the Cannabis Advisory Commission. Aderhold. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Mayor Zak read the title into the record and opened the Public Hearing.

Wes Schact, city resident, commented on the public information aspect and who would the public present their questions or comments to without the commission.



Mayor Zak closed the public hearing seeing no further members of the audience coming forward to testify.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 18-09 BY READING OF TITLE ONLY.

There was a brief discussion on the resources for the public to get information, why the commission was formed, and the role of the commission has been reduced to minimal need and anything in the future can come before the Council.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 18-10**, An Ordinance of the City Council of Homer, Alaska, Accepting the Modified ADEC Municipal Matching Grant (MMG #40909) for an Expanded Water Storage and Distribution Improvement Project, Accepting the Responsibility to Operate and Maintain the Improvements, Agreeing to the Terms and Conditions of the Grant, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Memorandum 18-034 from Public Works Director as backup

Mayor Zak read the title into the record and an invited the public to come forward for Public testimony. There was no Public testimony and Mayor Zak closed the Public Hearing.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI – MOVED TO ADOPT ORDINANCE 18-10 BY READING OF TITLE ONLY.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

**ORDINANCE(S)**

**CITY MANAGER'S REPORT**

A. City Manager's Report

City Manager Koester reported that the city will be applying the Cruise Ship Passenger Vessel Tax Funds to the Ramp 2 restroom project and she will be submitting a letter to the Borough to that effect.

The next issue she brought forward was having a worksession every other week on the legislative issues before the state that would impact the City on Tuesdays at 4:00 p.m. in the Conference Room upstairs the week prior to the Council meetings. That way if there is any issue that Council would like to take action on it can be included in the packet in a timely manner.

City Manager Koester inquired if there were any questions on her written report.

There were none.

B. Bid Report

City Manager Koester provided a summary of the Request for Proposal issued on Overslope Development in the Small Boat Harbor and the economic development opportunities available.

**CITY ATTORNEY REPORT**

City Attorney Wells provided a summary of the discussion held earlier on how to interpret the Open Meetings Act requirements that limit attendance of more than three Council members attendance at public meetings and functions that has not been advertised and how well the Council takes preventative measures to avoid the perception or appearance of any impropriety.

**COMMITTEE REPORT**

A. Employee Committee Report

B. Americans with Disabilities Act Compliance Committee

Councilmember Aderhold provided a brief report on the actions of the committee at the last meeting to review the Harbor report from Northwest ADA and recommended sharing the

report with the Harbormaster and presenting at a future Port and Harbor Commission meeting regarding ADA Compliance at Harbor facilities.

The committee received information from the contractor who maintains the city website of necessary ADA update requirements to make the city website compliant.

Councilmember Aderhold reported that Melissa Jacobsen, ADA Coordinator, provided a very informative report on a FEMA webinar she attended March 8, 2018 regarding Recovery from Recent Disasters: Lessons for Disability Planning in Remote Areas. It was very good after the recent tsunami warning.

Council member Aderhold responded that she did not have the details on the ADA requirements but believed it was making the website more accessible for those with vision issues.

## **PENDING BUSINESS**

## **NEW BUSINESS**

## **RESOLUTIONS**

- A. Resolution 18-028, A Resolution of the Homer City Council Expressing Results of the February 26, 2018 Police Station Worksession and Providing Direction for the Next Step. Council/City Manager. Recommend adoption.

Mayor Zak read the title into the record and requested a motion to adopt

ADERHOLD/LORD – MOVED TO ADOPT RESOLUTION 18-028 BY READING OF TITLE ONLY.

ADERHOLD/SMITH – MOVED TO AMEND LINE 22-23 REMOVE THE WORDS, “REDESIGN OF THE \$6.4 MILLION DESIGN CONCEPT AND REPLACE WITH “TO INCORPORATE IN THE REVISED DESIGN.”

This is to be consistent with the previous decision reflected in Resolution 18-13(a).

VOTE. NON.OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **COMMENTS OF THE AUDIENCE**

Steve Zimmerman, city resident, commented on beating the dead horse for a moment but first thanked the Council for the conversation noting there are good arguments on both sides of the

issue, people keep saying that there is no place to legally consume out there, he questioned if it was illegal to consume alcohol in public why are they allowing all the establishments that sell alcohol; he believed it was legal to consume marijuana in your RV, tent or your private vessel if that was your home and if that was true, then there were lots of places to consume marijuana on the Spit. He is disappointed that the Ordinance did not pass but maybe in a few years after some enlightenment, down the road it will pass.

#### **COMMENTS OF THE CITY ATTORNEY**

Attorney Wells was no longer present.

#### **COMMENTS OF THE CITY CLERK**

Deputy City Clerk Krause thanked the Council for making the meeting easy for her.

#### **COMMENTS OF THE CITY MANAGER**

City Manager Koester thanked Deputy City Clerk Renee Krause for filling in for Melissa and doing the minutes of the meeting and complimented Ms. Krause for doing an excellent job.

#### **COMMENTS OF THE MAYOR**

Mayor Zak encouraged everyone to attend the Chamber meeting to hear Katie report on the State of the City tomorrow. He next commented on the wonderful Science Conference in Homer, learned about the importance of science and art and the scientist communicating their research through those avenues.

#### **COMMENTS OF THE CITY COUNCIL**

Councilmember Stroozas reiterated thanks for Katie and encouraged attendance to support the City Manager tomorrow at the Bidarka and that he will be back for the March 27th meeting and reminded everyone about the Winter King Tournament, March 24th, get out and support the community.

Councilmember Smith commented that they should have provided Katie an opportunity for a warm up and she could have given her state of the city speech tonight but that they probably have several people who could live stream that on Facebook so no one misses hearing it or they could review it later. He did have the opportunity to attend the Opioid/Heroin Summit along with Councilmembers Erickson and Aderhold last Wednesday for three of the five hours and it was very good information. Hard conversations, healthy discussions and ones that are much needed. A broad spectrum of support from the community will be needed to reach any resolution. Excellent interaction. He wanted to wish the following family members Happy

Birthday; his Dad, Aunt, his brother and his little Byron who is now 6, his nephew had his first child, Abraham son of Isaac. The Men's Basketball won the tournament this year. It is great to be a Homer resident.

Councilmember Erickson reflecting on the opioid epidemic commented on how they allow certain Facebook interactions, spoke about patterns changing, the privacy laws, we pull back and question from a distance; watching heartbreak; we don't speak about or mention observations to neighbors about their kids actions; take-away looking after our neighbors; she encourage residents to look out for their neighbors and take the time to reach out to them, offering encouragement or assistance. Take the time to walk across the street, reach across the aisle, just be a friend and it is an important part of living in a small town. Spring is starting to hit and the sun is shining. It is a pretty exciting time of year.

Councilmember Aderhold did read recently about a Mayor who came in on a zip line but no pressure. This has been a busy couple of weeks with meetings: Today was Lunch with a Councilmember and she attended with Assembly member Dunn it was good conversation and discussions included the HERC, taxes, and the Homer Comp Plan. There were only 4-5 people there but she finds this very valuable time to meet with community members in a relaxed atmosphere and hopes more people attend in the future. On March 5th the CARTS consultant held a public meeting and ended up filling the room and it was good to see the number of people who came out to speak about transportation and how their needs were not being met. It was a very diverse group in attendance. The Opioid summit was facilitated by the state Health and Social Services Office of Substance Misuse and Addiction Prevention. The state is taking the issue seriously and is getting input from communities in solving the problem. The Science Conference was three days focused on Kachemak Bay and most of the speakers were local. There were quite a few visitors from out of town. Many are taking a dive course across the bay now. As part of the science conference was a Chugachmiut Coordinators and Elders meeting. An attendee commented on learning the importance of water to humans he recalled his mother saying, "Just place your hands on the water."

Councilmember Venuti commented that she enjoyed the science conference and it was spring break so she was off this week and was looking forward to enjoying it.

Councilmember Lord commented that she just returned from 8 days back in New England, it is good to be home, March and April can be a tough time for a lot of people, the light is coming back, there is daylight savings but it is a period of time like today was beautiful and sunny then sideways snow, then back to sunny and beautiful; a crazy back and forth; she is sure the ski trails are gorgeous now; the spit trail is open and spring is coming; they have tulips coming up in the high tunnel now and thanked everyone at the table and all those who came out to testify tonight.

**ADJOURN**

There being no further business to come before the Council, Mayor Zak adjourned the meeting at 7:37 p.m. The next Regular Meeting is Tuesday, March 27, 2018 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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RENEE KRAUSE, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_



## City of Homer

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

## Office of the Mayor

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 18-036

TO: HOMER CITY COUNCIL  
FROM: BRYAN ZAK, MAYOR  
DATE: MARCH 21, 2018  
SUBJECT: RE-APPOINTMENT OF JACQUE PETERSON TO THE LIBRARY ADVISORY BOARD

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Jacque Peterson is reappointed to the serve on the Library Advisory Board for a three year term to expire April 1, 2021.

### RECOMMENDATION:

Confirm the re-appointment of Jacque Peterson to the Library Advisory Board

Fiscal Note: N/A





February 27<sup>th</sup>, 2018

Jacque E. Peterson  
884 Larkspur Ct.  
Homer, AK 99603

City of Homer  
491 East Pioneer Avenue  
City of Homer, Alaska 99603

**Re: Request for re-appointment to the Homer Library Advisory Board**

To Mayor Zak and council members:

Please consider this my formal request for re-appointment to the Homer Library Advisory Board for another term.

*My current term expires on April 1 of this year. I've enjoyed my time on the board and believe I am having a positive impact, and would like to continue to work on issues that impact our public library.*

Sincerely,

Jacque E. Peterson  
Library Advisory Board, Chair



**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**RESOLUTION 18-030**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
APPROVING A FIVE-YEAR SUBLEASE AT THE HOMER AIRPORT  
TERMINAL FOR FLYING WHALE COFFEE AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Heather Temple and Amanda Moran, the owners of Flying Whale Coffee currently lease Homer Airport Terminal Concession Spaces 103 and 104; and

WHEREAS, Flying Whale Coffee wishes to expand into Concession Spaces 105 and 106; and

WHEREAS, Per Chapter 4 of the Property Management Policy and Procedures Manual, a Request for Proposal to lease airport terminal spaces was advertised in the local newspapers, two Plans Rooms in the State and the City's website; and

WHEREAS, Flying Whale Coffee - Heather Temple and Amanda Moran have requested a 5-year sublease, through March 30, 2023 (a DOT/PF limitation) for concession spaces 103, 104, 105 and 106 at the advertised rate of \$2 per square foot, per month, plus a 10% concession fee, with annual Consumer Price Index adjustments; and

WHEREAS, Flying Whale Coffee is a tenant in good standing and provides a valuable service to travelers; and

WHEREAS, The City Administration has evaluated the relevant facts and determined that it is in the best interest of the City to enter into a new lease with the current sublessee and makes such a finding by resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby approves a long-term lease, effective April 1, 2018 through March 30, 2023 at the Homer Airport Terminal, for Concession Spaces 103, 104, 105 and 106 to Flying Whale Coffee, at a minimum annual rate of \$11,040 and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 27th day of March, 2018.

CITY OF HOMER

\_\_\_\_\_  
BRYAN ZAK, MAYOR

44 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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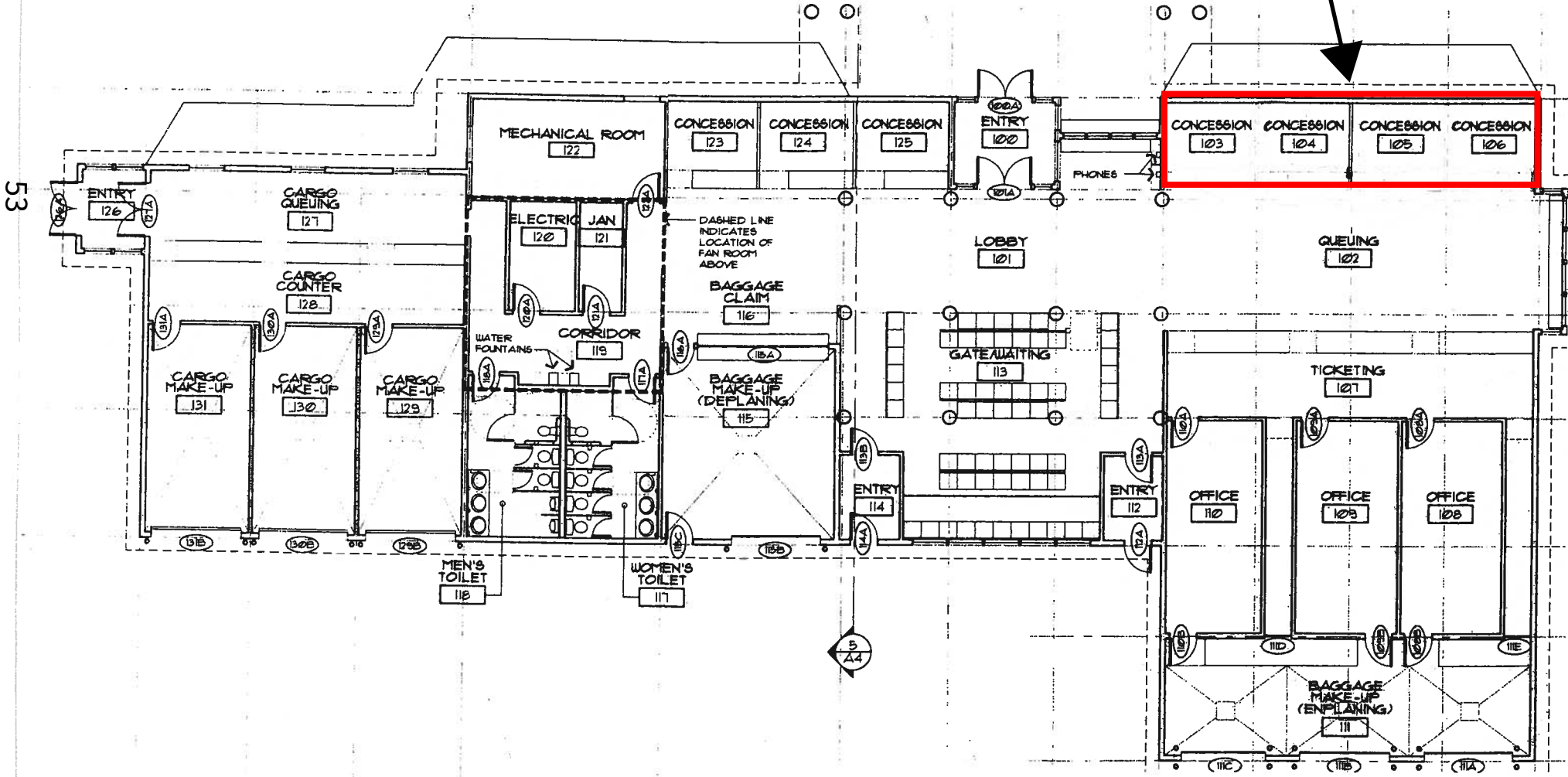
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52 Fiscal information: Minimum annual lease fee of \$11,040 into account number 100-0045-

53 4657

City of Homer  
Airport Terminal Floor Plan

Flying Whale Coffee  
Lease through March 30, 2023  
\$2 per sf per month plus a 10%  
concession fee.



53



1 CITY OF HOMER  
2 HOMER, ALASKA

3 City Clerk/Library  
4 Advisory Board

5 RESOLUTION 18-031

6  
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE LIBRARY ADVISORY BOARD BYLAWS TO CORRECT  
9 THE REGULAR MEETING SCHEDULE AND ESTABLISH GUIDELINES  
10 FOR AN HONORARY STUDENT REPRESENTATIVE POSTION ON  
11 THE BOARD.

12  
13 WHEREAS, The Library Advisory Board determined that there were no guidelines  
14 included in their bylaws for an Honorary Student Representative position; and

15  
16 WHEREAS, The Library Advisory Board regular meeting schedule as adopted in  
17 Resolution 17-094 was not reflected correctly in the Bylaws; and

18  
19 WHEREAS, The Library Advisory Board introduced the amendments at their February 6,  
20 2018 regular meeting and approved their amendments at a second meeting on March 6, 2018,  
21 in accordance with their bylaws.

22  
23 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby amends the  
24 Library Advisory Board Bylaws to Amend Regular Meeting Schedule and establish guidelines  
25 for an Honorary Student Representative position on the Board.

26  
27 PASSED AND ADOPTED by the Homer City Council this 27th day of March, 2018.

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29 CITY OF HOMER

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33 BRYAN ZAK, MAYOR

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35 ATTEST:

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38 \_\_\_\_\_  
39 MELISSA JACOBSEN, MMC, CITY CLERK

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41 Fiscal Note: N/A





**HOMER PUBLIC LIBRARY ADVISORY BOARD  
BYLAWS**

**ARTICLE I - NAME AND AUTHORIZATION**

This organization shall be called the Library Advisory Board, existing by virtue of the provisions of Chapter 2.48 of the Homer Municipal Code, and exercising the powers and authority, and assuming the responsibilities delegated under said Code.

**ARTICLE II – PURPOSE**

Section 1 Establish operational policies for the library program, and submit same to the City Council for approval.

Section 2 Assist the Library Director in preparation and presentation of the annual budget request to the City Council.

Section 3 Make recommendation through the City Manager to the Mayor and City Council concerning the Library and its programs.

Section 4 Solicit donations of money and/or property for the benefit of the Library.

Section 5 Represent the Library to the community.

**ARTICLE III - OFFICERS AND BOARD MEMBERS**

Section 1 A Chairperson, Vice-Chairperson shall be elected from among the appointed board members at the regular April meeting of the Board.

Section 2 Officers shall serve a term of one year from the April meeting at which they are elected, and until their successors are duly elected. Officers may be re-elected in subsequent years.

Section 3 The Chairperson shall preside at all meetings of the Board; authorize calls for any special meetings; appoint all committees; execute all documents authorized by the Board; serve as ex officio, voting member of all committees, and generally perform all duties associated with that office.

Section 4 In the event of the absence, or disability of the Chairperson, the Vice-Chairperson shall assume and perform the duties of the Chair. If both the Chairperson and Vice-Chairperson are absent, and a quorum of four members are present, the senior member shall assume and perform the duties and functions of the Chair.

Section 5 One member shall attend the monthly meeting of the Friends of the Homer Public Library on an open volunteer basis.

Section 6 Honorary members of the Board may from time to time be appointed by the Mayor, subject to confirmation by the City Council. **One Homer area high school student may be appointed as an Honorary Student Representative for a school year term running September through May.** Honorary members may participate in the deliberations of the Board, but may not vote nor shall they be counted in determining the quorum of Board members.

**ARTICLE IV – MEETINGS**

Section 1 The annual meeting for review of policies, rules and regulation shall be held at a –regular meeting each year.

Section 2 Regular meetings shall be held on the first Tuesday of the following months: February, March, **April**, May, ~~June, July~~, **August**, September, October, **November** and December at 5:30 p.m. in the designated location and shall be posted for public information as required by Homer City Code and Alaska State Statutes.

Section 3 All regular meetings shall be open to the public.

Section 4 The regular meetings in ~~July~~ **August** and September of each year shall be known as budget meetings. Budget proposals, ~~position classification and compensation schedules~~, shall be reviewed at these meetings.

Section 5 The order of business for the regular meetings shall include, but not be limited to, the following items, which shall be covered in the sequence shown, as far as circumstances permit. Agenda shall be posted for public information as required by Homer City Code and Alaska State Statutes.

NAME OF BODY	DATE OF MEETING
PHYSICAL LOCATION OF MEETING	DAY OF WEEK AND TIME OF MEETING
HOMER, ALASKA	MEETING ROOM

NOTICE OF MEETING  
REGULAR MEETING AGENDA

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA. (3 MINUTE TIME LIMIT)
4. RECONSIDERATION
5. APPROVAL OF MINUTES or CONSENT AGENDA.
6. VISITORS (Chair set time limit not to exceed 20 minutes) (Public may not comment on the visitor or the visitor's topic until audience comments.) No action may be taken at this time.
7. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS (Chair set time limit not to exceed 5 minutes.)
8. PUBLIC HEARING (3 MINUTE TIME LIMIT)
9. PLAT CONSIDERATION (Planning Commission only)
10. PENDING BUSINESS or OLD BUSINESS
11. NEW BUSINESS or COMMISSION BUSINESS
12. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY MAY BE DISCUSSED ONLY).
13. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)
14. COMMENTS OF THE CITY STAFF (not required) (Staff report may be at this time in the agenda.)
15. COMMENTS OF THE COUNCILMEMBER (If one is assigned)
16. COMMENTS OF THE CHAIR (May be combined with COMMENTS OF THE COMMISSION/BOARD since the Chair is a member of the Commission/Board.)
17. COMMENTS OF THE COMMISSION
18. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR \_\_\_\_\_ note any worksessions, special meetings, committee meetings etc. All meetings scheduled to be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska. (Sometimes the meeting is scheduled for the Conference Room)

Contact info for the department constructing the agenda. Example: City Clerk's Office, [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us), 235-3130.

Section 6 Per Resolution of the City Council (Resolution 06-115(A)), Public Testimony shall normally be limited to three minutes per person. Exceptions may be provided for at the Chair's discretion or by a majority vote of the board members in attendance.

Section 7 Special meetings may be called by the Library Director at the direction of the Chairperson, or at the request of three members, for the transaction of business as stated in the call for the meeting. Notice of such meetings shall be posted in the same manner as that for regular meetings.

Section 8 A quorum for the transaction of business at any meeting shall consist of four members of the Board present. For purposes of determining the existence of a quorum, Honorary Board members shall not be counted.

Section 9 Recorded minutes shall be made available by the City Clerk's Office to the Board prior to the next meeting. Minutes shall be available to the public as required by Homer City Code and Alaska State Statutes.

Section 10 Robert's Rules of Order, latest edition shall govern the parliamentary procedures of meetings.

#### **ARTICLE V - COMMITTEES**

Section 1 Committees of one or more members for such specific purposes as the business of the Board will only become active upon approval of Council. A memorandum and resolution will go before Council outlining the reason, tasks assigned and termination date. Committees shall be considered to be discharged upon completion of the purpose for which it was appointed, and after its final report is made to and approved by the Board.

Section 2 All committees shall make a progress report to the Board at each of its meetings.

Section 3 No committee shall have other than advisory powers unless, by suitable action to the Board, it is granted specific powers to act.

#### **ARTICLE VI - VOTING AND BYLAW AMENDMENTS**

Section 1 An affirmative vote of the majority of all members of the Board present at one time shall be necessary to approve any action before the Board. The Chairperson may vote upon, and may move or second a proposal before the Board.

Section 2 A record of all voting must be included in the minutes of each meeting.

Section 3 The By-laws may be amended by a simple majority of all members of the Board present at one time, provided written notice of the proposed amendment shall have been sent to all members at least five (5) days prior to the meeting at which such action is proposed to be taken.

Section 4 Any rule or resolution of the Board, whether contained in these By-laws or otherwise, may be suspended temporarily in connection with business at hand; and such suspension to be valid; may be taken only at a meeting at which at least four of the members of the Board shall be present, and two thirds of those present shall so approve.

## **ARTICLE VII – ATTENDANCE**

Teleconference meetings.

1. The preferred procedure for a Board meeting is that all members be physically present at the designated time and location for the meeting. However, physical presence may be waived and a member may participate in a meeting by Teleconference. This is limited to two (2) meetings per year.
2. There must be an initial quorum present.
3. A Board member participating by teleconference shall be deemed to be present at the meeting for all purposes. In the event the Chair participates telephonically, the Vice-Chair shall run the meeting.
2. Teleconference procedures.
  - A. A Board member who cannot be physically present for a regularly scheduled meeting shall notify the clerk at least five days prior to the scheduled time for the meeting of his/her intent to appear by telephonic means of communication.
  - B. The clerk shall notify the Board members three days prior to the scheduled time for the Board meeting of Board members intending to appear by teleconference.
  - C. The means used to facilitate a teleconference meeting the Board must enable each Board member appearing telephonically to clearly hear all other Board members and members of the public attending the meeting as well as be clearly heard by all other Board members and members of the public.
  - D. The clerk shall note in the attendance record all Board members appearing telephonically.



## City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

## MEMORANDUM 18-038

TO: MAYOR ZAK AND HOMER CITY COUNCIL  
FROM: HAYLEY SMITH, DEPUTY CITY CLERK  
DATE: MARCH 16, 2018  
SUBJECT: LIBRARY ADVISORY BOARD BYLAW AMENDMENTS

---

At the Library Advisory Board's February 6, 2018 meeting, the Board introduced bylaw amendments to add guidelines for the student representative seat and to correct their meeting schedule.

At the March 6, 2018 meeting, the Board approved the bylaw amendments and made a motion to forward it to City Council.

An excerpt from their meeting minutes is as follows:

### ***PENDING BUSINESS***

*A. Bylaw Amendments Re: The Addition of Guidelines for the Student Representative Seat and Amending the Library Advisory Board Regular Meeting Schedule*

*The Board discussed the bylaws and made the following amendments:*

*Section 6 Honorary members of the Board may from time to time be appointed by the Mayor, subject to confirmation by the City Council. **One Homer area high school student may be appointed as an Honorary Student Representative for a school year term running September through May.** Honorary members may participate in the deliberations of the Board, but may not vote nor shall they be counted in determining the quorum of Board members.*

### **ARTICLE IV – MEETINGS**

*Section 1 The annual meeting for review of policies, rules and regulation shall be held at a regular meeting each year.*

*Section 2 Regular meetings shall be held on the first Tuesday of the following months: February, March, **April**, May, ~~June~~, ~~July~~, **August**, September, October, **November** and December at 5:30 p.m. in the designated location and shall be posted for public information as required by Homer City Code and Alaska State Statutes.*

*Section 3 All regular meetings shall be open to the public.*

*Section 4 The regular meetings in ~~July~~ **August** and September of each year shall be known as budget meetings. Budget proposals, ~~position classification and compensation schedules~~, shall be reviewed at these meetings.*

*Chair Peterson requested a motion to approve the bylaws amendments as discussed and to forward it to City Council.*

*SPRINGER/MASSION- MOVED TO APPROVE THE BYLAW AMENDMENTS AS DISCUSSED AND TO FORWARD IT TO CITY COUNCIL.*

*There was a brief discussion to follow about the student representative seat advertising and solicitation.*

*VOTE: NON-OBJECTION: UNANIMOUS CONSENT*

*Motion carried.*

1 CITY OF HOMER  
2 HOMER, ALASKA

3 Mayor/Council

4 RESOLUTION 18-032

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 REQUESTING THAT THE ALASKA STATE LEGISLATURE WORK  
8 TOGETHER TO FIND NEW REVENUE SOURCES TO SOLVE THE  
9 STATE FISCAL CRISIS AND FUND NECESSARY PROGRAMS IN THE  
10 CAPITAL BUDGET.

11  
12 WHEREAS, The State of Alaska is facing a fiscal crisis that has resulted in cuts to  
13 programs and personnel that have a direct impact on the ability of municipalities to provide  
14 essential services; and

15  
16 WHEREAS, The Alaska State Legislature has not funded a robust capital budget in years  
17 and has accumulated a long list of deferred maintenance and infrastructure projects; and

18  
19 WHEREAS, The Governor's proposed capital budget includes a number of necessary  
20 programs that are contingent on the passage of an employment payroll tax; and

21  
22 WHEREAS, The programs that are contingent on passage of a payroll tax provide  
23 important services to the City of Homer and its residents such as:

- 24
- 25 • Match for the Municipal Harbor Facility Grant Program – The City of Homer has  
26 used this 50% match program to replace floats, ramps and power pedestals at the  
27 Homer Harbor. It provides critical assistance to municipalities to be able to  
28 maintain what was once State infrastructure.
  - 29
  - 30 • Match for Code Blue – The City of Homer recently was able to replace an old  
31 ambulance with 40% Code Blue funding. This program provides assistance to  
32 municipalities to replace critical emergency response equipment.
  - 33
  - 34 • Funding for Weatherization Program – Many Homer residents have been able to  
35 take advantage of this program to lower their energy bills. Preserving this  
36 opportunity for families and homeowners across Alaska will help them face tough  
37 economic times.
  - 38
  - 39 • Funding for the Alaska Housing Finance Corporation's Senior Citizens Housing  
40 Development Program – This program provides competitive grants to  
41 municipalities and other agencies to support the development of housing for  
42 senior citizens, the fastest growing segment of the Alaskan population including

43 here in Homer. Homer Senior Citizen’s, Inc. has utilized these funds in the past to  
44 build senior rental housing, allowing our elder residents to remain in Homer as  
45 they age.

- 46
- 47 • Highway Match to Maximize Available Federal Funds – Roads are critical  
48 infrastructure and leveraging Federal dollars to promote the development and  
49 maintenance of the Federal Highway System should be encouraged.

50

51 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, encourages  
52 the Alaska State Legislature to work together to solve the fiscal crisis by finding new sources of  
53 revenue.

54

55 BE IT FURTHER RESOLVED that the City Council of Homer, Alaska, encourages the  
56 Alaska State Legislature to work together to find a way to fund the necessary programs in the  
57 Governor’s proposed capital budget that are contingent on an employment payroll tax.

58

59 PASSED AND ADOPTED by the Homer City Council this 27<sup>th</sup> day of March, 2018.

60

61

62 CITY OF HOMER

63

64

65 \_\_\_\_\_

66 BRYAN ZAK, MAYOR

67 ATTEST:

68

69

70 \_\_\_\_\_

71 MELISSA JACOBSEN, MMC, CITY CLERK

72

73



1 CITY OF HOMER  
2 HOMER, ALASKA

3 City Manager/  
4 Public Works Director

5 RESOLUTION 18-033

6  
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 APPROVING THE AWARD OF THE WASTEWATER TREATMENT  
9 PLANT HVAC REHABILITATION PROJECT TO THE FIRM OF WOODS  
10 PLUMBING AND HEATING, INC. OF ANCHORAGE, ALASKA, IN THE  
11 AMOUNT OF \$322,816 AND AUTHORIZING THE CITY MANAGER TO  
12 EXECUTE THE APPROPRIATE DOCUMENTS.

13  
14 WHEREAS, The City Council approved \$280,000 in the FY2017 Capital Budget from the  
15 Sewer Reserve Fund to replace the heating and ventilation system at the wastewater  
16 treatment plant, and an additional \$92,592, was approved at the March 27, 2018 City Council  
17 meeting; and

18  
19 WHEREAS, In accordance with the Procurement Policy, the Invitation to Bid was  
20 advertised in the Homer News on January 18 and 25, 2018; the Peninsula Clarion on January  
21 21, 2018; sent to two in-state plan rooms; and posted on the City of Homer website; and

22  
23 WHEREAS, The design of the improvement, bidding the project, and a bid opening on  
24 February 22, 2018 was coordinated by the Public Works Department; and

25  
26 WHEREAS, Three bids were received (see Memorandum 18-037) and Woods Plumbing  
27 and Heating, Inc. of Anchorage, Alaska was found to be the lowest responsive bidder; and

28  
29 WHEREAS, This award is not final until written notification is received by the firm from  
30 the City of Homer.

31  
32 NOW, THEREFORE, BE IT RESOLVED THAT the Homer City Council awards the contract  
33 for the Wastewater Treatment Plant HVAC Rehabilitation project to the firm of Woods  
34 Plumbing and Heating, Inc. of Anchorage, Alaska in the amount of \$322,816, and authorizes  
35 the City Manager to execute all necessary documents.

36  
37 PASSED AND ADOPTED by the Homer City Council on this 27th day of March, 2018.

38 CITY OF HOMER

39  
40  
41 \_\_\_\_\_  
42 BRYAN ZAK, MAYOR  
43

44 ATTEST:

45

46

47

48 \_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

49

50 Fiscal Note: 256-0379

51



## MEMORANDUM 18-037

TO: KATIE KOESTER, CITY MANAGER  
 FROM: CAREY S. MEYER, PUBLIC WORKS DIRECTOR  
 DATE: MARCH 20, 2018  
 SUBJECT: RECOMMENDATION TO AWARD CONSTRUCTION CONTRACT  
 WWTP HVAC REHABILITATION PROJECT

The City Council approved \$280,000 from the Sewer Reserve Fund in the FY17 Capital Budget to replace the heating and ventilation system at the sewer treatment plant. At the March 27 meeting the City Council authorized an additional \$92,000 to complete the project.

On February 22, 2018, bids were received for the project. This work was advertised in the Homer News on January 18 and 25, 2018, in the Peninsula Clarion on January 21, sent to two in-state plan rooms; and posted on the City of Homer website in accordance with the City's Procurement Policy.

Three responsive bids were received from qualified firms. The bid results were evaluated and the results are as follows.

Responsive Bidder's Names	Firm Location	Amount
Klebs Mechanical, Inc	Anchorage	\$ 485,309
Wood's Plumbing and Heating, Inc.	Anchorage	\$ 322,816
Steiner's North Star Construction, Inc.	Homer	\$ 410,275
Engineer's Estimate		\$ 194,000

The City's 5% local bidder's preference does apply to this award. The local bidder was more than 5% higher than the low bidder. The low bid is within the project budget approved by the City Council. Public Works expects the work to be completed by September 15, 2018.

**Recommendation:**

Award the construction contract for the Wastewater Treatment Plant HVAC Rehabilitation project in the amount of \$322,816 to Woods Plumbing and Heating, Inc. of Anchorage, Alaska and authorizing the City Manager to execute all appropriate documents necessary to complete this project. Fiscal Note: 415-0940



# VISITORS



# The KACHEMAK BAY WATER TRAIL

## Vision and Goals

**Economic Vitality** Support the economic vitality and creativity of local communities, and draw people from around the world to its unique environmental richness and stunning scenic beauty.

**Safety** Offer user-friendly tools to help users find just the right route and guidance for their own safe and stimulating journey of “Adventure Beyond the End of the Road.”

**Respect** Promote an ethic of respect for public, private, and Alaska Native Lands and traditional sites.

### *Adventure Beyond the End of the Road*

A 125-mile water trail that inspires exploration, understanding, and stewardship of the natural treasure that is Kachemak Bay

**Diversity of Recreational Opportunities** Enable people of all abilities to experience the wild and scenic places around Kachemak Bay, now and for generations to come.

**Stewardship** Promote awareness and stewardship of the sensitive habitats on which many plants and animals depend, including the thousands of birds that stop over in the bay as they migrate to and from their breeding areas.

**Active Kids and Families and Healthy Communities** Help families and kids be active outdoors and promote healthy communities.

**Science, Cultural, and Archeological Education** Promote learning about ecosystems, heritage sites, stewardship, and coastal communities.

**Fun!** Connect individuals and places along its length – from Homer to Seldovia – in understanding and celebrating what they share.



## Kachemak Bay Water Trail accomplishments, projects, and plans

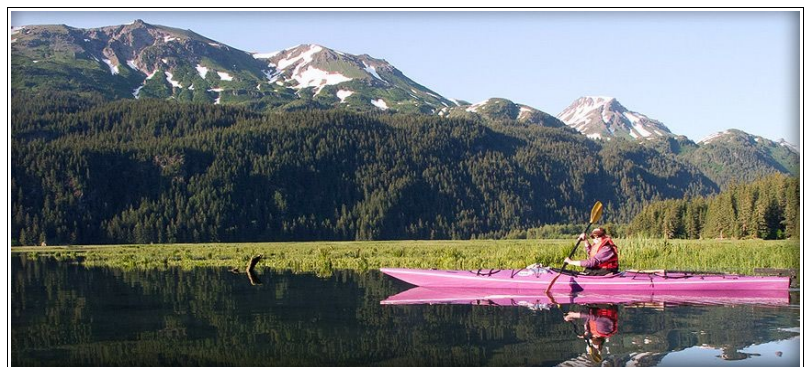
Here's an April 2017 update of what we've been up to and what might be next ...

- ◆ Constructed launch site Picnic Shelter (see photo at right), structure up but details ongoing. Raised approx. \$40,000 for the project.
- ◆ Printing updated version of Water Trail map/brochure.
- ◆ Collaborating with State Parks, City, Rotary, and Independent Living Center TRAILS to improve accessibility at the Ranger Station, Halibut Cove, and the Picnic Shelter.
- ◆ Sponsoring kayak fishing and water safety seminars at Land's End.
- ◆ Doing Water Trail outreach activities at REI, Knik Canoers and Kayakers, and Shorebird Festival.
- ◆ Doing Trails Day Projects at Chugachik Island and Kayak Beach.
- ◆ Helping at and presenting a slide show at the Friends Pancake Breakfast during Shorebird Festival.
- ◆ Adopted Cottonwood Creek, Chugachik Island, and Kayak Beach for maintenance and monitoring.



- ◆ Working on a sign replacement project with State Parks.
- ◆ Partnering with Chapmen School to build two accessible picnic tables for the picnic shelter.
- ◆ Promoting Kayak Rescue/Water Safety Classes taught by Randy Keller.
- ◆ Annually awarding the Golden Pulaski Award, which is displayed at the Chamber.

- ◆ Recycling and refurbishing picnic tables from Heritage RV Park.
- ◆ Collaborating with Taz Talley on a possible water trail publication.
- ◆ Finalized an agreement for accessing Kilcher Beach via the Homestead road for Water Trail activities.
- ◆ Hosting Water Trail socials at Grace Ridge Brewery and arranging for "tip month."
- ◆ Updating the Water Trail website, <http://www.kachemakbaywatertrail.org/>.
- ◆ Creating the loaner program for bear resistant food containers.
- ◆ And we organized removal of an abandoned vehicle from a north shore beach near the Critical habitat (thank you Otto Kilcher).





ANNOUNCEMENTS  
PRESENTATIONS  
BOROUGH REPORT  
COMMISSION REPORTS



# PUBLIC HEARING(S)



**CITY OF HOMER  
PUBLIC HEARING NOTICE  
CITY COUNCIL MEETING**

**Ordinances 18-11, 18-12, 18-13, 18-14, 18-15**

A **public hearing** is scheduled for **Tuesday, March 27, 2018** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**Ordinances 18-11, 18-12, 18-13, 18-14 and 18-15 internet address:**

<http://www.cityofhomer-ak.gov/ordinances>

**Ordinance 18-11**, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, and 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800, 14.04.130, 19.02.100; and Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 to Conform Homer City Code to State Law and to Clarify that Certain Code Violations may be Disposed of by Bail Forfeiture without a Court Appearance as Indicated in the Homer City Code Fine Schedules, and all other Violations Require a Court Appearance and are Subject to the General Penalty. City Clerk.

**Ordinance 18-12**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson.

**Ordinance 18-13**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation Project. City Manager/Public Works Director.

**Ordinance 18-14**, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 1.18.020 to Define the Term “Impartial”; Amending Homer City Code 1.18.030 by Requiring City Council Members to Comply with Homer Workplace Policies and Procedures; Repealing 1.18.050 and Incorporating it Under the Newly Enacted Homer City Code Chapter 1.19, “Board Of Ethics - Complaints”, to Clarify the Preliminary Review Process for Ethics Complaints by the City Clerk and City Attorney; Amending Homer City Code 1.18.060 to Prohibit Ethics Complaints Based Upon Actions Taken in Accordance with Advice from the City Attorney; and Repealing Homer City Code Chapter 2.80. Aderhold.

**Ordinance 18-15**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter. City Manager/Public Works Director.

\*\*\*\*\*

All interested persons are welcome to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

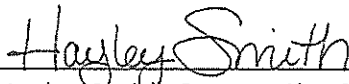
\*\* Copies of proposed Ordinances in entirety, are available for review online at <https://www.cityofhomer-ak.gov/ordinances>, at the Homer City Clerk's Office, and the Homer Public Library. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us)

Renee Krause CMC, Deputy City Clerk  
Publish: Homer News March 22, 2018

## CLERK'S AFFIDAVIT OF POSTING

I, Hayley Smith, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for **Ordinance 18-11**, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, and 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800, 14.04.130, 19.02.100; and Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 to Conform Homer City Code to State Law and to Clarify that Certain Code Violations may be Disposed of by Bail Forfeiture without a Court Appearance as Indicated in the Homer City Code Fine Schedules, and all other Violations Require a Court Appearance and are Subject to the General Penalty. City Clerk, **Ordinance 18-12**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson, **Ordinance 18-13**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation Project. City Manager/Public Works Director, **Ordinance 18-14**, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 1.18.020 to Define the Term "Impartial"; Amending Homer City Code 1.18.030 by Requiring City Council Members to Comply with Homer Workplace Policies and Procedures; Repealing 1.18.050 and Incorporating it Under the Newly Enacted Homer City Code Chapter 1.19, "Board Of Ethics - Complaints", to Clarify the Preliminary Review Process for Ethics Complaints by the City Clerk and City Attorney; Amending Homer City Code 1.18.060 to Prohibit Ethics Complaints Based Upon Actions Taken in Accordance with Advice from the City Attorney; and Repealing Homer City Code Chapter 2.80. Aderhold, **Ordinance 18-15**, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter. City Manager/Public Works Director, was distributed to the City of Homer kiosks located at City Clerk's Office, and the Homer Public Library on Friday, March 16th, 2018 and posted the same on City of Homer Website on Friday, March 16th, 2018.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 16th day of March, 2018.

  
\_\_\_\_\_  
Hayley Smith, Deputy City Clerk





**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-11**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, And 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800, 14.04.130, 19.02.100, And Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 To Conform Homer City Code To State Law And To Clarify That Certain Code Violations May Be Disposed Of Without A Court Appearance Upon Payment Of The Fine Listed In A Homer City Code Fine Schedule, And All Other Violations Require A Court Appearance And Are Subject To The General Penalty Unless Another Penalty Is Specifically Provided.

Sponsor: City Clerk

1. Council Regular Meeting March 12, 2018 Introduction
  - a. Memorandum 18-029 from City Attorney
2. Council Regular Meeting March 27, 2018 Public Hearing and Second Reading
  - a. Memorandum 18-029 from City Attorney



CITY OF HOMER  
HOMER, ALASKA

City Clerk

ORDINANCE 18-11

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE SECTIONS 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, AND 20.32.020, ADDING NEW HOMER CITY CODE SECTIONS 5.08.030, 5.20.060, 8.12.800, 14.04.130, 19.02.100, AND RE-ENACTING HOMER CITY CODE SECTIONS 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 TO CONFORM HOMER CITY CODE TO STATE LAW AND TO CLARIFY THAT CERTAIN CODE VIOLATIONS MAY BE DISPOSED OF WITHOUT A COURT APPEARANCE UPON PAYMENT OF THE FINE LISTED IN A HOMER CITY CODE FINE SCHEDULE, AND ALL OTHER VIOLATIONS REQUIRE A COURT APPEARANCE AND ARE SUBJECT TO THE GENERAL PENALTY UNLESS ANOTHER PENALTY IS SPECIFICALLY PROVIDED.

WHEREAS, Certain Homer City Code violations may be disposed of without a court appearance upon payment of the fine listed in a Homer City Code fine schedule setting out the fine amount for that violation; and

WHEREAS, All other Homer City Code violations are subject to the general penalty in Homer City Code 1.16.010, unless another penalty is specifically provided for in the Homer City Code section establishing the violation; and

WHEREAS, Ensuring consistency with state law increases enforcement efficiency and makes a better informed public; and

WHEREAS, It is appropriate and in the best interest of the City of Homer to make the following amendments to the Homer City Code sections listed below that address violations.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Section 1.16.040, Disposition of scheduled offenses – Fine schedule, is amended to read as follows:

**Citations for offenses listed in this section may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of the fine amounts listed below, plus the state surcharge required by AS 12.55.039 and 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must**

43 meet the requirements of Minor Offense Rule 3. If a person charged with one of these  
 44 offenses appears in court and is found guilty, the penalty imposed for the offense may  
 45 not exceed the scheduled fine amount plus any surcharge required to be imposed by  
 46 AS 12.55.039 and 29.25.074. If an offense is not listed on a fine schedule, the defendant  
 47 must appear in court to answer the charges.

48  
 49 ~~a. A person cited for an offense for which a fine is established in subsection (c) of this section~~  
 50 ~~may mail or personally deliver to the Finance Director the amount of the fine indicated on the~~  
 51 ~~citation for the offense plus any surcharge required to be imposed by AS 29.25.074, together~~  
 52 ~~with a copy of the citation signed by the person indicating the person's waiver of court~~  
 53 ~~appearance, entry of plea of no contest, and forfeiture of the fine. A citation for a scheduled~~  
 54 ~~offense may be mailed or personally delivered within 15 days after the date of the citation.~~  
 55 ~~The payment of a fine under this subsection shall be treated as a judgment of conviction. The~~  
 56 ~~fine paid is complete satisfaction for the offense.~~

57  
 58 ~~b. If a person cited for an offense for which a fine amount is established in subsection (c) of~~  
 59 ~~this section appears in court to contest the citation and is found guilty, the maximum~~  
 60 ~~sentence which may be imposed is the scheduled fine amount plus any surcharge required to~~  
 61 ~~be imposed by AS 29.25.074.~~

62  
 63 ~~c. The following violations of this code are amenable to disposition without court appearance~~  
 64 ~~upon payment of a fine in the amount listed below:~~

65

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
HCC 5.08.020	Transporting unsecured load of garbage, trash or other materials in vehicle	\$300.00
HCC 5.20.020	Open burning, permit required	\$300.00
HCC 5.20.030	Trash burning – Approved container required	\$300.00
HCC 5.20.050	Handling or storing explosives	\$300.00
HCC 5.24.030	Fireworks – Sale prohibited	\$300.00
HCC 5.24.040	Fireworks – Use prohibited	\$300.00
HCC 5.24.050	Fireworks exhibit – Permit required	\$300.00
HCC 5.38.010	Feeding or baiting certain birds (first offense)	\$50.00
HCC 5.38.010	Feeding or baiting certain birds (second and subsequent offenses)	\$200.00
HCC 7.16.020	Motor vehicle in beach area (first offense)	\$25.00
HCC 7.16.020	Motor vehicle in beach area (second offense)	\$250.00

[Added language underlined. Deleted language stricken through.]

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
HCC 7.16.020	<del>Motor vehicle in beach area (third and subsequent offenses)</del>	\$500.00
HCC 7.16.030	<del>Motor vehicle on storm berm (first offense)</del>	\$25.00
HCC 7.16.030	<del>Motor vehicle on storm berm (second offense)</del>	\$250.00
HCC 7.16.030	<del>Motor vehicle on storm berm (third and subsequent offenses)</del>	\$500.00
HCC 8.08.020	Itinerant or transient merchant – License required	\$300.00
HCC 8.08.080	Itinerant or transient merchant – Exhibition of license	\$300.00
HCC 8.08.100	Itinerant or transient merchant – Use of streets and other public places	\$300.00
HCC 8.11.030	Mobile food service – License required	\$300.00
HCC 8.11.070(b)	Mobile food service – Operation near similar business at fixed location	\$300.00
HCC 8.11.070(c)	Mobile food service – Operation in City park or campground	\$300.00
HCC 8.11.070(d)	Mobile food service – Operation in congested area on Homer Spit	\$300.00
HCC 8.12.120	Public transportation vehicle – Permit required	\$300.00
HCC 8.12.200	Chauffeurs license – Required	\$300.00
HCC 8.12.250	Public transportation vehicle – Prohibited operation	\$300.00
HCC 8.12.400	Public transportation vehicle – Display of rates/fares	\$300.00
HCC 10.04.085(b)	Failure to pay fee for use of load and launch ramp (first offense)	\$100.00
HCC 10.04.085(b)	Failure to pay fee for use of load and launch ramp (second offense)	\$200.00
HCC 10.04.085(b)	Failure to pay fee for use of load and launch ramp (third and subsequent offenses)	\$300.00
HCC 13.08.010	Work in City right-of-way or connecting to City utility – Permit required	\$300.00
HCC 13.08.130	Restore City right-of-way to original condition	\$300.00
HCC 13.08.140	Repair of damage to City utilities	\$300.00

[Added language underlined. Deleted language stricken through.]

<b>CODE SECTION</b>	<b>DESCRIPTION OF OFFENSE</b>	<b>FINE</b>
HCC 14.04.050	Sewer extension or connection – Permit required	\$300.00
HCC 14.04.070	Destruction of private sewage disposal system after connection to City sewer system	\$300.00
HCC 14.04.090	Discharge of surface drainage into City sewer	\$300.00
HCC 14.08.030	Water extension or connection – Permit required	\$300.00
HCC 14.08.040	Connection to private water system – Permit required	\$300.00
HCC 14.08.105	Resale of City water – Permit required	\$300.00
HCC 18.20.015	Storing, parking or leaving abandoned or junk vehicle	\$300.00
HCC 18.20.025	Failure to remove abandoned or junk vehicle	\$300.00
HCC 19.02.020	Large special event – Permit required	\$300.00
HCC 19.04.040	Burial of human remains outside approved cemetery	\$300.00
HCC 19.04.090(a)	Monument or other memorial protruding above ground level in City cemetery	\$300.00
HCC 19.04.090(b)	Placement, alteration or removal of monument, memorial or plant without City consent	\$300.00
HCC 19.08.030(a)	Camping on City property where prohibited	\$300.00
HCC 19.08.030(b)	Camping outside designated areas	\$300.00
HCC 19.08.030(d)	Camping in closed campground	\$300.00
HCC 19.08.050	Camping in City campground – Permit required	\$300.00
HCC 19.08.060	Camping in City campground for more than 14 days	\$300.00
HCC 19.08.070(a)	Disposal of human waste on City property	\$300.00
HCC 19.08.070(c)	Erect, occupy, utilize structure on City property	\$300.00
HCC 19.08.070(d)	Park, leave, maintain, utilize vehicle, camper unit, or camp where prohibited	\$300.00
HCC 19.08.070(e)	Deface, destroy, alter or remove City property	\$300.00
HCC 19.08.070(f)	Dog at large in City campground	\$300.00
HCC 19.08.070(g)	Campsite in City campground left in disorderly or unsightly condition	\$300.00
HCC 19.08.080	Improper storage of garbage, refuse, other waste in City campground	\$300.00

[Added language underlined. Deleted language stricken through.]

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
HCC 19.12.080	Excavation or removal of gravel or fill – Permit required	\$300.00
HCC 19.12.090	Tampering with, burning or removing driftwood from storm berm	\$300.00
HCC 19.20.020	General rules	\$300.00
HCC 19.20.030	Park closure	\$150.00

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Section 2. Chapter 5.08, Garbage and Solid Waste Disposal, is amended by adding a new section 5.08.030 to read as follows:

**5.08.030 Violation – Penalty.** The penalty for an offense in this chapter is the fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless another penalty is specifically provided.

Section 3. Chapter 5.20, Fire Prevention, is amended by adding a new section 5.20.060 to read as follows:

**5.20.060 Violation – Penalty.** The penalty for an offense in this chapter is the fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless another penalty is specifically provided.

Section 4. Section 5.24.060, Violation – Penalty, previously repealed by Ord. 17-03, is re-enacted to read as follows:

**5.24.060 Violation – Penalty.** The penalty for an offense in this chapter is the fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless another penalty is specifically provided.

Section 5. Section 5.38.060, Violations and penalties, previously repealed by Ord. 13-17(S), is re-enacted to read as follows:

**5.38.060 Violations and penalties.** The penalty for an offense in this chapter is the fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to

[Added language underlined. Deleted language stricken through.]

100 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
 101 **provided.**

102  
 103 Section 6. Subsection (b) of Section 7.04.030, Traffic fine schedules, is amended to  
 104 read as follows:  
 105

Code Section	Code Section Title	Fine per Day
<u>HCC 7.06.010(b)</u>	Muffler not working properly	Corr/\$500.00
<u>HCC 7.06.010(c)</u>	Muffler modified/excessive noise	Corr/\$500.00
<u>HCC 7.06.010(d)</u>	Muffler removed or inoperative	Corr/\$500.00
<u>HCC 7.06.010(e)(1)</u> or (e)(2)	Noise exceeds limits	First violation \$100.00; Second violation within 6 months of first conviction \$200.00; Third violation within 6 months of any prior conviction \$300.00
<u>HCC 7.06.010(e)(3)</u>	Sale of vehicle exceeding noise limits	First violation \$100.00; Second violation within 6 months of first conviction \$200.00; Third violation within 6 months of any prior conviction \$300.00
<u>HCC 7.06.020</u>	Improperly muffled engine brake use prohibited	First violation \$100.00; Second violation within 6 months of first conviction \$200.00 plus proof of satisfactory Homer PD commercial vehicle inspection; Third violation within 6 months of any prior conviction \$300.00 plus proof of satisfactory Homer PD commercial vehicle inspection
<u>HCC 7.10.020</u>	Limited time parking – Parking permits	\$25.00
<u>HCC 7.10.030</u>	Parking in City parking lots	\$25.00

[Added language underlined. Deleted language stricken through.]



<b>Code Section</b>	<b>Code Section Title</b>	<b>Fine per Day</b>
<u>HCC 7.10.040</u>	Vehicle length limitation	\$25.00
<u>HCC 7.10.090</u>	Removal of impoundment notice or impounded vehicle prohibited	\$300.00
<u>HCC 7.15.010</u>	Transporting animal	\$75.00
<u>HCC 7.15.020</u>	Animal interfering with vehicle operation	\$75.00
<u>HCC 7.16.020</u>	<u>Motor vehicle in beach area (first offense)</u>	<u>\$25.00</u>
<u>HCC 7.16.020</u>	<u>Motor vehicle in beach area (second offense)</u>	<u>\$250.00</u>
<u>HCC 7.16.020</u>	<u>Motor vehicle in beach area (third and subsequent offenses)</u>	<u>\$500.00</u>
<u>HCC 7.16.030</u>	<u>Motor vehicle on storm berm (first offense)</u>	<u>\$25.00</u>
<u>HCC 7.16.030</u>	<u>Motor vehicle on storm berm (second offense)</u>	<u>\$250.00</u>
<u>HCC 7.16.030</u>	<u>Motor vehicle on storm berm (third and subsequent offenses)</u>	<u>\$500.00</u>
<u>HCC 7.20.030</u>	Use of snowmachines	\$300.00
<u>HCC 7.20.040</u>	Time restriction	\$300.00
<u>HCC 7.20.050</u>	Driver's license requirement	\$300.00
<u>HCC 7.20.055</u>	Operation in designated areas	\$300.00
<u>HCC 7.20.060</u>	Towing	\$300.00
<u>HCC 7.28.020</u>	Motor vehicle parking	\$30.00
<u>HCC 7.28.030</u>	Short-term parking area	\$30.00
<u>HCC 7.28.040</u>	Limited long-term parking area	\$30.00
<u>HCC 7.28.050</u>	Reserved parking	\$30.00

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A citation for an offense listed as "Corr" must be dismissed if proof of correction is presented to a Homer Police Department vehicle inspector within 30 days.

Section 7. Section 8.08.150, Violation – Penalty, previously repealed by Ord. 17-03, is re-enacted to read as follows:

[Added language underlined. ~~Deleted language stricken through.~~]

113 **8.08.150 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
114 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
115 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
116 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
117 **provided.**

118  
119 Section 8. Section 8.11.080, Violation – Penalty, previously repealed by Ord. 17-03, is  
120 re-enacted to read as follows:

121  
122 **8.11.080 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
123 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
124 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
125 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
126 **provided.**

127  
128 Section 9. Chapter 8.12, Public Transportation, is amended by adding a new section  
129 8.12.800 to read as follows:

130  
131 **8.12.800 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
132 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
133 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
134 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
135 **provided.**

136  
137 Section 10. Section 10.04.110, Violation – Penalty, is amended to read as follows:

138  
139 Except as provided in **HCC 1.16.040 and** HCC 7.04.030, any violation of the provisions  
140 contained in this title or regulations adopted pursuant to this title shall be unlawful and  
141 punishable as provided in HCC 1.16.010.

142  
143 Section 11. Section 13.08.170, Violation – Penalty, previously repealed by Ord. 17-03, is  
144 re-enacted to read as follows:

145  
146 **13.08.170 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
147 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
148 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
149 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
150 **provided.**

151  
152 Section 12. Chapter 14.04, Sewage – General Provisions, is amended by adding a new  
153 section 14.04.130 to read as follows:

[Added language underlined. Deleted language stricken through.]

155            **14.04.170 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
156 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
157 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
158 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
159 **provided.**

160  
161            Section 13. Section 14.08.170, Violation – Penalty, previously repealed by Ord. 17-03, is  
162 re-enacted to read as follows:

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164            **14.08.170 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
165 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
166 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
167 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
168 **provided.**

169  
170            Section 14. Section 18.20.090, Penalty, previously repealed by Ord. 17-03, is re-  
171 enacted to read as follows:

172  
173            **18.20.090 Penalty. The penalty for an offense in this chapter is the fine listed in**  
174 **the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then**  
175 **the defendant must appear in court and, if convicted, is subject to the general penalty**  
176 **as provided in HCC 1.16.010 unless another penalty is specifically provided.**

177  
178            Section 15. Chapter 19.02, Large Special Events, is amended by adding a new section  
179 19.02.100 to read as follows:

180  
181            **19.02.100 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
182 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
183 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
184 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
185 **provided.**

186  
187            Section 16. Section 19.04.100, Violation – Penalty, previously repealed by Ord. 17-03, is  
188 re-enacted to read as follows:

189  
190            **19.04.100 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
191 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
192 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
193 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
194 **provided.**

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[Added language underlined. Deleted language stricken through.]

196            Section 17. Section 19.08.120, Violation – Penalty, previously repealed by Ord. 17-03, is  
197 re-enacted to read as follows:

198  
199            **19.08.120 Violation – Penalty. The penalty for an offense in this chapter is the fine**  
200 **listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
201 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
202 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
203 **provided.**

204  
205            Section 18. Section 19.12.100, Violation – Penalties, previously repealed by Ord. 17-03,  
206 is re-enacted to read as follows:

207  
208            **19.12.100 Violation – Penalties. The penalty for an offense in this chapter is the**  
209 **fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in**  
210 **HCC 1.16.040, then the defendant must appear in court and, if convicted, is subject to**  
211 **the general penalty as provided in HCC 1.16.010 unless another penalty is specifically**  
212 **provided.**

213  
214            Section 19. Section 19.20.070, Remedies and penalties, is amended to read as follows:

215  
216            **The penalty for an offense in this chapter is the fine listed in the fine schedule in**  
217 **HCC 1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant**  
218 **must appear in court and, if convicted, is subject to the general penalty as provided in**  
219 **HCC 1.16.010 unless another penalty is specifically provided.** ~~Remedies and penalties for~~  
220 ~~violations of this chapter are as provided in Chapter 1.16 HCC.~~

221  
222            Section 20. Section 20.08.010, Animals at large, is amended to read as follows:

223  
224            a. No person may cause or permit an animal to be at large in a public street or alley, or  
225 on other public property, or on private property without the property owner’s consent.

226  
227            b. No person other than the Animal Control Officer or a peace officer performing  
228 duties under this title may release an animal from restraint without its owner’s consent,  
229 except to preserve the animal’s life. A person who releases an animal from restraint to  
230 preserve its life shall promptly report having done so to the animal’s owner or the Animal  
231 Control Officer.

232  
233            c. The Animal Control Officer or a peace officer may capture or destroy by any means  
234 an animal at large that presents an immediate threat to public safety.

235  
236            d. The owner of an animal that is at large may be cited for a violation of this section  
237 without the impoundment of the animal.

[Added language underlined. Deleted language stricken through.]

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**e. Except as provided in subsection (f) and (g) of this section, the penalty for a violation of subsection (a) or (b), with zero, one, or two prior convictions, is the fine listed in the fine schedule in HCC 20.32.020.**

**fe.** Except as provided in subsection ~~(g)~~(f) of this section, a violation of subsection (a) or (b) of this section with three or more prior convictions shall be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be less than \$100.00.

**gf.** A violation of subsection (a) of this section where the animal is a large animal, **as defined in HCC 20.04.020,** with one or more prior convictions shall be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be less than \$100.00.

Section 21. Section 20.32.020, Fine schedule, is amended to read as follows:

**20.32.020 Fine schedule.**

Citations for offenses listed in this section may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the scheduled fine amount plus any surcharge required to be imposed by AS 12.55.039 and 29.25.074. **If an offense in this title is not listed in the fine schedule, the defendant must appear in court to answer the charges.**

<b>Code Section</b>	<b>Code Section Title</b>	<b>Fine per Day</b>
<u>HCC 20.08.010(a)</u>	Animal at large	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
<u>HCC 20.08.010(b)</u>	Unauthorized release of animal from restraint	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
<u>HCC 20.08.030</u>	Animals on harbor floats	\$25
<u>HCC 20.08.040(a)</u>	Nuisance animals	No prior conviction \$50; One prior conviction \$100;

[Added language underlined. Deleted language stricken through.]

Code Section	Code Section Title	Fine per Day
		Two prior convictions \$200
<u>HCC 20.08.070</u>	Female animals in heat	\$100
<u>HCC 20.08.080</u>	Abandonment of animals	\$100
<u>HCC 20.08.090</u>	Maintenance and sanitation	\$100
<u>HCC 20.12.010</u>	License required – Issuance	\$50
<u>HCC 20.12.020</u>	License tag to be worn and displayed	\$50
<u>20.20.010</u>	<del>Permitting animals to bite</del>	\$200
<u>HCC 20.24.060</u>	Furnishing false information	\$200
<u>HCC 20.28.020</u>	Kennel license – Required	\$100

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Section 22. This ordinance shall take effect upon its adoption by the Homer City Council.

Section 23. This ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF HOMER

\_\_\_\_\_  
 BRYAN ZAK, MAYOR

ATTEST:

\_\_\_\_\_  
 MELISSA JACOBSON, MMC, CITY CLERK

YES:  
 NO:  
 ABSTAIN:  
 ABSENT:

[Added language underlined. Deleted language stricken through.]

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First Reading:  
Public Hearing:  
Second Reading:  
Effective Date:  
  
Reviewed and approved as to form:  
  
\_\_\_\_\_  
Mary K. Koester, City Manager  
  
Date:\_\_\_\_\_

\_\_\_\_\_  
Holly C. Wells, City Attorney  
  
Date:\_\_\_\_\_

[Added language underlined. Deleted language stricken through.]





**MEMORANDUM 18-029**

**TO: MELISSA JACOBSEN, CITY CLERK**

**FROM: ANMEI GOLDSMITH**

**RE: MINOR OFFENSE REVISION ORDINANCE**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.104**

**DATE: FEBRUARY 15, 2018**

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**ISSUE – The Alaska Court System has requested several changes to the minor offense provisions in the Homer City Code to conform to state law and ensure consistency in the Code.**

**SOLUTION – This ordinance makes the amendments requested by the Court System.**

The Court System requested that the introductory language in HCC 1.16.040, Disposition of scheduled offenses – Fine schedule, be amended to conform to state law. Specifically, the existing language incorrectly refers to payment of fines to the City of Homer and requires a defendant to respond for an optional court appearance within 15 days. This ordinance amends HCC 1.16.040 to refer to the court (instead of the City) and to set the response deadline at 30 days (instead of 15 days). The new language in HCC 1.16.040 mirrors existing fine schedule language in the animal offense section of the Code (HCC 20.32.020).

The Court System requested that all the traffic offenses be consolidated into the traffic offense fine schedule in Title 7. Currently, the general fine schedule in HCC 1.16.040 includes several offenses relating to motor vehicles in beach areas and on storm berms. The remainder of the motor vehicle offenses are listed in the traffic offense fine schedule in HCC 7.04.030. State law provides for additional penalties for offenses involving motor vehicles, which should be noted in the code section that sets the fines for these offenses. Therefore, HCC 1.16.040 is amended to delete the traffic offenses and HCC 7.04.030 is amended to add the traffic offenses that were in HCC 1.16.040.

The Court System noted that several chapters of the code contain offenses, but do not contain a section that refers to the fine schedule for that chapter or title or to the general penalty in HCC 1.16.010. The Court System requested that each chapter or title

of the code that contains an offense also contain a provision referring to the appropriate fine schedule or to the general penalty section. Therefore several new sections are added, amended, and re-enacted to ensure that each chapter or title of the code contains a reference to the fine schedule and the general penalty in HCC 1.16.010, and also states that a defendant must appear in court on an offense that is not listed in a fine schedule.

The Court System requested that HCC 20.08.010, Animals at large, be amended to clarify the distinction between violations of that section that are punishable by payment of a fine and violations of that section that require a mandatory court appearance. Therefore a new subsection (e) is added that states that a violation of this section with zero to two prior convictions is punishable by the fine listed in the animal offenses fine schedule in HCC 20.32.020. Former subsection (e) becomes new subsection (f). Former subsection (f) becomes new subsection (g), and new subsection (g) is amended to clarify that it refers to “large animals” as defined in HCC 20.04.020.

The Court System noted an inconsistency between HCC 20.20.010 and the animal offenses fine schedule in HCC 20.32.020. HCC 20.20.010 prohibits permitting an animal to bite and provides that a violation “shall be punishable by a fine of not less than \$300.00 and not more than \$500.00, and the unsuspended portion of the fine shall not be less than \$100.00.” This is inconsistent with the fine schedule in HCC 20.32.020, which includes a line for HCC 20.20.010, and sets the fine amount at \$200. This inconsistency is resolved by amending the animal offenses fine schedule in HCC 20.32.020 to delete the line referring to HCC 20.20.010.

**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-12**

An Ordinance of the City Council of Homer, Alaska Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and the Marine Industrial District.

Sponsor: Erickson

1. Council Regular Meeting March 12, 2018 Introduction
2. Council Regular Meeting March 27, 2018 Refer to Advisory Planning Commission



1 CITY OF HOMER  
2 HOMER, ALASKA

3 Erickson

4 ORDINANCE 18-12

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
7 AMENDING HOMER CITY CODE 21.54.325, STANDARDS FOR  
8 RECREATIONAL VEHICLES IN THE MARINE COMMERCIAL DISTRICT  
9 AND THE MARINE INDUSTRIAL DISTRICT.

10  
11 WHEREAS, Homer City Council passed Ordinance 18-04 allowing employee-occupied  
12 recreational vehicles in the Marine Commercial and Marine Industrial Districts; and

13  
14 WHEREAS, It is in the City's best interest to put standards on the use of such vehicles to  
15 ensure that they do not become permanent residences or abandoned property; and

16  
17 WHEREAS, A 180 day permit will allow the City to manage employee occupied  
18 recreational vehicles.

19  
20 NOW THEREFORE, THE CITY OF HOMER ORDAINS:

21  
22 Section 1. Homer City Code 21.54.325 is amended to read as follows:

23  
24 21.54.325 Standards for recreational vehicles in the Marine Commercial District and the Marine  
25 Industrial District.

26  
27 Outside of recreational vehicle parks, the use of recreational vehicles in the marine commercial  
28 and industrial zoning districts shall conform to the following standards:

- 29
- 30 a. A property owner may have one employee-occupied recreational vehicle per lot. An  
31 employee-occupied recreational vehicle must be a self-contained recreational  
32 vehicle and must have a receptacle approved by law for collection of liquid and  
33 semi-solid wastes. While the employee-occupied recreational vehicle is parked on  
34 the property, it must be parked in a manner that will not create a dangerous or  
35 unsafe condition on the lot or adjacent properties. Parking in such fashion that the  
36 recreational vehicle may tip or roll constitutes a dangerous and unsafe condition. A  
37 parked employee-occupied recreational vehicle must be in a condition for the safe  
38 and effective performance of its intended function as an operable motor vehicle.
  - 39  
40 b. An employee-occupied recreational vehicle may not be placed in a parking space  
41 required to comply with the Homer Zoning Code.
- 42

43 c. An employee-occupied recreational vehicle may not directly hook-up to municipal  
44 water and sewer without first obtaining written approval by the Public Works  
45 Director or his or her designee. The Public Works Director shall grant approval for  
46 direct hook-up to the municipal water and sewer if he or she determines that the  
47 applicant is in full compliance with this Title. A permit under this subsection may  
48 only be submitted by a property owner or a lessee of the property.

49  
50 d. **An employee-occupied recreational vehicle is restricted to a maximum of 180**  
51 **consecutive days of use per calendar year. A zoning permit is required.**  
52

53 Section 2: This ordinance is of a permanent and general character and shall be included in  
54 the City Code.

55  
56 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_\_ DAY OF \_\_\_\_\_,  
57 2018.

58  
59 CITY OF HOMER

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65 \_\_\_\_\_  
66 BRYAN ZAK, MAYOR

67 ATTEST:

68  
69 \_\_\_\_\_  
70 MELISSA JACOBSEN, MMC, CITY CLERK

71  
72  
73  
74 YES:

75 NO:

76 ABSTAIN:

77 ABSENT:

78  
79  
80 First Reading:

81 Public Hearing:

82 Second Reading:

83 Effective Date:

84

85 Reviewed and approved as to form:  
86  
87  
88 \_\_\_\_\_  
89 Mary K. Koester, City Manager  
90  
91 Date: \_\_\_\_\_

\_\_\_\_\_  
Holly Wells, City Attorney  
Date: \_\_\_\_\_





**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-13**

An Ordinance of The City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation project.

Sponsor: City Manager/Public Works Director

1. Council Regular Meeting March 12, 2018 Introduction
  - a. Memorandum 18-030 from Public Works Director
  
- 2, Council regular Meeting March 27, 2018 Public Hearing & Second Reading
  - a. Memorandum 18-030 from Public Works Director



1 CITY OF HOMER  
2 HOMER, ALASKA

3 City Manager/  
4 Public Works Director

5 ORDINANCE 18-13

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING  
8 THE 2018 OPERATING BUDGET BY AUTHORIZING THE EXPENDITURE OF  
9 AN ADDITIONAL \$92,592 FROM THE SEWER RESERVE FUND TO  
10 COMPLETE THE WASTEWATER TREATMENT PLANT HVAC  
11 REHABILITATION PROJECT.

12  
13 WHEREAS, City Council, in the FY 2018 Operating Budget, approved a capital project  
14 expenditure of \$280,000 from the Sewer Reserve fund for the rehabilitation of the HVAC system  
15 at the wastewater treatment plant; and

16  
17 WHEREAS, Public Works coordinated the design, advertised bids, and opened bids for  
18 the rehabilitation project. Based on the lowest bid, the cost of the project exceeds the  
19 previously authorized project budget (see Memorandum 18-030 from Public Works).

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

22  
23 Section 1. The Homer City Council hereby amends the FY 2018 Operating Budget  
24 by appropriating an additional \$92,592 from the Sewer Reserve Fund for the Wastewater  
25 Treatment Plant HVAC Rehabilitation project.

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
256-0379	WWTP HVAC Rehabilitation	\$92,592

26  
27  
28  
29 Section 2. This is a budget amendment ordinance, is not permanent in nature, and  
30 shall not be codified.

31 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

32  
33 CITY OF HOMER

34  
35  
36  
37  
38 \_\_\_\_\_  
BRYAN ZAK, MAYOR

39 ATTEST:

40

41

42 \_\_\_\_\_

43 MELISSA JACOBSEN, MMC, CITY CLERK

44

45

46

47 YES:

48 NO:

49 ABSTAIN:

50 ABSENT:

51

52

53 First Reading:

54 Public Hearing:

55 Second Reading:

56 Effective Date:

57

58

59 Reviewed and approved as to form:

60

61

62 \_\_\_\_\_

63 Mary K. Koester, City Manager

64

65 Date: \_\_\_\_\_

66

\_\_\_\_\_

Holly Wells, City Attorney

Date: \_\_\_\_\_



## Memorandum 18-030

TO: KATIE KOESTER, CITY MANAGER

FROM: CAREY S. MEYER, PUBLIC WORKS DIRECTOR

DATE: FEBRUARY 23 2018

SUBJECT: ADDITIONAL FUNDS NEEDED – SEWER RESERVE ACCOUNT WWTP HVAC REHABILITATION PROJECT

Over the past several years, Public Works has requested and the City Council has approved various equipment replacement projects to upgrade the treatment facilities at our 30 year old sewer treatment plant.

The City Council approved \$280,000 in the FY17 Capital Budget to replace the heating and ventilation system at the sewer treatment plant. Funding comes from the Sewer Reserve Fund. Public Works coordinated the design of the improvement, bid the project, and opened bids on February 22, 2018. The low bid exceeds the authorized funding. Below is an overview of the costs to complete the project:

Design	\$23,636
Construction	\$322,816
Inspection	\$10,000
Contingency (5%)	\$16,140
	\$372,592

Original Budget	\$280,000
-----------------	-----------

Additional Funds Needed	\$92,592
-------------------------	----------

Previously completed projects:

- Boiler Replacement
- Polymer Injection Equipment
- Odor Control Improvements
- Bar Screen/Headworks Replacement
- Clarifier Flight Reconditioning
- Underground Fuel Storage Tank Closure
- Perimeter Fencing Replacement

**Recommendation:** The City Council pass an ordinance amending the 2018 Operating Budget to authorize an additional \$92,592 from the Sewer Reserve Fund to complete the WWTP HVAC project.

Fiscal Note: 256 -0379 (current balance - \$2,228,270)



**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-14**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.18.020 to Define the Term “Impartial”; Amending Homer City Code 1.18.030 by Requiring City Council members to Comply with Homer Workplace Policies and Procedures; Repealing 1.18.050 and Incorporating it Under the Newly Enacted Homer City Code Chapter 1.19, “Board of Ethics-Complaints” to Clarify the Preliminary Review Process for Ethics Complaints by the City Clerk and City Attorney; Amending Homer City Code 1.18.060, to Prohibit Ethics Complaints Based upon Actions taken in Accordance with Advice from the City Attorney; and Repealing Homer City Code Chapter 2.80.

Sponsor: Aderhold

1. Council Regular Meeting March 12, 2018 Introduction
  - a. Memorandum 18-031 from City Attorney
  
2. Council Regular Meeting March 27, 2018 Public Hearing and Second Reading
  - a. Memorandum 18-031 from City Attorney





**CITY OF HOMER  
HOMER, ALASKA**

Aderhold

**ORDINANCE 18-14**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE 1.18.020 TO DEFINE THE TERM “IMPARTIAL,” AMENDING HOMER CITY CODE 1.18.030 BY REQUIRING CITY COUNCIL MEMBERS TO COMPLY WITH HOMER WORKPLACE POLICIES AND PROCEDURES, REPEALING 1.18.050 AND INCORPORATING IT UNDER THE NEWLY ENACTED HOMER CITY CODE CHAPTER 1.19, BOARD OF ETHICS- COMPLAINTS, TO CLARIFY THE PRELIMINARY REVIEW PROCESS FOR ETHICS COMPLAINTS BY THE CITY CLERK AND CITY ATTORNEY PRIOR TO THEIR TRANSFER TO THE BOARD OF ETHICS OR A HEARING OFFICER, AMENDING HOMER CITY CODE 1.18.060 TO PROHIBIT ETHICS COMPLAINTS BASED UPON ACTIONS TAKEN IN ACCORDANCE WITH ADVICE FROM CITY ATTORNEY, AND REPEALING HOMER CITY CODE CHAPTER 2.80.

WHEREAS, The City of Homer, Alaska (“City”) adopted a comprehensive Ethics Code over ten years ago that identified acts prohibited by City officials and expectations that governed conduct by such officials; and

WHEREAS, The City also adopted an ethics complaint process that ensured individuals had the ability to challenge the conduct of its officials; and

WHEREAS, Changes in the City’s personnel policies and its ethics complaint process warrant updates to the City Code of Ethics and its ethics complaint process; and

WHEREAS, The City recently updated its workplace safety, harassment prevention, and respectful workplace policies that are distributed to all City employees in the City of Homer Personnel Regulations; and

WHEREAS, It is in the City’s best interest to ensure that the City’s officials, like its employees and volunteers, are held to high ethical standards; and

WHEREAS, it is in the City’s best interest to consolidate the Code of Ethics and the Board of Ethics complaint process to ensure that the intended steps of review and consideration are clear and precisely followed; and

41 WHEREAS, it is in the City’s best interest to expressly provide protection from ethics  
42 complaints to City Council members for acts or omissions taken in reliance on the City  
43 Attorney’s advice.

44  
45 NOW THEREFORE, The City of Homer Ordains:

46  
47 Section 1. Homer City Code Section 1.18.020 entitled “Definitions” is amended to read  
48 as follows:

49  
50 As used in this chapter and unless otherwise provided or the context otherwise  
51 requires, the following terms shall have the meanings set forth in this section:

52  
53 “Applicant” means any person that is applying for an official action by any official,  
54 employee, or body of the City including but not limited to:

- 55  
56 1. Any person authorized to act for the applicant;  
57  
58 2. If the applicant is an organization, any person who has an ownership interest in the  
59 organization or serves as an officer, director or manager of the organization.

60  
61 “Body of the City” means the City Council and the boards, commissions, committees  
62 and task forces appointed by the City Council or the Mayor.

63  
64 “City Manager” means the person who is hired by the City Council to manage the City  
65 of Homer.

66  
67 “City official” means a person who holds elective office under the ordinances of the City,  
68 or who is a member of a board or commission whose appointment is subject to confirmation  
69 by the City Council.

70  
71 “Financial interest” means:

- 72  
73 1. An interest currently held by that person or an immediate family member including:  
74  
75 a. Involvement or ownership in a business; or  
76  
77 b. Property ownership, or a professional or private relationship, that is a source of  
78 income, or from which, or as a result of which, a person receives a financial benefit; or  
79  
80 c. An affiliation with an organization in which the person holds a position of  
81 management, or is an officer, director, trustee, employee, or the like.

82

83 2. Financial interest does not include:

84

85 a. Affiliation as unpaid volunteer with a legally recognized nonprofit organization; or

86

87 b. Financial interests of a type which are generally possessed in common with all other  
88 citizens or a large class of citizens.

89

90 “Gratuity” means a thing having value given voluntarily or beyond lawful obligation.

91

92 “Hired consultants and contractors” means a person or organization hired by the City  
93 as an independent contractor and not as an employee.

94

95 “Immediate family member” means:

96

97 1. The spouse of the person;

98

99 2. A life partner or person cohabiting with the person;

100

101 3. A child, including a stepchild and an adoptive child, of the person;

102

103 4. A parent, sibling, or grandparent of the person; and

104

105 5. A parent or sibling of the person’s spouse.

106

107 **“Impartial” means acting in a manner that the City official believes is in the**  
108 **public’s best interest and not acting to benefit a financial or personal interest of the City**  
109 **official.**

110

111 “Large class of citizens” means a substantially large group of citizens as decided by  
112 official decision of the City Council made prior to the official action in question.

113

114 “Large class of citizens” does not include:

115

116 1. A single profession, regardless of the number of persons.

117

118 2. An individual business or organization regardless of the number of citizens it  
119 contains.

120

121 “Official action” means a recommendation, decision, approval, disapproval, vote, or  
122 other similar action, including inaction (when it is the equivalent of decision to take negative  
123 action), made while serving in the capacity of City official or City Manager, whether such action  
124 or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.

**[Added language bold and underlined. Deleted language stricken through.]**

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“Organization” means any business, corporation, partnership, firm, company, trust, association, or other entity, whether organized for profit or nonprofit.

“Partiality” applies only in quasi-judicial proceedings and means:

1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or

2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, but is not limited to, instances in which:

a. The member has a personal bias or prejudice for or against a party to the proceeding including a party’s lawyer;

b. The member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.

“Person” means a natural person or an organization.

“Political activity” means any act for the purpose of influencing the nomination or election of any person to public office, or for the purpose of influencing the outcome of any ballot proposition or question. Informing the public about a ballot proposition or question without attempting to influence the outcome of the ballot proposition or question is not political activity.

“Subject of the action” means anything under consideration for official action including but not limited to:

1. Appointments to any office or position of employment;
2. Any contract, project, property, or transaction subject to the action;
3. A platting, vacation or subdivision action;
4. An application for or other consideration of a license, permit, appeal, approval, exception, variance, or other entitlement;
5. A rezoning; and
6. Appeals and quasi-judicial proceedings.

**[Added language bold and underlined. Deleted language stricken through.]**

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“Substantial financial interest” means a financial interest that would result in a pecuniary gain or loss exceeding \$1,000 in a single transaction or more than \$5,000 in the aggregate in 12 consecutive months.

Section 2. Homer City Code Section 1.18.030 entitled “Standards and prohibited acts” is amended to read as follows:

a. City officials, the City Manager, and City hired consultants and contractors, while acting in such capacity, shall not knowingly make false statements to influence official action.

b. Official Action. No City official or the City Manager shall participate in any official action in which:

1. The person is the applicant, a party or has a substantial financial interest in the subject of the official action.

2. Within a period of one year after the action the person will have a substantial financial interest in the subject of the official action.

3. The person resides or owns land within a 300-foot periphery of any property that is the subject of any action.

4. The person does or will recognize a substantial financial interest as a result of the action.

5. Exceptions.

a. This subsection does not prohibit a person from acquiring a substantial financial interest in the subject of the action after the longer of 12 months after the official action is approved, or 12 months after the person’s term or employment ends.

b. This section does not prohibit any gain or loss that would generally be in common with all other citizens or a large class of citizens.

c. This section does not prohibit any gain or loss that would generally be in common with other property owners on property that is further than 300 feet from the periphery of any property that is the subject of an action.

c. City officials and the City Manager acting in the course of their official duties are allowed to participate in official actions on behalf of the City or when the City itself is the applicant or subject of the action.

**[Added language bold and underlined. Deleted language stricken through.]**

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d. Undue Influence. No City official or the City Manager shall attempt to influence the City's selection of any bid or proposal, or the City's conduct of business, in which the City official or the City Manager has a substantial financial interest. This subsection does not prohibit a City official or the City Manager from being an applicant while holding City office or City position, if the person takes no official action concerning his or her own application. A City official or City Manager may give testimony and make appearances before City bodies on his or her own behalf.

e. Participation in Appointments. No City official shall participate in, vote on, or attempt to influence the selection of an appointee to any board, commission or committee (1) having authority to take official action on any pending matter or application in which that official has a substantial financial interest or (2) if that official has a substantial financial interest with a nominee for the appointment.

f. No official shall participate in, vote on, or attempt to influence the selection of an appointee to the Homer Advisory Planning Commission if that official has, or could reasonably be expected to have within one year after the date of the appointment:

1. A rezoning, quasi-judicial or platting action pending before the Commission; or
2. An application that would require approval by a quasi-judicial or platting action of the Commission.

In the case of the reappointment of an incumbent to another term, the prohibition above also applies to an official who had such a matter pending before the Homer Advisory Planning Commission within one year before the date of the reappointment. The Board of Ethics may, upon written request, grant an exception to this one-year period when it determines the public interest does not require continuing enforcement of the prohibition.

g. Use of Office for Personal Gain. No City official or the City Manager shall seek office or position or use their office or position for the purpose of obtaining anything of value for themselves, an immediate family member or a business that they own or in which they hold an interest, or for the purpose of influencing any matter in which they have a financial interest. This subsection does not prohibit the receipt of authorized remuneration for the office or position.

h. Inappropriate Use of Office Title or Authority. No City official or the City Manager shall use the implied authority of office or position for the purposes of unduly influencing the decisions of others, or promoting a personal interest within the community. City officials and the City Manager will refrain from using their title except when duly representing the City in an authorized capacity. Unless duly appointed by the Mayor or Council to represent the interests

**[Added language bold and underlined. Deleted language stricken through.]**

251 of the full Council, Council members shall refrain from implying their representation of the  
252 whole by the use of their title.

253

254 i. Representing Private Interests. No City official shall, for compensation, represent or  
255 assist those representing private business or personal interests before the City Council,  
256 administration, or any City board, commission or agency. Nothing herein shall prevent an  
257 official from making verbal or written inquiries on behalf of constituents or the general public  
258 to elements of City government or from requesting explanations or additional information on  
259 behalf of such constituents. No official may solicit or accept a benefit or anything of value from  
260 any person for having performed this service.

261

262 j. Confidential Information. No City official or the City Manager may disclose  
263 information they know to be confidential concerning employees of the City, City property, City  
264 government, or other City affairs, including but not limited to confidential information  
265 disclosed during an executive session, unless authorized or required by law to do so.

266

267 k. Outside Activities. A City official or the City Manager may not engage in business or  
268 accept employment with, or render services for, a person other than the City or hold any office  
269 or position where that activity, office, or position is incompatible with the proper discharge of  
270 the official's or City Manager's City duties or would tend to impair the official's or the City  
271 Manager's independence of judgment in performing City duties. This prohibition shall include  
272 but not be limited to the following activities:

273

274 1. A person who holds an appointed City office on a board or commission shall not be  
275 eligible for employment with the City in the department related to the board or commission  
276 during the official's term of office and until one year has elapsed following the period of service.  
277 An exception may be made on a case-by-case basis with the express authorization of the City  
278 Council.

279

280 2. A person who holds or has held an elective City office shall not be eligible for  
281 appointment to an office or for employment with the City during the official's period of service  
282 and until one year has elapsed following the period of service. An exception may be made on a  
283 case-by-case basis with the express authorization of the City Council.

284

285 l. Gratuities. No City official or the City Manager shall accept a gratuity from any person  
286 engaging in business with the City or having a financial interest in a decision pending with the  
287 City. No City official or the City Manager shall give a gratuity to another City official for the  
288 purpose of influencing that person's opinion, judgment, action, decision or exercise of  
289 discretion as a City official. This subsection does not prohibit accepting:

290

291 1. A meal of reasonable value;

292

**[Added language bold and underlined. Deleted language stricken through.]**

293 2. Discounts or prizes that are generally available to the public or large sections thereof;

294

295 3. Gifts presented by an employer to its employees in recognition of meritorious service,  
296 or civic or public awards;

297

298 4. A lawful campaign contribution made to a candidate for public office;

299

300 5. An occasional nonpecuniary gift insignificant in value;

301

302 6. Any gift which would have been offered or given to them if they were not a City official  
303 or the City Manager.

304

305 m. Use of City Property. No City official, the City Manager, or City hired consultant or  
306 contractor may use, request or permit the use of City vehicles, equipment, materials or  
307 property for any non-City purpose, including but not limited to private financial gain, unless  
308 that use is available to the general public on the same terms or unless specifically authorized  
309 by the City Council. This subsection does not prohibit de minimis personal use.

310

311 n. Political Activities – Limitations of Individuals. A City official may not take an active  
312 part in a political campaign or other political activity when on duty. Nothing herein shall be  
313 construed as preventing such officials from exercising their voting franchise, contributing to a  
314 campaign or candidate of their choice, or expressing their political views when not on duty or  
315 otherwise conspicuously representing the City.

316

317 o. Influencing Another City Official's Vote. A City official may not attempt to influence  
318 another City official's vote or position on a particular item through contact with the City  
319 official's employer or by threatening financial harm to another City official.

320

321 p. City officials or the City Manager shall not participate in public testimony before any  
322 City body in any matter in which they have a substantial financial interest unless:

323

324 1. They or the City is the applicant; or

325

326 2. They fully and publicly disclose the nature of their interest in the subject of the action.

327

328 q. No City official may violate HCC 2.04.030.

329

330 **r. City officials shall act impartially when conducting City business.**

331

332 **s. At all times during performance of their official duties, Council members shall**  
333 **comply with the City's workplace safety policies, harassment prevention, and respectful**  
334 **workplace polices as set forth in the employee policy manual.**

[Added language bold and underlined. Deleted language stricken through.]



335  
336 Section 3. Homer City Code Section 1.18.050 entitled “Procedures for violation  
337 reporting” is repealed as follows:

338  
339 a. ~~Any person who believes that a violation of any portion of this chapter has occurred~~  
340 ~~may file a written complaint of potential violation with the City Clerk’s office.~~

341  
342 b. ~~All written complaints of potential violation submitted under this chapter shall be~~  
343 ~~signed by the person submitting the complaint. A written complaint of potential violation shall~~  
344 ~~state the address and telephone number of the person filing the complaint, identify the~~  
345 ~~respondent, and affirm to the best of the person’s knowledge and belief the facts alleged in the~~  
346 ~~complaint of potential violation signed by the person are true. The person filing the complaint~~  
347 ~~of potential violation shall identify the section of this chapter the person believes was violated,~~  
348 ~~state why the person signing the complaint of potential violation believes the facts alleged~~  
349 ~~constitute a violation of that section, and identify any documentary or testimonial evidence~~  
350 ~~the person filing the complaint believes is in support of the notification of potential violation.~~

351  
352 c. ~~Written complaints of potential violations filed with the City Clerk’s office shall be~~  
353 ~~forwarded to the Board of Ethics under Chapter 2.80 HCC. Except as otherwise provided in this~~  
354 ~~section, the Board of Ethics has sole jurisdiction to decide the merits of the complaint filed~~  
355 ~~under this chapter.~~

356  
357 d. ~~The City Clerk shall appoint a hearing officer to decide and investigate properly filed~~  
358 ~~written complaints against City Council members or the Mayor and shall have sole jurisdiction~~  
359 ~~to decide the merits of the complaint filed under this section.~~

360  
361 Section 4. Homer City Code Section 1.18.060 entitled “Advisory opinions” is amended  
362 to read as follows:

363  
364 a. Where any City official or the City Manager has a doubt as to the applicability of any  
365 provision of this chapter to a particular situation, or as to the definition of terms used herein,  
366 he may apply in writing to the City Attorney for an advisory opinion. The City official or City  
367 Manager shall have the opportunity to present his interpretation of the facts at issue and of the  
368 applicability of provisions of the chapter before such advisory opinion is made. The request  
369 must clearly state it is a request for an advisory opinion under this section of the ethics code.

370  
371 b. Such opinion, until amended or revoked, shall be binding on the City in any  
372 subsequent actions concerning the public official who sought the opinion and acted on it in  
373 good faith, unless material facts were omitted or misstated in the request for the advisory  
374 opinion. An advisory opinion shall be applicable and binding only to the particular set of facts  
375 and instances of conduct for which it was requested and shall have no force or effect for

**[Added language bold and underlined.] Deleted language stricken through.]**

376 purposes of general application. Such opinion shall not be binding or admissible in evidence  
377 in any action initiated by any private citizen.

378

379 **c. Any act or omission taken by any City Official or the City Manager in their official**  
380 **capacity based upon the advice of the City Attorney shall not be subject to an ethics**  
381 **complaint under Chapter 1.18 HCC.**

382

383 Section 5. Homer City Code Chapter 1.19 entitled “Board of Ethics- complaints” is  
384 enacted to read as follows:

385

386 **Sections:**

387 **1.19.010 Board of Ethics established – General provisions.**

388 **1.19.020 Function and authority.**

389 **1.19.030 Procedures for violation reporting.**

390 **1.19.040 Confidentiality – Initial review.**

391 **1.19.050 Disclosure of complaint of potential violation prohibited.**

392 **1.19.060 Conduct of investigation and standard of proof.**

393 **1.19.070 Deliberations of the Board.**

394 **1.19.080 Decisions on the record.**

395 **1.19.090 Timely completion.**

396 **1.19.100 Sanctions, civil penalties and remedies.**

397 **1.19.110 Board member and hearing officer disclosures.**

398 **1.19.120 Duty of cooperation.**

399 **1.19.130 Settlement of complaints.**

400 **1.19.140 Record of proceedings and public record.**

401 **1.19.150 Limitation period.**

402

403 **1.19.010 Board of Ethics established – General provisions.**

404

405 **a. There is hereby established a Board of Ethics.**

406

407 **b. The Board shall be comprised of all members of the City Council and the Mayor.**

408 **The Mayor, or the Mayor Pro Tem in the Mayor’s absence, will serve as presiding officer**

409 **of the Board. In the absence of both, the members of the Board shall elect a presiding**

410 **officer from among its members.**

411

412 **c. The City Attorney or other legal counsel for the Board may assist the Board at**

413 **every stage of the proceedings, but shall have no vote.**

414

415 **d. A quorum of the Board shall be a majority of all members who are not excused**

416 **for cause, such as being the complainant, the respondent, a witness, having a conflict of**

[Added language bold and underlined. Deleted language stricken through.]

417 interest, or other cause for recusal. However, in no event may a quorum be less than  
418 three.

419  
420 e. Decisions of the Board shall be adopted by a majority of the members who are  
421 qualified to act on the matter, where a quorum is present.

422  
423 f. Unless the Board delegates such authority to another member or decides that no  
424 one shall have such authority, and except as provided for hearing officers in subsection  
425 (h) of this section, the presiding officer shall have authority to make procedural decisions  
426 between Board meetings on behalf of the Board. Examples of matters that may be  
427 decided by such delegate include scheduling hearings and other matters, establishing  
428 pre-hearing requirements and filing deadlines for motions, exhibits, witness lists,  
429 hearing briefs, and deciding other procedural matters.

430  
431 g. The presiding officer shall vote on every question, unless required to abstain for  
432 cause, and shall not have power to veto any action of the Board.

433  
434 h. A hearing officer designated by the City Clerk under section 1.19.030(d) shall  
435 have sole authority to investigate the complaint they have been retained to hear and to  
436 make procedural decisions regarding the investigation and hearing of that complaint.  
437 Except as otherwise provided in section 1.19.030, the designated hearing officer shall be  
438 the sole decision-maker and shall comply with the procedures and requirements of this  
439 chapter.

440  
441 **1.19.020 Function and authority.**

442  
443 The Board of Ethics or a hearing officer appointed under this chapter has authority  
444 to perform the following functions:

445  
446 a. Investigate reported violations of Chapter 1.18 HCC.

447  
448 b. Hear and decide written complaints of violations of Chapter 1.18 HCC.

449  
450 c. Hear and decide on requests for exceptions as specified in Chapter 1.18 HCC.

451  
452 d. Make findings and recommendations concerning sanctions, civil penalties and  
453 remedies for violations as provided in the code.

454  
455 e. Adopt recommended policies and procedures governing the Board's conduct of  
456 business.

457

[Added language bold and underlined. Deleted language stricken through.]

458 **f. Upon application of the complainant, respondent, or at the Board's or hearing**  
459 **officer's discretion, compel by subpoena the appearance and sworn testimony, at a**  
460 **specified time and place, of a person the Board or hearing officer reasonably believes may**  
461 **be able to provide information relating to a matter under investigation by the Board or**  
462 **hearing officer or the production of documents, records or other items the Board or**  
463 **hearing officer reasonably believes may relate to the matter under consideration.**

464  
465 **g. Administer oaths and receive testimony from witnesses appearing before the**  
466 **Board or hearing officer.**

467  
468 **h. Request City agencies to cooperate with the Board or hearing officer in the**  
469 **exercise of the Board's or hearing officer's jurisdiction.**

470  
471 **i. Request the advising attorney to seek assistance of the Superior Court to enforce**  
472 **the Board's or hearing officer's subpoena.**

473  
474 **j. Conduct investigative hearings in executive session, pursuant to notifications**  
475 **alleging violations of matters within the authority of the Board or hearing officer.**

476  
477 **1.19.030 Procedures for violation reporting.**

478  
479 **a. Any person who believes that a violation of any portion of chapter 1.18 has**  
480 **occurred may file a written complaint of potential violation with the City Clerk's office.**

481  
482 **b. All written complaints of potential violation submitted under this chapter shall**  
483 **be signed by the person submitting the complaint. A written complaint of potential**  
484 **violation shall state the address and telephone number of the person filing the complaint,**  
485 **identify the respondent, and affirm to the best of the person's knowledge and belief the**  
486 **facts alleged in the complaint of potential violation signed by the person are true. The**  
487 **person filing the complaint of potential violation shall identify the section of chapter 1.18**  
488 **the person believes was violated, state why the person signing the complaint of potential**  
489 **violation believes the facts alleged constitute a violation of that section, and identify any**  
490 **documentary or testimonial evidence the person filing the complaint believes is in**  
491 **support of the notification of potential violation.**

492  
493 **c. Written complaints of potential violations filed with the City Clerk's office shall**  
494 **be reviewed in accordance with section 1.19.040. Except as otherwise provided in section**  
495 **1.19.040, the Board of Ethics shall have sole jurisdiction to decide the merits of the**  
496 **complaint filed under this chapter.**

497  
498 **d. The City Clerk shall appoint a hearing officer to decide and investigate properly**  
499 **filed written complaints against City Council members or the Mayor. Except as provided**

[Added language bold and underlined. Deleted language stricken through.]

500 in section 1.19.040, the hearing officer shall have sole jurisdiction to decide the merits of  
501 a complaint under this chapter.

502

503 1.19.040 Confidentiality- Initial review

504

505 a. Each written complaint of a violation of Chapter 1.18 HCC received by the City  
506 Clerk's office shall be assigned an identification number, which shall be used in lieu of  
507 names when referring to the complaint to maintain confidentiality. The City Clerk, City  
508 Attorney, and the Board or hearing officer shall keep all written complaints of potential  
509 violation confidential during investigation and the Board's or hearing officer's  
510 deliberative process. Complaints of potential violation may be disclosed only to the staff  
511 member of the City Clerk's office providing administrative support to the Board or  
512 hearing officer, members of the Board except when a hearing officer has been appointed,  
513 and legal counsel.

514

515 b. Upon receipt of a notification of potential violation, the City Clerk shall review  
516 the complaint for completeness and inclusion of the information required in HCC  
517 1.19.030(b). If the City Clerk determines that the complaint is not complete and lacks  
518 information required by 1.19.030(b), the City Clerk shall return the complaint and  
519 identify in writing the deficiencies on which the return is based. The City Clerk shall notify  
520 the complainant of the return and the reasons for it. A person may amend and re-file a  
521 complaint but a complaint filed by the same complainant with the same deficiencies shall  
522 not be accepted. The City Clerk may recommend to the person filing the complaint that it  
523 be amended and re-filed. Notifications of potential violation returned without further  
524 action shall remain confidential.

525

526 c. The City Attorney shall review the sufficiency of the statement of violation in the  
527 complaint. If the City Attorney determines the facts alleged in the notification of  
528 potential violation, even if proven, do not constitute a violation, or that the Board or  
529 hearing officer lacks jurisdiction to address the complaint of potential violation, the City  
530 Attorney shall instruct the City Clerk to return the complaint and identify in writing the  
531 deficiencies on which the return is based. The City Clerk shall notify the complainant of  
532 the return and the reasons for it. A person may amend and re-file a complaint but a  
533 complaint filed by the same complainant with the same deficiencies shall not be  
534 accepted. The City Clerk may recommend to the person filing the complaint that it be  
535 amended and re-filed. Notifications of potential violation returned without further action  
536 shall remain confidential.

537

538 d. If the City Attorney determines the allegations in a complaint of potential  
539 violation, if proven, may constitute a violation of a matter within the Board or hearing  
540 officer's jurisdiction, the City Attorney shall provide written notice to the City Clerk.

541

[Added language bold and underlined. Deleted language stricken through.]

542 e. If the City Attorney and City Clerk find the complaint sufficient under this  
543 section, the City Clerk shall:

544  
545 1. Retain a hearing officer as required under section 1.19.030(d) and provide that  
546 officer with a copy of the complaint of potential violation, a copy of the outline of the  
547 hearing officer process under this chapter, including notice that the respondent may  
548 choose to hold the proceeding in public and may be represented by legal counsel of  
549 respondent's choosing and at respondent's own expense; or

550  
551 2. Provide the Board with a copy of the complaint of potential violation, a copy of  
552 the outline of the Board's process under this chapter, including notice that the  
553 respondent may choose to hold the proceeding in public and may be represented by legal  
554 counsel of respondent's choosing and at respondent's own expense;

555  
556 3. Give the respondent a copy of the complaint of potential violation, along with a  
557 copy of the outline of the Board's process under this chapter, including notice that the  
558 respondent may choose to hold the proceeding in public and may be represented by legal  
559 counsel of respondent's choosing and at respondent's own expense; and

560  
561 4. Notify both the person submitting the complaint of potential violation and  
562 respondent of the date(s) on which each may be requested to meet with the Board or  
563 hearing officer, present documentary or testimonial evidence, and assist the Board or  
564 hearing officer in resolving the potential violation.

565  
566 1.19.050 Disclosure of complaint of potential violation prohibited.

567  
568 a. A complaint of potential violation of Chapter 1.18 HCC is confidential until the  
569 Board or hearing officer completes a written report for distribution as a public record.

570  
571 1. No person, including the complainant, shall knowingly disclose to another  
572 person, or otherwise make public in violation of this chapter, the contents of a complaint  
573 of potential violation filed with the Board or hearing officer, unless:

574  
575 a. The respondent elects to proceed in public; or

576  
577 b. The written report of the Board or hearing officer is electronically published by  
578 the City Clerk.

579  
580 2. Breach of confidentiality required by any provision of this chapter is a violation  
581 of this chapter subject to punishment.

582

[Added language bold and underlined. Deleted language stricken through.]

583 3. A person filing a complaint of potential violation shall keep confidential the fact  
584 that the person has filed the complaint with the City, as well as the contents of the  
585 complaint of potential violation. If the Board or hearing officer finds probable cause to  
586 believe that the person filing the notice of complaint violation has violated  
587 confidentiality under this chapter, the Board or hearing officer shall immediately dismiss  
588 the complaint of violation. Dismissal under this subsection does not affect the right of the  
589 Board or hearing officer or another person to initiate a proceeding on the same factual  
590 allegations by filing a complaint of potential violation.

591  
592 4. Public disclosure resulting from corrective action under this chapter is not a  
593 violation of this section.

594  
595 1.19.060 Conduct of investigation and standard of proof.

596  
597 The Board's investigation shall be conducted in executive session, unless the  
598 respondent requests to hold the Board's investigation on the notification of potential  
599 violation in public. The hearing officer's investigation shall be conducted in a manner to  
600 maintain confidentiality unless the respondent requests to hold the hearing officer's  
601 investigation on the notification of potential violation in public.

602  
603 a. The respondent and the person who filed the notification of potential violation  
604 may identify other individuals and documents that each would like the Board or hearing  
605 officer to interview and review.

606  
607 b. If an individual with information bearing on the notification of potential  
608 violation is unwilling to come forward with information, the respondent and the person  
609 who filed the notification of potential violation may each request the Board or hearing  
610 officer to subpoena the person and any documentary evidence.

611  
612 c. Persons appearing before the Board or hearing officer may be represented by  
613 counsel or other person serving in a representative capacity.

614  
615 d. The Board or hearing officer may question the respondent, the person who filed  
616 the notification of potential violation, and other persons appearing before the Board or  
617 hearing officer.

618  
619 e. The Board or hearing officer may solicit questions and testimony from the  
620 person filing the notification of potential violation, the respondent and other persons  
621 appearing for the purpose of providing information to the Board or hearing officer. The  
622 Board or hearing officer may solicit questions from counsel present to represent persons  
623 appearing before the Board or hearing officer, but all questions during the Board's or  
624 hearing officer's investigation shall be posed through and by a member of the Board or

[Added language bold and underlined. Deleted language stricken through.]

625 the hearing officer. Consistent with due process, the Board or hearing officer may limit or  
626 prohibit questions suggested to the Board or hearing officer by or on behalf of persons  
627 appearing before the Board or hearing officer.

628  
629 f. The standard of proof to be applied by the Board or hearing officer in  
630 determining a violation under this chapter is proof by a preponderance of the evidence.

631  
632 g. Technical rules of evidence do not apply, but the findings of the Board shall be  
633 based upon reliable and relevant information presented to the Board.

634  
635 h. The Board's or hearing officer's finding of a violation of this chapter must be  
636 supported by substantial evidence.

637  
638 i. The Board's or hearing officer's findings shall not be binding in a subsequent  
639 sanctions proceeding.

640  
641 j. When the Board's or hearing officer's investigation is conducted in executive  
642 session or confidentially, the public shall be excluded but an executive session of the  
643 Board shall be electronically recorded. The recording shall be available for access as a  
644 public record after publication by the municipal clerk of the proposed resolution and  
645 settlement.

646  
647 **1.19.070 Deliberations of the Board.**

648  
649 Deliberations of the Board shall be conducted in executive session.

650  
651 a. The deliberations of the Board shall not be recorded.

652  
653 b. The respondent, the person filing the complaint, and their counsel shall be  
654 excluded from the deliberations. The Board's legal counsel may attend the deliberations.

655  
656 c. The Board shall reconvene in open session when deliberations are complete.

657  
658 **1.19.080 Decisions on the record.**

659  
660 Using the identification number of the complaint of potential violation to protect  
661 confidentiality, the Board shall vote or hearing officer shall determine in open session on  
662 these questions:

663  
664 a. Whether the Board or hearing officer finds by a preponderance of the evidence  
665 one or more violations within the jurisdiction of the Board or hearing officer; and  
666

[Added language bold and underlined. Deleted language stricken through.]



667 b. Whether the Board or hearing officer recommends further administrative or  
668 remedial actions; and

669  
670 c. What specific sanctions, corrective actions or referrals, if any, the Board or  
671 hearing officer recommends pursuant to HCC 1.19.110.

672  
673 d. If the Board or hearing officer does not find a violation under Chapter 1.18 HCC,  
674 the Board or hearing officer shall prepare a confidential statement of closure listing the  
675 complainant and respondent, the assigned identification number, the allegations, the  
676 hearing date, and the finding that no allegation was substantiated by the Board or  
677 hearing officer in whole or in part, and the date of Board or hearing officer closure. At the  
678 sole discretion of the respondent, the Board or hearing officer may release the statement  
679 of closure as a public document.

680  
681 1.19.090 Timely completion.

682  
683 The Board or hearing officer shall complete action on a complaint of potential  
684 violation and investigations within 90 days of the filing of the complaint of potential  
685 violation. By a majority vote, the Board or hearing officer may extend the completion  
686 date for up to an additional 90 days, or longer for good cause shown.

687  
688 1.19.100 Sanctions, civil penalties and remedies.

689  
690 a. Upon conviction for any violation of Chapter 1.18 HCC under criminal  
691 procedures or upon a determination of any violation of Chapter 1.18 HCC after an  
692 investigation conducted by the Board or hearing officer under this chapter, the Board or  
693 hearing officer may impose (or recommend in the case of subsection (a)(1) of this section)  
694 as a sanction, penalty, or remedy any or all of the following, as appropriate to the  
695 seriousness of the violation:

696  
697 1. A recommendation to the City Council that the office of a City Council member  
698 or the position of City Manager be declared vacant for a serious violation that is (a)  
699 flagrant or (b) willful and knowing. A recommendation that the office of the Mayor be  
700 declared vacant may be made only if the violation justifies a declaration of vacancy under  
701 AS 29.20.280. Only the City Council may actually declare any of these positions vacant.

702  
703 2. A member of a board or commission may be removed from the board or  
704 commission.

705  
706 3. A public or private reprimand may be given to the official.

707

[Added language bold and underlined. Deleted language stricken through.]

708 4. The official may be ordered to refrain from voting, deliberating, or participating  
709 in any matter in violation of Chapter 1.18 HCC.

710  
711 5. The committee assignments of an official may be revoked.

712  
713 6. An official's privilege to travel at City expense on City business may be revoked  
714 or restricted.

715  
716 7. A contract, transaction or appointment, which was the subject of an official act  
717 or action of the City that involved the violation of a provision of Chapter 1.18 HCC, may  
718 be voided.

719  
720 8. The official must forfeit or make restitution of any financial benefit received as  
721 a consequence of a violation of Chapter 1.18 HCC.

722  
723 9. A civil fine of not more than \$1,000 per violation may be imposed.

724  
725 1.19.110 Board member and hearing officer disclosures.

726  
727 a. When an investigation is convened in executive session to determine whether  
728 the respondent has violated Chapter 1.18 HCC, the Board members will be requested to  
729 disclose any conflict of interest, ex parte communications, or other facts that may affect  
730 their qualification to hear the matter. After such a disclosure, the other members of the  
731 Board shall determine whether a member shall be excused for cause.

732  
733 b. A hearing officer shall disclose any conflict of interest or ex parte  
734 communications with the complainant or respondent before conducting an investigation  
735 or holding a hearing under this chapter. The complainant and the respondent have 10  
736 days from the date the written disclosure is sent to the parties to file an objection to the  
737 hearing officer with the City Clerk. Upon receiving an objection, the City Clerk shall  
738 appoint a new hearing officer.

739  
740 1.19.120 Duty of cooperation.

741  
742 A City official or the City Manager subject to a complaint of a violation shall work  
743 cooperatively with the City Clerk to establish a hearing date and shall appear at the place  
744 and time set for the hearing, regardless of the respondent's intentions concerning  
745 defense or exercise of other rights. Failure to appear, except when failure results from a  
746 serious condition or event that prevented the respondent's appearance, is a breach of  
747 respondent's duties under this chapter and in itself may result in a summary finding of  
748 violation by the Board or hearing officer and imposition of remedies, penalties and  
749 disciplinary action under HCC 1.19.110. For the purposes of this section, a "serious

[Added language bold and underlined. Deleted language stricken through.]

750 **condition or event” may include a serious medical condition, a serious family emergency**  
751 **requiring the presence of the party, a death in the family, or other similar cause that**  
752 **prevents the respondent’s attendance at the hearing. Nothing in this section shall**  
753 **prevent the rescheduling of a hearing for cause upon request of the respondent or the**  
754 **complainant.**

755  
756 **1.19.130 Settlement of complaints.**

757  
758 **a. The respondent in any case accepted for investigation may propose a resolution**  
759 **and settlement of the complaint. A proposed resolution and settlement will include the**  
760 **admitted violation of Chapter 1.18 HCC; the remedial actions agreed to by the respondent**  
761 **subject to the City Council’s concurrence; any proposed preventive actions to be**  
762 **undertaken to avoid similar violation by respondent or others in the future; and other**  
763 **matters required by the Board or hearing officer.**

764  
765 **b. A proposed resolution and settlement is subject to approval by the Board or**  
766 **hearing officer and has no effect unless approved by the Board or hearing officer. The**  
767 **Board or hearing officer will give the complaining person the opportunity to review and**  
768 **comment on the proposed resolution and settlement prior to approving it. Until**  
769 **approved by the Board or hearing officer, a proposed resolution and settlement must be**  
770 **kept confidential.**

771  
772 **c. The proposed resolution and settlement becomes public record upon final**  
773 **approval by the Board or hearing officer.**

774  
775 **1.19.140 Record of proceedings and public record.**

776  
777 **Permanent records and minutes shall be kept of Board’s or hearing officer’s**  
778 **proceedings. Such minutes shall record the vote of each member upon every question**  
779 **decided in public. Every decision or finding shall immediately be filed in the office of the**  
780 **City Clerk, and shall be a public record open to inspection by any person. Every finding**  
781 **and recommendation shall be directed to the City Council at the earliest possible date.**

782  
783 **1.19.150 Limitation period.**

784  
785 **a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and**  
786 **subject to subsection (b) of this section, the Board or hearing officer only may investigate**  
787 **or otherwise act upon a complaint of a potential violation of Chapter 1.18 HCC that is**  
788 **received by the City Clerk’s office within five years after the date of the alleged violation.**

789  
790 **b. After the time limitation in subsection (a) of this section has expired, the Board**  
791 **or hearing officer may investigate or otherwise act upon a complaint of a potential**

[Added language bold and underlined. Deleted language stricken through.]

792 **violation of Chapter 1.18 HCC that is received by the City Clerk’s office within one year**  
793 **after the date of discovery of the alleged violation, but in no case shall this subsection**  
794 **extend the period of limitation in subsection (a) of this section by more than three years.**

795  
796 Section 6. Homer City Code Chapter 2.80 entitled Board of Ethics is repealed as follows:

797  
798 ~~2.80.010 Board of Ethics established—General provisions.~~

799  
800 ~~a. There is hereby established a Board of Ethics.~~

801  
802 ~~b. The Board shall be comprised of all members of the City Council and the Mayor. The~~  
803 ~~Mayor, or the Mayor Pro Tem in the Mayor’s absence, will serve as presiding officer of the Board.~~  
804 ~~In the absence of both, the members of the Board shall elect a presiding officer from among its~~  
805 ~~members.~~

806  
807 ~~c. The City Attorney or other legal counsel for the Board may assist the Board at every~~  
808 ~~stage of the proceedings, but shall have no vote.~~

809  
810 ~~d. A quorum of the Board shall be a majority of all members who are not excused for~~  
811 ~~cause, such as being the complainant, the respondent, a witness, having a conflict of interest,~~  
812 ~~or other cause for recusal. However, in no event may a quorum be less than three.~~

813  
814 ~~e. Decisions of the Board shall be adopted by a majority of the members who are~~  
815 ~~qualified to act on the matter, where a quorum is present.~~

816  
817 ~~f. Unless the Board delegates such authority to another member or decides that no one~~  
818 ~~shall have such authority, and except as provided for hearing officers in subsection (h) of this~~  
819 ~~section, the presiding officer shall have authority to make procedural decisions between Board~~  
820 ~~meetings on behalf of the Board. Examples of matters that may be decided by such delegate~~  
821 ~~include scheduling hearings and other matters, establishing pre-hearing requirements and~~  
822 ~~filing deadlines for motions, exhibits, witness lists, hearing briefs, and deciding other~~  
823 ~~procedural matters.~~

824  
825 ~~g. The presiding officer shall vote on every question, unless required to abstain for~~  
826 ~~cause, and shall not have power to veto any action of the Board.~~

827  
828 ~~h. A hearing officer designated by the City Clerk under HCC 1.18.050 shall have sole~~  
829 ~~authority to investigate the complaint they have been retained to hear and to make procedural~~  
830 ~~decisions regarding the investigation and hearing of that complaint. The designated hearing~~  
831 ~~officer shall be the sole decision maker and shall comply with the procedures and~~  
832 ~~requirements of this chapter provided for the Board and its members.~~

833

**[Added language bold and underlined. Deleted language stricken through.]**

834 ~~2.80.020 Function and authority.~~

835  
836 ~~The Board of Ethics or a hearing officer appointed under this chapter has authority to~~  
837 ~~perform the following functions:~~

838  
839 ~~a. Investigate reported violations of Chapter 1.18 HCC.~~

840  
841 ~~b. Hear and decide written complaints of violations of Chapter 1.18 HCC.~~

842  
843 ~~c. Hear and decide on requests for exceptions as specified in Chapter 1.18 HCC.~~

844  
845 ~~d. Make findings and recommendations concerning sanctions, civil penalties and~~  
846 ~~remedies for violations as provided in the code.~~

847  
848 ~~e. Adopt recommended policies and procedures governing the Board's conduct of~~  
849 ~~business.~~

850  
851 ~~f. Upon application of the complainant, respondent, or at the Board's or hearing~~  
852 ~~officer's discretion, compel by subpoena the appearance and sworn testimony, at a specified~~  
853 ~~time and place, of a person the Board or hearing officer reasonably believes may be able to~~  
854 ~~provide information relating to a matter under investigation by the Board or hearing officer or~~  
855 ~~the production of documents, records or other items the Board or hearing officer reasonably~~  
856 ~~believes may relate to the matter under consideration.~~

857  
858 ~~g. Administer oaths and receive testimony from witnesses appearing before the Board~~  
859 ~~or hearing officer.~~

860  
861 ~~h. Request City agencies to cooperate with the Board or hearing officer in the exercise~~  
862 ~~of the Board's or hearing officer's jurisdiction.~~

863  
864 ~~i. Request the advising attorney to seek assistance of the Superior Court to enforce the~~  
865 ~~Board's or hearing officer's subpoena.~~

866  
867 ~~j. Conduct investigative hearings in executive session, pursuant to notifications alleging~~  
868 ~~violations of matters within the authority of the Board or hearing officer.~~

869  
870 ~~2.80.030 Confidentiality— Initial review.~~

871  
872 ~~a. Each written complaint of a violation of Chapter 1.18 HCC received by the City Clerk's~~  
873 ~~office shall be assigned an identification number, which shall be used in lieu of names when~~  
874 ~~referring to the complaint to maintain confidentiality. The City Clerk and the Board or hearing~~  
875 ~~officer shall keep all written complaints of potential violation confidential during investigation~~

[Added language bold and underlined. Deleted language stricken through.]

876 and the Board's or hearing officer's deliberative process. Complaints of potential violation may  
877 be disclosed only to the staff member of the City Clerk's office providing administrative support  
878 to the Board or hearing officer, members of the Board except when a hearing officer has been  
879 appointed, and legal counsel. Upon receipt of a notification of potential violation, the Board  
880 or hearing officer shall, at its next scheduled meeting or earlier, as determined by the Board  
881 Chair or hearing officer, review the complaint of potential violation and determine if further  
882 action on the notification of potential violation is warranted. The Board shall review the  
883 complaint of potential violation in executive session. A hearing officer appointed under this  
884 chapter shall review the complaint in a confidential manner.

885  
886 b. If the Board or hearing officer determines the facts alleged in the notification of  
887 potential violation, even if proven, do not constitute a violation, or that the Board or hearing  
888 officer lacks jurisdiction to address the complaint of potential violation, the Board or hearing  
889 officer shall return the complaint of potential violation to the complaining party or it may  
890 recommend to the person filing the complaint that it be amended and re-filed. Notifications of  
891 potential violation returned without further action shall remain confidential.

892  
893 c. If the Board or hearing officer determines the allegation in a complaint of potential  
894 violation, if proven, may constitute a violation of a matter within the Board's or hearing  
895 officer's jurisdiction, the Board or hearing officer shall:

896  
897 1. Give the respondent a copy of the complaint of potential violation, along with a copy  
898 of the outline of the Board's process under this chapter, including notice that the respondent  
899 may choose to hold the proceeding in public and may be represented by legal counsel of  
900 respondent's choosing and at respondent's own expense; and

901  
902 2. Notify both the person submitting the complaint of potential violation and  
903 respondent of the date(s) on which each may be requested to meet with the Board or hearing  
904 officer, present documentary or testimonial evidence, and assist the Board or hearing officer  
905 in resolving the potential violation.

906  
907 ~~2.80.040 Disclosure of complaint of potential violation prohibited.~~

908  
909 a. A complaint of potential violation of Chapter 1.18 HCC is confidential until the Board  
910 or hearing officer completes a written report for distribution as a public record.

911  
912 1. No person, including the complainant, shall knowingly disclose to another person, or  
913 otherwise make public in violation of this chapter, the contents of a complaint of potential  
914 violation filed with the Board or hearing officer, unless:

915  
916 a. The respondent elects to proceed in public; or

917

**[Added language bold and underlined. Deleted language stricken through.]**

918 ~~b. The written report of the Board or hearing officer is electronically published by the~~  
919 ~~City Clerk.~~

920  
921 ~~2. Breach of confidentiality required by any provision of this chapter is a violation of this~~  
922 ~~chapter subject to punishment.~~

923  
924 ~~3. A person filing a complaint of potential violation shall keep confidential the fact that~~  
925 ~~the person has filed the complaint with the City, as well as the contents of the complaint of~~  
926 ~~potential violation. If the Board or hearing officer finds probable cause to believe that the~~  
927 ~~person filing the notice of complaint violation has violated confidentiality under this chapter,~~  
928 ~~the Board or hearing officer shall immediately dismiss the complaint of violation. Dismissal~~  
929 ~~under this subsection does not affect the right of the Board or hearing officer or another person~~  
930 ~~to initiate a proceeding on the same factual allegations by filing a complaint of potential~~  
931 ~~violation.~~

932  
933 ~~4. Public disclosure resulting from corrective action under this chapter is not a violation~~  
934 ~~of this section.~~

935  
936 ~~2.80.050 Conduct of investigation and standard of proof.~~

937  
938 ~~a. The Board's investigation shall be conducted in executive session, unless the~~  
939 ~~respondent requests to hold the Board's investigation on the notification of potential violation~~  
940 ~~in public. The hearing officer's investigation shall be conducted in a manner to maintain~~  
941 ~~confidentiality unless the respondent requests to hold the hearing officer's investigation on~~  
942 ~~the notification of potential violation in public.~~

943  
944 ~~1. The respondent and the person who filed the notification of potential violation may~~  
945 ~~identify other individuals and documents that each would like the Board or hearing officer to~~  
946 ~~interview and review.~~

947  
948 ~~2. If an individual with information bearing on the notification of potential violation is~~  
949 ~~unwilling to come forward with information, the respondent and the person who filed the~~  
950 ~~notification of potential violation may each request the Board or hearing officer to subpoena~~  
951 ~~the person and any documentary evidence.~~

952  
953 ~~3. Persons appearing before the Board or hearing officer may be represented by counsel~~  
954 ~~or other person serving in a representative capacity.~~

955  
956 ~~4. The Board or hearing officer may question the respondent, the person who filed the~~  
957 ~~notification of potential violation, and other persons appearing before the Board or hearing~~  
958 ~~officer.~~

959

[Added language bold and underlined. Deleted language stricken through.]

960 ~~5. The Board or hearing officer may solicit questions and testimony from the person~~  
961 ~~filing the notification of potential violation, the respondent and other persons appearing for~~  
962 ~~the purpose of providing information to the Board or hearing officer. The Board or hearing~~  
963 ~~officer may solicit questions from counsel present to represent persons appearing before the~~  
964 ~~Board or hearing officer, but all questions during the Board's or hearing officer's investigation~~  
965 ~~shall be posed through and by a member of the Board or the hearing officer. Consistent with~~  
966 ~~due process, the Board or hearing officer may limit or prohibit questions suggested to the~~  
967 ~~Board or hearing officer by or on behalf of persons appearing before the Board or hearing~~  
968 ~~officer.~~

969  
970 ~~6. The standard of proof to be applied by the Board or hearing officer in determining a~~  
971 ~~violation under this chapter is proof by a preponderance of the evidence.~~

972  
973 ~~7. Technical rules of evidence do not apply, but the findings of the Board shall be based~~  
974 ~~upon reliable and relevant information presented to the Board.~~

975  
976 ~~8. The Board's or hearing officer's finding of a violation of this chapter must be~~  
977 ~~supported by substantial evidence.~~

978  
979 ~~9. The Board's or hearing officer's findings shall not be binding in a subsequent~~  
980 ~~sanctions proceeding.~~

981  
982 ~~10. When the Board's or hearing officer's investigation is conducted in executive session~~  
983 ~~or confidentially, the public shall be excluded but an executive session of the Board shall be~~  
984 ~~electronically recorded. The recording shall be available for access as a public record after~~  
985 ~~publication by the municipal clerk of the proposed resolution and settlement.~~

986  
987 ~~2.80.055 Deliberations of the Board.~~

988  
989 ~~Deliberations of the Board shall be conducted in executive session.~~

990  
991 ~~a. The deliberations of the Board shall not be recorded.~~

992  
993 ~~b. The respondent, the person filing the complaint, and their counsel shall be excluded~~  
994 ~~from the deliberations. The Board's legal counsel may attend the deliberations.~~

995  
996 ~~c. The Board shall reconvene in open session when deliberations are complete.~~

997  
998 ~~2.80.060 Board member and hearing officer disclosures:~~

999  
1000 ~~a. When an investigation is convened in executive session to determine whether the~~  
1001 ~~respondent has violated Chapter 1.18 HCC, the Board members will be requested to disclose~~

**[Added language bold and underlined. Deleted language stricken through.]**



1002 ~~any conflict of interest, ex parte communications, or other facts that may affect their~~  
1003 ~~qualification to hear the matter. After such a disclosure, the other members of the Board shall~~  
1004 ~~determine whether a member shall be excused for cause.~~

1005  
1006 ~~b. A hearing officer shall disclose any conflict of interest or ex parte communications~~  
1007 ~~with the complainant or respondent before conducting an investigation or holding a hearing~~  
1008 ~~under this chapter. The complainant and the respondent have 10 days from the date the~~  
1009 ~~written disclosure is sent to the parties to file an objection to the hearing officer with the City~~  
1010 ~~Clerk. Upon receiving an objection, the City Clerk shall appoint a new hearing officer.~~

1011  
1012 ~~2.80.061 Duty of cooperation.~~

1013  
1014 ~~A City official or the City Manager subject to a complaint of a violation shall work~~  
1015 ~~cooperatively with the City Clerk to establish a hearing date and shall appear at the place and~~  
1016 ~~time set for the hearing, regardless of the respondent's intentions concerning defense or~~  
1017 ~~exercise of other rights. Failure to appear, except when failure results from a serious condition~~  
1018 ~~or event that prevented the respondent's appearance, is a breach of respondent's duties under~~  
1019 ~~this chapter and in itself may result in a summary finding of violation by the Board or hearing~~  
1020 ~~officer and imposition of remedies, penalties and disciplinary action under HCC 2.80.070. For~~  
1021 ~~the purposes of this section, a "serious condition or event" may include a serious medical~~  
1022 ~~condition, a serious family emergency requiring the presence of the party, a death in the family,~~  
1023 ~~or other similar cause that prevents the respondent's attendance at the hearing. Nothing in~~  
1024 ~~this section shall prevent the rescheduling of a hearing for cause upon request of the~~  
1025 ~~respondent or the complainant.~~

1026  
1027 ~~2.80.065 Decisions on the record.~~

1028  
1029 ~~Using the identification number of the complaint of potential violation to protect~~  
1030 ~~confidentiality, the Board shall vote or hearing officer shall determine in open session on these~~  
1031 ~~questions:~~

1032  
1033 ~~a. Whether the Board or hearing officer finds by a preponderance of the evidence one~~  
1034 ~~or more violations within the jurisdiction of the Board or hearing officer; and~~

1035  
1036 ~~b. Whether the Board or hearing officer recommends further administrative or remedial~~  
1037 ~~actions; and~~

1038  
1039 ~~c. What specific sanctions, corrective actions or referrals, if any, the Board or hearing~~  
1040 ~~officer recommends pursuant to HCC 2.80.070.~~

1041  
1042 ~~d. If the Board or hearing officer does not find a violation under Chapter 1.18 HCC, the~~  
1043 ~~Board or hearing officer shall prepare a confidential statement of closure listing the~~

[Added language bold and underlined. Deleted language stricken through.]

1044 complainant and respondent, the assigned identification number, the allegations, the hearing  
1045 date, and the finding that no allegation was substantiated by the Board or hearing officer in  
1046 whole or in part, and the date of Board or hearing officer closure. At the sole discretion of the  
1047 respondent, the Board or hearing officer may release the statement of closure as a public  
1048 document.

1049  
1050 ~~2.80.067 Timely completion.~~

1051  
1052 ~~The Board or hearing officer shall complete action on a complaint of potential violation~~  
1053 ~~and investigations within 90 days of the filing of the complaint of potential violation. By a~~  
1054 ~~majority vote, the Board or hearing officer may extend the completion date for up to an~~  
1055 ~~additional 90 days, or longer for good cause shown.~~

1056  
1057 ~~2.80.070 Sanctions, civil penalties and remedies.~~

1058  
1059 ~~a. Upon conviction for any violation of Chapter 1.18 HCC under criminal procedures or~~  
1060 ~~upon a determination of any violation of Chapter 1.18 HCC after an investigation conducted by~~  
1061 ~~the Board or hearing officer under this chapter, the Board or hearing officer may impose (or~~  
1062 ~~recommend in the case of subsection (a)(1) of this section) as a sanction, penalty, or remedy~~  
1063 ~~any or all of the following, as appropriate to the seriousness of the violation:~~

1064  
1065 ~~1. A recommendation to the City Council that the office of a City Council member or the~~  
1066 ~~position of City Manager be declared vacant for a serious violation that is (a) flagrant or (b)~~  
1067 ~~willful and knowing. A recommendation that the office of the Mayor be declared vacant may~~  
1068 ~~be made only if the violation justifies a declaration of vacancy under AS 29.20.280. Only the~~  
1069 ~~City Council may actually declare any of these positions vacant.~~

1070  
1071 ~~2. A member of a board or commission may be removed from the board or commission.~~

1072  
1073 ~~3. A public or private reprimand may be given to the official.~~

1074  
1075 ~~4. The official may be ordered to refrain from voting, deliberating, or participating in~~  
1076 ~~any matter in violation of Chapter 1.18 HCC.~~

1077  
1078 ~~5. The committee assignments of an official may be revoked.~~

1079  
1080 ~~6. An official's privilege to travel at City expense on City business may be revoked or~~  
1081 ~~restricted.~~

1082  
1083 ~~7. A contract, transaction or appointment, which was the subject of an official act or~~  
1084 ~~action of the City that involved the violation of a provision of Chapter 1.18 HCC, may be~~  
1085 ~~voided.~~

[Added language bold and underlined. Deleted language stricken through.]

1086  
1087           8. ~~The official must forfeit or make restitution of any financial benefit received as a~~  
1088 ~~consequence of a violation of Chapter 1.18 HCC.~~

1089  
1090           9. ~~A civil fine of not more than \$1,000 per violation may be imposed.~~

1091  
1092 ~~2.80.080 Record of proceedings and public record.~~

1093  
1094           ~~Permanent records and minutes shall be kept of Board's or hearing officer's~~  
1095 ~~proceedings. Such minutes shall record the vote of each member upon every question decided~~  
1096 ~~in public. Every decision or finding shall immediately be filed in the office of the City Clerk, and~~  
1097 ~~shall be a public record open to inspection by any person. Every finding and recommendation~~  
1098 ~~shall be directed to the City Council at the earliest possible date.~~

1099  
1100 ~~2.80.090 Settlement of complaints.~~

1101  
1102           ~~a. The respondent in any case accepted for investigation may propose a resolution and~~  
1103 ~~settlement of the complaint. A proposed resolution and settlement will include the admitted~~  
1104 ~~violation of Chapter 1.18 HCC; the remedial actions agreed to by the respondent subject to the~~  
1105 ~~City Council's concurrence; any proposed preventive actions to be undertaken to avoid similar~~  
1106 ~~violation by respondent or others in the future; and other matters required by the Board or~~  
1107 ~~hearing officer.~~

1108  
1109           ~~b. A proposed resolution and settlement is subject to approval by the Board or hearing~~  
1110 ~~officer and has no effect unless approved by the Board or hearing officer. The Board or hearing~~  
1111 ~~officer will give the complaining person the opportunity to review and comment on the~~  
1112 ~~proposed resolution and settlement prior to approving it. Until approved by the Board or~~  
1113 ~~hearing officer, a proposed resolution and settlement must be kept confidential.~~

1114  
1115           ~~c. The proposed resolution and settlement becomes public record upon final approval~~  
1116 ~~by the Board or hearing officer.~~

1117  
1118 ~~2.80.100 Limitation period.~~

1119  
1120           ~~a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and subject~~  
1121 ~~to subsection (b) of this section, the Board or hearing officer only may investigate or otherwise~~  
1122 ~~act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City~~  
1123 ~~Clerk's office within five years after the date of the alleged violation.~~

1124  
1125           ~~b. After the time limitation in subsection (a) of this section has expired, the Board or~~  
1126 ~~hearing officer may investigate or otherwise act upon a complaint of a potential violation of~~  
1127 ~~Chapter 1.18 HCC that is received by the City Clerk's office within one year after the date of~~

[Added language bold and underlined. Deleted language stricken through.]

1128 ~~discovery of the alleged violation, but in no case shall this subsection extend the period of~~  
1129 ~~limitation in subsection (a) of this section by more than three years.~~

1130  
1131 Section 7. This ordinance shall take effect upon its adoption by the Homer City Council.  
1132

1133 Section 8. This ordinance is of a permanent and general character and shall be included  
1134 in the City Code.  
1135

1136 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_ DAY OF \_\_\_\_\_,  
1137 2018.

1138  
1139 CITY OF HOMER

1140  
1141  
1142 \_\_\_\_\_  
1143 BRYAN ZAK, MAYOR

1144  
1145 ATTEST:  
1146  
1147  
1148 \_\_\_\_\_  
1149 MELISSA JACOBSEN, MMC, CITY CLERK

1150  
1151  
1152 YES:  
1153 NO:  
1154 ABSTAIN:  
1155 ABSENT:  
1156  
1157 First Reading:  
1158 Public Hearing:  
1159 Second Reading:  
1160 Effective Date:

1161  
1162 Reviewed and approved as to form:  
1163  
1164 \_\_\_\_\_  
1165 Katie Koester, City Manager

1166  
1167 Date: \_\_\_\_\_  
\_\_\_\_\_  
Holly Wells, City Attorney  
Date: \_\_\_\_\_

## MEMORANDUM 18-031

**TO: HOMER CITY COUNCIL**

**FROM: HOLLY C. WELLS**

**RE: CODE OF CONDUCT ORDINANCE**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506742.24**

**DATE: MARCH 7, 2018**

---

### **Introduction**

In the current cultural and political climate, our firm encourages local governments to review workplace policies as well as existing codes of conduct to ensure employees and the public are properly protected and that the obligations of management and city officials are easy to identify, follow, and enforce. To this end, Ordinance No. 18-14 (the "Ordinance") proposes several revisions to the Homer Code of Ethics, which are identified and explained in this memorandum.

### **Proposed Revisions**

The Ordinance proposes several revisions, the most substantive of which:

- 1) Require City Council members to comply with applicable Homer workplace policies and procedures;
- 2) Add a definition for the term "impartial" as used in the Homer City Code;
- 3) Clarify the preliminary review process for ethics complaints;
- 4) Consolidate and clarify the ethics complaint process before the Board or a hearing officer in a single title; and
- 5) Protect Council members and City official actions from allegations arising from actions or omissions taken in reliance on advice from the City Attorney.

### **Revisions Clarifying the Ethics Complaint Process**

The revisions regarding the ethics hearing process generally ensure that the intended steps of review and consideration are clear. Under the current Code, the hearing process is governed by provisions in both Title 1 and Title 2, requiring the reader to cross reference between the two sections to determine how to file a complaint and what the standard of review and investigation process of such complaint entails. As a result, it is very easy for a reader to miss important procedural steps or requirements. The Ordinance proposes a much simpler “step-by-step” approach, with the process for all complaints in a single new chapter of the Code entitled “Code of Ethics- complaints.”

In addition to the restructuring of the ethics complaint process, the Ordinance proposes changes to the review process to ensure that hearings are as cost-effective and impartial as possible. Most notably, the Code currently provides for a preliminary review process to ensure that complaints that are not sufficient are rejected before a hearing takes place. However, in recent ethics hearings, the hearing officers expressed confusion as to when and how, and even who, was responsible for conducting the preliminary review. In an effort to avoid such confusion in the future, and legal costs associated with hiring a hearing officer to preside over a complaint that does not contain a viable allegation, even if all the facts asserted are taken as true, the Ordinance requires the City Attorney to review the complaint for preliminary legal sufficiency. The Clerk remains responsible for reviewing the complaint to confirm it contains the information required under the Code. However, the proposed revisions clarify the Clerk’s limited role in the review process.

The changes to the ethics complaint process also include express protection for City officials and the City Manager for acts or omissions taken in reliance on City Attorney advice. While the current Code of Ethics provides protection for City officials and the City Manager when acting in accordance with an advisory opinion, it does not expressly provide such protection when the acts are based on legal advice provided in meetings or during the course of business. Thus, the change is predominately a clarification of the Code of Ethics’s original intent.

### **Revisions to the Code of Ethics**

As with the ethics complaint process, the Ordinance proposes changes to the Code of Ethics itself which are designed to streamline and clarify the obligations imposed upon City officials under the Code. However, these organizational changes are fairly small and clear on the face of the Ordinance and thus need not be discussed in this memo.

In addition to organizational changes, the Ordinance expands upon the definition of “partiality” in HCC 1.18.048 by differentiating the “partiality” prohibited in quasi-judicial proceedings from the “impartiality” required in legislative acts. For example, conducting yourself “impartially” in a quasi-judicial procedure requires a decision-maker to remain neutral, not favoring one side or the other. Conversely, legislative acts necessarily arise

from the advocacy efforts of the legislators who support those acts. Unlike a quasi-judicial decision-maker, legislators are tasked with promoting the interests of their constituents and thus are not expected to be “neutral.” However, legislators are expected to act in a manner that they believe benefits the public’s best interest. Thus, a legislator fails to act “impartially” when he or she takes action to benefit a personal or financial interest rather than the best interest of his or her constituents.

The most significant change to the Code is the clarification of the City official’s duty to comply with the City’s workplace safety policies, and harassment provisions as set forth in the employee policy manual. While many of these provisions currently apply to all City officials, the inclusion of a specific obligation in the Code of Ethics ensures that employees, citizens, and City officials are fully aware of the application of such policies to City official conduct.

Although the applicable policy provisions are not included in the proposed revisions, the provisions that would apply to Council members are as follows:

**9.2 Anti-discrimination and Anti-harassment Policy:** The City maintains a work environment free from unlawful discrimination and harassment for all employees. All employees have the right to work in an environment free from discrimination, intimidation or harassment that is based upon a protected status.

**9.4 Harassment Definition:** Prohibited harassment consists of unwelcome verbal or physical conduct or communication based upon an employee’s race, color, creed, religion, national origin, gender, physical or mental disability, age, marital status, pregnancy or parenthood, veteran’s status, status with regard to public assistance, or any other status protected by federal, state or local law. Examples of conduct prohibited by this policy include using racial and ethnic slurs, offensive stereotypes or making jokes about such characteristics.

**9.5 Sexual Harassment Definition:** Sexual harassment is a form of harassment that is prohibited under these regulations. Sexual harassment encompasses unwelcome sexual advances, request for sexual favors, and other verbal, visual, written or physical conduct of a sexual nature where:

**9.5.1** Such conduct is unwelcome; and

**9.5.2** Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

**9.5.3** Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or

**9.5.4** Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work environment. A hostile work environment occurs when the

conduct is sufficiently severe or pervasive enough to alter the condition of the employee's employment and create an abusive work environment.

## **9.7 Responsibilities:**

**9.7.1** All City employees at all levels shall report allegations and acts of discrimination. An employee who feels he or she is being harassed or discriminated against or is aware of activities in the workplace that may constitute harassment or discrimination shall report the perceived discrimination or harassment immediately to their supervisor, Department Director, Personnel Director, City Manager or any City Official (as defined by this chapter) that the employee feels comfortable reporting to.

**9.10 Retaliation:** The City prohibits any form of retaliation against any employee for reporting or participating in a proceeding connected with a matter of public concern pursuant to Section 1.15 of the City Code. However, if the City determines that the complaint was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the complainant or the individual(s) who gave the false information. Any decision which constitutes an adverse action against an employee who has a current informal or formal complaint of discrimination pending must be approved by the City Attorney's office. All City Officials should avoid actions that might be construed as retaliatory against the complainant.

Again, while many of these provisions already apply to City official conduct through state and/or federal laws and City policies, it is important that Council members and other City officials are aware of the obligations that impact their service and understand the process for reporting violations should they occur.

## **Conclusion**

Homer's existing Code of Conduct provides comprehensive protection to the public, ensuring local government and City officials operate fairly and transparently. However, the proposed changes in the Ordinance serve to clarify the scope of these protections and the resulting obligations placed upon City officials. Similarly, the Ethics Complaint process as currently codified provides a detailed administrative process for enforcing violations of the Code of Ethics but the Ordinance, if adopted, will result in a clearer and more user-friendly hearing process.



**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-15**

An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter.

Sponsor: City Manager/Public Works Director

1. Council Regular Meeting March 12, 2018 Introduction
  - a. Memorandum 18-032 from Public Works Superintendent
  
2. Council Regular Meeting March 27, 2018 Public Hearing and Second Reading
  - a. Memorandum 18-032 from Public Works Superintendent



1 CITY OF HOMER  
2 HOMER, ALASKA

3 City Manager/  
4 Public Works Director

5 ORDINANCE 18-15

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING  
8 THE 2018 OPERATING BUDGET BY AUTHORIZING THE EXPENDITURE  
9 OF AN ADDITIONAL \$29,550 FROM THE PUBLIC WORKS FLEET RESERVE  
10 FUND FOR THE PURCHASE OF A BRUSH CUTTER.

11  
12 WHEREAS, City Council in the FY 2018 Operating Budget approved a capital project  
13 expenditure of \$50,000 from the Public Works Reserve Fund for the purchase of a brush cutter;  
14 and

15  
16 WHEREAS, Public Works solicited quotes from two vendors for a brush cutter. The low  
17 bid was \$79,550 (see Memorandum 18-032 from Public Works); and

18  
19 WHEREAS, The purchase of the brush cutter will be through the National Joint Powers  
20 Alliance (NJPA), a competitively awarded, nationally leveraged cooperative purchasing  
21 program; and therefore, the purchase of the equipment as described above is consistent with  
22 the requirements of the City's procurement regulations.

23  
24 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

25  
26 Section 1. The FY 2018 Operating Budget is hereby amended by appropriating an  
27 additional \$29,550 from the Public Works Reserve Fund for the purchase of a brush cutter.

28  
29 

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
152-0383-5902	Brush Cutter Purchase	\$29,550

30  
31  
32 Section 2. This is a budget amendment ordinance, is not permanent in nature and  
33 shall not be codified.

34  
35 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

36  
37 CITY OF HOMER

38  
39  
40  
41 \_\_\_\_\_  
42 BRYAN ZAK, MAYOR

43 ATTEST:

44

45

46 \_\_\_\_\_

47 MELISSA JACOBSEN, MMC, CITY CLERK

48

49

50

51 YES:

52 NO:

53 ABSTAIN:

54 ABSENT:

55

56 First Reading:

57 Public Hearing:

58 Second Reading:

59 Effective Date:

60

61

62

63 Reviewed and approved as to form:

64

65

66 \_\_\_\_\_

67 Mary K. Koester, City Manager

68

69 Date: \_\_\_\_\_

70

\_\_\_\_\_

Holly Wells, City Attorney

Date: \_\_\_\_\_



## City of Homer

Dan Gardner, Superintendent

Public Works

3575 Heath Street

Homer, AK 99603

dgardner@ci.homer.ak.us

(p) 907-235-3170

(f) 907-235-3145

### MEMORANDUM 18-032

To: Katie Koester, City Manager  
Through: Carey Mayer, Public Works Director  
From: Dan Gardner, PW Superintendent  
Date: March 2, 2018  
Subject: Capitol Request for Purchase of new Brush Cutter

A request was made in the 2018 operating budget for a new brush cutter in the amount of \$82,000. Ultimately, \$50,000 was approved. With the unanticipated savings from the vac truck purchase (approximately \$37,000 savings), this department is requesting an increase of \$29,950 to make the brush cutter purchase, in the amount of \$79,950. Bids ranged from \$79,950 to \$83,968.

The brush cutter is a power head, boom arm assembly, and mower head attached to a loader that is used to mow vegetation along roadways within the right-of-way (ROW). These operations open up sight distance areas at intersections, and minimize ROW creep of spruce and alders. The existing unit is 21 years old and has undergone extensive repairs over the last few years. Each year, as the unit leaves the yard, the expectation is that it won't last through the day before needing repairs that can be days or weeks long. When this occurs, all brushing operations stop. This occurred during the 2016 cutting season, and operations stopped before we were able to get halfway through the road system. During the 2017 cutting season, operations lasted less than one week, and the operations halted altogether. The boom assembly is damaged to the point of no longer being able to be repaired. Without a new brush cutter, we will have no ability to continue the mowing operations.

Due to the complex nature of this unit with many moving parts, and the fact that the boom assembly can undergo severe stress, a used unit is not being considered. We already have a used unit. We need a brush cutter that is reliable due to the short mowing season we have.

Recommendation: Approve an additional \$29,950 to the existing funding of \$50,000 for the purchase of a new brush cutter from Craig Taylor Equipment.

CC: Melissa Jacobsen, City Clerk



# ORDINANCE(S)





**ORDINANCE REFERENCE SHEET**  
**2018 ORDINANCE**  
**ORDINANCE 18-16**

**Ordinance 18-16**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Chapter 18.08, Codifying Certain Lease Policy and Procedures; Expanding Lease Review to include Recommendations by Appropriate City Commissions; Removing References to the Lease Committee; and Requiring Essential Lease Terms to be Approved by City Council.

Sponsor: Erickson/Smith

1. Council Regular Meeting March 27, 2018 Introduction  
  
Referral to the Port & Harbor Advisory Commission
  - a. Memorandum 18-035 from City Attorney as backup



**CITY OF HOMER  
HOMER, ALASKA**

Smith/Erickson

**ORDINANCE 18-16**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA REPEALING HOMER CITY CODE CHAPTER 18.08 AND THE HOMER PROPERTY MANAGEMENT POLICIES AND PROCEDURES MANUAL AND REENACTING CHAPTER 18.08 CODIFYING CERTAIN LEASE POLICY AND PROCEDURES FROM THE POLICIES AND PROCEDURES MANUAL, CLARIFYING THE LAND ALLOCATION PROCESS, EXPANDING LEASE REVIEW TO INCLUDE RECOMMENDATIONS BY APPROPRIATE CITY COMMISSIONS, REMOVING REFERENCES TO THE LEASE COMMITTEE, REMOVING THE REQUIREMENT THAT ALL LEASES MAY BE INCREASED TO REFLECT INFLATION AS DETERMINED IN THE CONSUMER PRICE INDEX, AND EXPANDING COUNCIL’S ROLE BY REQUIRING COUNCIL APPROVAL PRIOR TO FINAL APPROVAL OF A LEASE, TERMINATION OF A LEASE OR TERMINATION OF LEASE NEGOTIATIONS.

WHEREAS, The City of Homer (“City”) currently has a complex leasing policy that requires the City and applicants to comply with lengthy policies, procedures, and Homer City Code provisions as well as the terms of the request for proposal specific to a specific parcel; and

WHEREAS, It is in the City’s best interest and the interest of lease applicants to streamline and simplify the leasing process by incorporating essential lease policy and procedures currently in the City’s Property Management Policy and Procedures into the Homer City Code, the City’s lease templates or specific lease agreements; and

WHEREAS, The City Council’s approval of the essential terms of new long-term leases and not just the award of such leases increases Council’s input and oversight, public input and transparency into the lease process; and

WHEREAS, The City Council’s approval of the termination of negotiations or early termination of a lease for default also increases oversight, public input and transparency in the lease process,

NOW THEREFORE, The City of Homer Ordains:

42           Section 1: Chapter 18.08 “City Property Leases” is repealed and reenacted to read as  
43 follows:

44

45           Chapter 18.08

46

47           CITY PROPERTY LEASES

48

49           Sections:

50

51           18.08.005     Purpose.

52           18.08.010     Definitions.

53           18.08.020     Land Allocation Plan - property available for lease.

54           18.08.030     Standardized leases.

55           18.08.040     Council approval of lease.

56           18.08.045     Lease applications.

57           18.08.050     Requests for proposals-competitive bidding process.

58           18.08.060     Criteria for evaluating and approving proposals.

59           18.08.065     Lease application and proposal documents.

60           18.08.070     Notice to award.

61           18.08.075     Lease rental rates.

62           18.08.080     Lease execution and final approval.

63           18.08.090     Development and use.

64           18.08.100     Appraisal.

65           18.08.110     Options to renew.

66           18.08.120     Improvements.

67           18.08.130     Lease renewal.

68           18.08.140     Sublease.

69           18.08.150     Early termination.

70           18.08.160     Assignments.

71           18.08.170     Insurance.

72           18.08.175     Exception – Leasing to government entities.

73           18.08.180     Assessments – Capital improvement projects.

74           18.08.190     Connection to utilities.

75           18.08.195     Processing and filing fees.

76

77           18.08.005 Purpose.

78

79           The purpose of this chapter is to ensure that the lease of City-owned property maximizes the  
80 value of City assets and that the City awards leases that provide the highest and best use of  
81 City-owned property. It is the policy of the City to lease its property in a fair and  
82 nondiscriminatory way.

83

84 18.08.010 Definitions.

85

86 For the purpose of this chapter, the following words and phrases are defined as set forth in this  
87 section:

88

89 “Applicant” means a person applying to lease or acquire an interest in City-owned real  
90 property and includes bidders and proposers.

91

92 “Appraisal” means a valuation or estimation of value of property by an Alaska Certified General  
93 Real Estate Appraiser or an otherwise qualified appraiser selected by the City Manager.

94

95 “Assignment” means a transfer of a leasehold interest or rights to a leasehold interest, in its  
96 entirety, in City-owned real property.

97

98 “City Manager” means the City of Homer Manager or his or her designee

99

100 “Fair market rent” means the rental income that a public or private property would most likely  
101 command in the open market, indicated by the current rents paid for comparable space as of  
102 the date of the appraisal

103

104 “Irregularities” means deviations from the request for proposal that are not substantive in  
105 nature and/or involve typographical or scrivener errors that do not impact the integrity or  
106 responsiveness of the proposal.

107

108 “Long-term lease” means a written agreement granting exclusive possession or use of City-  
109 owned real property for more than one year.

110

111 “Short-term lease” means a written agreement granting exclusive possession or use of City-  
112 owned real property for one year or less.

113

114 “Surveyor” means a registered professional land surveyor.

115

116 18.08.020 Land Allocation Plan-property available for lease.

117

118 a. Unless dedicated or reserved to another purpose, all real property including tide,  
119 submerged or shorelands to which the City has a right, title and interest as owner or  
120 lessee, or to which the City may become entitled, may be leased as provided in this  
121 chapter. In the case of any conflict between this chapter and any regulations or other  
122 ordinances or State law specifically governing the leasing of City tide and submerged  
123 lands, the latter shall prevail.

124

- 125        b. The City administration shall maintain a list of all City-owned properties authorized for  
126        lease by Council. This list shall be adopted annually and contain the information  
127        required under this chapter. The list may be called the Land Allocation Plan and will be  
128        made available to the public at the City Clerk’s office.  
129
- 130        c. Council shall adopt a Land Allocation Plan that identifies:  
131
- 132            i. City-owned property available for lease;  
133
- 134            ii. The property description, lease rate, preferred length of the lease term for each  
135            available parcel; and  
136
- 137            iii. Any requirements, preferences or restrictions regarding use and/or development.  
138
- 139        d. Council may identify property in the Land Allocation Plan that is subject to competitive  
140        bidding. Property subject to competitive bidding in the Land Allocation Plan need only  
141        identify the property description in the Land Allocation Plan but all other terms  
142        required in subsection (c) of this section shall be identified in the request for proposal  
143        for such properties.  
144
- 145        e. Prior to the adoption of the Land Allocation Plan, Council shall hold a work session.  
146        Commission members and City staff may provide recommendations to Council during  
147        the work session regarding City-owned property available for lease and the terms of  
148        such leases.  
149
- 150        f. The City shall provide public notice of the adoption of the Land Allocation Plan and the  
151        City-owned real property available for lease no more than 60 days after its adoption.  
152
- 153        g. All uses and activities on City-owned real property available for lease are subject to all  
154        applicable local, state, and federal laws and regulations.  
155
- 156        h. The Council may restrict specific City-owned properties to certain uses or classes of use  
157        that serve the City’s best interest.  
158

159 18.08.030 Standardized leases.  
160

- 161        a. The City Manager shall develop a standardized ground lease that contains provisions  
162        generally applicable to the lease of City-owned property and a standardized building  
163        lease that contains provisions generally applicable to the lease of space in City-owned  
164        buildings. The standard lease documents shall be reviewed by the City Attorney and  
165        approved by Council.  
166

167           b. Lease terms may deviate from the standardized lease terms when the City Manager  
168           determines such deviations are reasonable and necessary to protect the City’s best  
169           interests and Council approves the lease as required in HCC 18.08.040.

170

171 18.08.040 Council approval of leases.

172

173           a. All long-term leases for more than five years shall be approved by Council via ordinance.  
174           All long-term leases for five years or less shall be approved by Council via resolution.

175

176           b. The City Manager may execute short-term leases without Council approval when the  
177           City Manager determines that a short-term lease is in the best interest of the City and  
178           notifies the Council in writing of the short-term lease and its essential terms.

179

180           c. Short-term leases are not required to go through the competitive bidding process  
181           unless the short-term lease would result in the lease of City-owned property to the  
182           same lessee for more than one consecutive year.

183

184           d. Except as expressly provided in this chapter, property leased by the City from a third  
185           party that is available for sublease or the lease of space in City-owned buildings located  
186           on real property owned by a third party is exempt from this chapter.

187

188 18.08.045 Lease applications.

189

190 Except for property subject to competitive bidding under this chapter, persons interested in  
191 leasing City property may submit a lease application to the City Clerk. The City Manager shall  
192 consider all applications and determine if an application is complete and meets the criteria  
193 identified in the Land Allocation Plan. Applicants may be charged a fee for processing a lease  
194 application.

195

196 18.08.050 Requests for proposals-competitive bidding process.

197

198           a. The City Manager may issue a request for proposals to lease specific property  
199           identified in the Land Allocation Plan at any time after posting the notice required in  
200           HCC 18.08.020(d).

201

202           b. A request for proposal advertised by the City must identify the property description of  
203           the property available for lease, the time frame for the submission of requests for  
204           proposals, any preferred uses or industries, and the overall criteria the City intends to  
205           use to score and rank proposals.

206

207 c. The City Manager must obtain approval from the Council before requesting proposals  
208 to lease property not identified in the Land Allocation Plan as property available for  
209 lease.

210

211 18.08.060 Criteria for evaluating and approving proposals.

212

213 a. The Criteria for evaluating proposals shall include, but is not limited to, the following:

214

215 1. Compatibility with neighboring uses and consistency with applicable land use  
216 regulations including the Comprehensive Plan.

217

218 2. The development plan including all phases and timetables.

219

220 3. The proposed capital investment.

221

222 4. Experience of the applicant in the proposed business or venture.

223

224 5. Financial capability or backing of the applicant including credit history, prior lease  
225 history, assets that will be used to support the proposed development.

226

227 6. The number of employees anticipated.

228

229 7. The proposed rental rate.

230

231 8. Other financial impacts such as tax revenues, stimulation of related or spin-off  
232 economic development, or the value of improvements left behind upon  
233 termination of the lease.

234

235 9. Other long term social economic development.

236

237 10. The residency or licensure of the applicant in the City, Kenai Peninsula Borough,  
238 and/or the State of Alaska, as identified in the City's request for proposal and  
239 permitted under state and federal law.

240

241 b. Determination of rent shall take into consideration the following factors:

242

243 1. Appraisal or tax assessed valuation;

244

245 2. Highest and best use of land;

246

247 3. Development (existing and planned);

248



- 249           4. Economic development objectives;
- 250
- 251           5. The location of the property; and
- 252
- 253           6. Alternative valuation methodologies as negotiated by both parties.
- 254

255 18.08.065 Lease application and proposal documents.

256  
257 Upon request by the City Manager or as required in a request for proposal, an applicant shall  
258 provide, at its sole expense, the following:

- 259
- 260           1. A Property Improvement Plan with information regarding planned improvements by
- 261                 lessee, including schedule for commencement and completion of proposed
- 262                 improvements.
- 263
- 264           2. A survey of the property subject to the proposed lease; and/or
- 265
- 266           3. If only a portion of a lot is to be leased, a subdivision plat.
- 267

268 18.08.070 Notice to award.

- 269
- 270           a. The City Manager shall consider all responses to the City’s request for proposals that
- 271                 are timely and responsive. Untimely submissions shall be returned to the applicant
- 272                 without review and that applicant shall not be considered.
- 273
- 274           b. The City Manager may, in his or her sole discretion, and upon a determination that none
- 275                 of the proposals are in the City’s best interest, recommend rejection of all proposals.
- 276
- 277           c. Upon a determination that a proposal is the most advantageous to the City, the City
- 278                 Manager shall recommend the proposal to Council for acceptance. If Council approves
- 279                 the recommendation, the City Manager shall issue a Notice to Award the lease to the
- 280                 successful applicant. The City Manager’s recommendation shall be presented to
- 281                 Council in a written memorandum identifying the recommended winning applicant,
- 282                 the property description, the essential terms of the proposed lease, and the reasons the
- 283                 City Manager recommended the award.
- 284
- 285           d. The City Manager shall submit any recommendation for approval of a proposal under
- 286                 this chapter for property located on the Homer Spit or in the Marine Commercial or
- 287                 Marine Industrial zoning districts to the Port and Harbor Advisory Commission for
- 288                 review and comment prior to recommending a proposal to Council.
- 289

- 290 e. If the Council adopts the City Manager’s recommendation, the City Manager shall  
291 negotiate with the winning applicant and present a final lease to the Council for  
292 approval. A Notice to Award is conditional upon the City Manager’s successful  
293 negotiation of a final written lease consistent with the terms upon which the award was  
294 based.  
295
- 296 f. The City Manager may, with Council approval, rescind a Notice to Award. A Notice to  
297 Award becomes void on the date the City Manager provides written notice to the  
298 applicant that the award has been rescinded.  
299
- 300 g. The City Manager may rescind a Notice to Award at any time prior to the execution of a  
301 lease if an applicant can no longer meet the terms of the proposal.  
302
- 303 h. If the City Manager rescinds a Notice to Award, the City Manager may negotiate with the  
304 next most responsive bidder and submit a new recommendation for award to Council  
305 and Council may approve the award of the proposal to that recommended bidder. If  
306 negotiations with the next most responsive bidder are unsuccessful, all bids must be  
307 rejected and a new request for proposal may be issued.  
308
- 309 i. The Council may approve other bidding or proposal procedures or exceptions to these  
310 procedures via resolution.  
311

312 18.08.075 Lease rental rates.  
313

- 314 a. Except as otherwise provided in this section, all property shall be leased at no less than  
315 “fair market rent.”  
316
- 317 b. Payments of a higher than fair market rent resulting from an applicant’s proposal is  
318 generally in the public interest and will help to establish fair market rent using current  
319 market forces.  
320
- 321 c. The Council may establish a minimum rent or “asking price.” It may set a minimum  
322 rent at an amount equal to or higher than the estimated “fair market rent” if it finds  
323 that it is in public interest to do so. It may set uniform rental rates for a class of similar  
324 properties that remain available for leasing after the conclusion of a competitive lease  
325 offering.  
326
- 327 d. Except as provided in HCC 18.08.175, Council may approve a lease of City land for less  
328 than fair market rent only if the motion approving the lease contains a finding that the  
329 lease is for a valuable public purpose or use, and a statement identifying such public  
330 purpose or use.  
331

332 e. The lease shall provide for payment of interest or a late fee for rent past due, and  
333 provide for recovery by the City of attorneys' fees and costs to the maximum extent  
334 allowed by law in the event the city is required to enforce the lease in court, and such  
335 additional provisions pertaining to defaults and remedies as the City Manager may  
336 determine to be in the City's interest.

337  
338 18.08.080 Lease execution and final approval.

339  
340 a. After a notice to award a lease is approved by Council or a lease application is  
341 approved by the City Manager, the City Manager is responsible for finalizing and  
342 executing the lease agreement with the successful applicant. After Council's approval  
343 of the Notice to Award but before Council approval under HCC 18.08.040, the City  
344 Manager may negotiate non-essential long-term lease terms and make changes  
345 necessary to clarify the terms of the long-term lease or correct clerical errors.

346  
347 b. The City Manager has authority to negotiate all terms of short-term leases subject to  
348 the provisions of this chapter.

349  
350 c. After a lease is executed by both parties, the City Manager shall draft and the City Clerk  
351 shall record a memorandum of lease. The Lessee is responsible for the recording fees.

352  
353 18.080.090 Development and use.

354  
355 a. All leases must require the lessee to comply with applicable zoning, parking, sign,  
356 flood, and other pertinent local ordinances and state and federal statutes and  
357 regulations.

358  
359 b. Except as provided otherwise in the lease agreement, an as-built survey including  
360 elevations performed by a surveyor shall be provided to the City within six months of  
361 completion of permitted or required development or requirements under a lease. Each  
362 additional structure or significant improvement shall require an additional or updated  
363 as-built. All surveys are to be provided by the lessee at their expense.

364  
365 c. Except as provided otherwise in the lease agreement, at the time each as-built is  
366 submitted, a statement of value including leaseholds and all improvements shall be  
367 provided. The Statement of Value shall be either a letter of opinion or appraisal  
368 completed by an appraiser.

369  
370 d. All development requirements and performance standards contained in the lease shall  
371 be strictly enforced and if not complied with or negotiated for modification shall be  
372 cause for the lease to be terminated. Failure to enforce the terms of the lease shall not  
373 constitute waiver of any such term.

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- e. The City may require a lease of City-owned property to be secured by any means that meet the City’s best interest, including without limitation, a security deposit, surety bond or guaranty.

18.08.100 Appraisal.

- a. An appraisal of the fair market rent of the property will be required before the final approval of a lease and at the time of review and renewal.
- b. The requirement of an appraisal may be waived at the discretion of the City Manager for short-term leases.
- c. All leased properties shall be appraised every five years from the effective date of the lease.
- d. Except as otherwise provided under this section or in a specific lease, lease rates shall be increased on the anniversary of the lease effective date to reflect property appraisal values. A lessee shall be notified of any increase in the appraised value of the property at least 30 days before the increased rental rate becomes effective.
- e. In the event an appraisal reports a decrease in fair market rent, a lessee may petition or the City Manager may recommend to the Council a reduction in the lease rate. The Council may approve a reduction if it determines via resolution that such reduction corresponds with the appraised fair market rent and the reduction is in the City’s best interest.
- f. Each year, the City will select and retain an appraiser to appraise all leased parcels due for appraisals in that year. The City will have sole discretion to select the appraiser and shall bear the cost of the appraisal.

18.08.110 Options to renew.

- a. Leases may contain no more than two options for renewal and each option must be for less than 25% of the length of the initial lease term.
- b. A lessee may not exercise an option to renew unless the City Manager determines that the lessee is in full compliance with the terms of the lease at the time of renewal.
- c. A lessee whose initial lease and all options have expired shall have no automatic right of further renewal or extensions.

416 18.08.120 Improvements.

417

418 a. Except as otherwise provided in the lease agreement, construction of improvements  
419 shall take place only after review and approval of the construction plans by the City  
420 Manager and only after all applicable permits and legal requirements are secured.

421

422 b. Any improvements not consistent with the lease agreement must be approved by  
423 Council via resolution and shall only be considered upon recommendation by the City  
424 Manager and after review by the Port and Harbor Commission, the Planning  
425 Commission, and any other advisory commission determined to be appropriate by the  
426 City Manager. Inconsistent improvements may be approved if the changes to the  
427 improvements promotes serves the City's best interest and/or when changes are  
428 necessary due to industry changes or a change in economic conditions within the city.

429

430 c. All improvements constructed upon leased property become the property of the City  
431 upon termination of the lease unless otherwise provided in the lease agreement or  
432 agreed to by the parties in writing.

433

434 d. Lessee shall be responsible for all municipal property taxes on the leasehold interest  
435 in the real property and improvements and sales taxes on the rent payments.

436

437 18.08.130 Lease renewal.

438

439 a. The Council, after reviewing a recommendation from the City Manager, may approve  
440 the renewal of a lease without requiring competitive bidding based upon the City  
441 Manager's recommendation and when Council finds that it is in the best interest of the  
442 City to enter into a new lease agreement with the current lessee without submitting  
443 the lease renewal to competitive bidding.

444

445 b. If the current lessee is interested in entering into a new lease agreement under this  
446 section, the lessee must issue a request for a new lease in writing to the City Manager  
447 at least 12 months prior to the expiration of the lease and submit a formal lease  
448 application for evaluation by the City Manager. The City Manager shall notify Council  
449 of new lease requests under this section. The City will review the application but is  
450 under no obligation to enter into a new lease.

451

452 c. If the Council approves the new lease without a competitive process, it must do so by  
453 resolution within six months of the date the lease application is filed with the City.

454

455 d. Council shall consider the following factors when determining whether to exempt a  
456 lease from competitive bidding under this subsection:

457

- 458 1. The lessee's past capital investment and binding commitment to future capital  
459 investment;
- 460
- 461 2. The lessee's financial condition and prior lease history;
- 462
- 463 3. The number of persons employed and the prospect for future employment;
- 464
- 465 4. Tax revenues and other financial benefits to the City anticipated in the future if the  
466 lease is renewed;
- 467
- 468 5. Consistency of the past use and intended future use with all applicable land use  
469 codes and regulations, the Comprehensive Plan, and Overall Economic  
470 Development Plan;
- 471
- 472 6. Other opportunities for use of the property that may provide greater benefit to the  
473 City; and,
- 474
- 475 7. Other social, policy, and economic considerations as determined by the Council.  
476

477 18.08.140 Sublease.

- 478
- 479 a. City property may be subleased if expressly permitted in the lease agreement and  
480 approved in writing by Council.
- 481
- 482 b. Except as provided otherwise in the lease agreement, all subleases must be in writing  
483 and executed by the parties, and approved by Council after a recommendation is  
484 provided by the City Manager.
- 485
- 486 c. Approval must be granted prior to occupancy of the leased premises by the sub-  
487 tenant.
- 488
- 489 e. A lessee shall be assessed additional rent, equal to at least 10 percent of the current  
490 rent for the subleased area, upon approval of a sublease.
- 491
- 492 f. Subleasing shall not be used as a method to accomplish the transfer of interest in the  
493 entire leasehold.
- 494
- 495 g. All subleases must comply with all relevant federal, state, and local laws.  
496

497 18.08.150 Early termination.

498

499 Except as provided otherwise in the lease agreement, Council shall approve the termination of  
500 a lease for failure to comply with the lease terms. The City Attorney shall be consulted prior to  
501 the termination of a long-term lease. The City Manager shall seek approval of termination from  
502 Council in executive session. The name of lessee and description of the leased property shall  
503 not be included in any public notices or documents circulated unless and until Council  
504 approves termination of the lease under this section. The City Manager shall notify a lessee in  
505 writing that Council will be considering termination of the lease in executive session and  
506 provide the date, time, and place of the executive session. Lessee may waive the right to  
507 confidentiality under this section and request that Council hold its discussion in public. This  
508 section shall not prevent the City from sending lessee or other parties with an interest in the  
509 lease notifications or correspondence related to the lease or lessee's compliance with its  
510 terms.

511  
512 18.08.160 Assignment.

- 513
- 514 a. Except as provided in the lease agreement, Council must approve the assignment of a  
515 lease to another party.
  - 516
  - 517 b. Except as otherwise provided in this subsection and subject to the terms of the lease  
518 agreement, the City Manager must make a determination that a lessee is in full  
519 compliance with a lease before an assignment will be effective. The City Manager may  
520 enter into an agreement with an assignor or an assignee consenting to assignment  
521 conditional upon payment of any outstanding amount due under the lease no more  
522 than 90 after assignment.
  - 523
  - 524 c. Except as otherwise provided in a lease agreement, if the lessee is in good standing and  
525 eligible to assign the lease, the following procedures apply:  
526
    - 527 1. The lessee shall file a written request for assignment and a new lease application to  
528 the City Manager;
    - 529
    - 530 2. The City Manager shall review the request and assignment document(s) and  
531 determine whether the proposed assignee is qualified under this chapter and the  
532 assignment is in the City's best interests;
    - 533
    - 534 3. The City Manager shall make a recommendation on the assignment to Council for  
535 final action; and
    - 536
    - 537 4. The Council shall approve or deny the request for assignment via resolution.
    - 538
    - 539 5. Assignment of long-term leases on the Homer Spit or within the Marine  
540 Commercial or Marine Industrial zoning districts shall be reviewed by the Port and

541 Harbor Advisory Commission prior to submission to Council for approval. Except  
542 as otherwise provided in a specific lease agreement, assignment of all other long-  
543 term leases shall be reviewed by the Homer Advisory Planning Commission for  
544 recommendations prior to Council approval.

545  
546 d. The Council may approve assignment of a lease to a bank or other financial institutions  
547 for financing or other reasons if it determines the assignment is in the best interest of  
548 the City and upon recommendation by the City Manager.

549  
550 e. Where a lessee intends to assign the lease as part of a sale of the business located on  
551 the lease lot, the person who intends to purchase the business may apply to extend the  
552 lease term to allow the continuation of the business and to secure financing for the  
553 purchase.

554

555 18.08.170 Insurance.

556  
557 a. All lessees shall keep in force for the full term of the lease public liability insurance in  
558 the amount of not less than \$1 Million coverage per occurrence for bodily injury,  
559 including death, and property damage. The City shall be named as an additional  
560 insured.

561  
562 b. Lessees who intend to conduct activities which could potentially have significant risk  
563 of environmental contamination shall also obtain not less than \$2 Million in  
564 Environmental Impact insurance and/or Environmental Clean-up Policy, or the  
565 equivalent subject to review and approval by the City Manager. The City shall be named  
566 as an additional insured. The City will determine on a case-by-case basis whether a  
567 lease of City property will involve a significant risk of environmental contamination due  
568 to the use of the property, the presence of hazardous materials, or the location of the  
569 property.

570  
571 c. Certificates of Insurance showing the required insurance is in effect and identifying the  
572 City as an additional insured shall be provided to the City at the time a lease becomes  
573 effective and annually thereafter, and upon every change in insurance provider or  
574 insurance coverage.

575  
576 d. All insurance policies must be in effect for the duration of the lease term, or longer if  
577 stated in the lease, and the City must be notified of any changes to policies.

578  
579 e. A lease agreement may require insurance requirements that exceed those required in  
580 this section.

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582 18.08.175 Exception-leasing to government entities.



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- a. Except as otherwise prohibited by law, leases to federal or state government entities or political subdivisions or agencies of the State of Alaska or the United States may be, upon a finding by Council that it is in the best interest to do so, exempted from the requirements of this chapter.
  
- b. The City may lease real property to the United States, the State of Alaska, a political subdivision of the State, or an agency of any of these entities, for consideration agreed upon between the parties for less than fair market rent if the Council determines that the lease or license is in the City’s best interest.

18.08.180 Assessments – Capital improvement projects.

- a. A lessee of City property shall pay all real property special assessments levied and assessed against the property to the full extent of installments billed during the term of the lease.
  
- b. In the event the City completes a capital improvement project which directly benefits the leasehold property and no local improvement district is formed to pay the cost thereof, the City may, in its sole discretion, impose, and the lessee shall pay as additional rent, the leasehold property’s proportionate share of the cost of the improvement. The amount of additional rent imposed annually by the City under this subsection shall not exceed the amount which would have been payable annually by the lessee if a local improvement district had been formed which provided for installment payments on a schedule and bearing interest at rates typical of other local improvement districts of the City for that type of capital improvement.

18.08.190 Connection to utilities.

A lessee of City real property shall connect to City utilities and bear all costs of connections and adhere to all applicable local, State and Federal regulations. Connections to newly installed City utilities shall be made as soon as possible after completion.

18.08.195 Processing and filing fees.

Fees for lease applications, lease fees, sublease and assignment fees, and other related fees shall be established by Council by resolution. Failure to pay fees owed may result in the rejection of a lease application or denial of renewal, assignment or sublease.

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

625 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS \_\_ DAY OF \_\_\_\_\_, 2018.

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CITY OF HOMER

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BRYAN ZAK, MAYOR

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633 ATTEST:

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\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK

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640 YES:

641 NO:

642 ABSTAIN:

643 ABSENT:

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646 First Reading:

647 Public Hearing:

648 Second Reading:

649 Effective Date:

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653 Reviewed and approved as to form:

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\_\_\_\_\_  
Mary K. Koester, City Manager

\_\_\_\_\_  
Holly Wells, City Attorney

658

659 Date:\_\_\_\_\_

Date:\_\_\_\_\_

# CITY MANAGER'S REPORT





## 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

TO: Mayor Zak and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: March 21, 2018  
SUBJECT: March 27 City Manager's Report

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### Project Updates from ADOT

Joselyn Biloan, a Planner with the State of Alaska Department of Transportation & Public Facilities met with City Planner Abboud, Public Works Director Meyer, Harbormaster Hawkins and myself to update the City on several Homer area projects. The scope of work for the 2018 season includes intersection improvements at Main Street and the Sterling Highway and improvements at the Airport such as perimeter fencing, wind cone replacements and design of a storage building.

Repaving Lake Street - 2,500 linear feet of pavement from Pioneer Avenue to the Sterling Highway with sidewalks and drainage improvements, is scheduled for 2019 at the earliest. Postponed until 2019 is the Pioneer Avenue resurfacing project that includes drainage, signage, striping, ADA curb ramps and sidewalk improvements.

East and West Hill Road improvements are on the radar too. The projects may include resurfacing, signage, striping, drainage, curb ramps, guardrails, lighting and utility relocation.

### State of the City address

The Homer Chamber of Commerce invited me to address their membership in a State of the City Address on March 13<sup>th</sup>. My comments started with reference to the steady nature of growth in Homer and the health of our diverse economy, especially when compared to other parts of Alaska. I went into detail regarding the end of the suspension of the Homer Accelerated Roads and Trails (HART) sales tax and what using those funds for road maintenance looks like for the 2019 budget. I also gave them an update on important capital projects for the City: the Police Station in the near term and the Large Vessel Harbor as a major long-term economic development project. The tenor of my presentation was generally upbeat and optimistic: the City and the Community of Homer have been proactive in addressing fiscal issues and creative in coming together to solve problems and meet the community's needs. I was rewarded for my time with a case of toilet paper; a humorous yet practical twist on the Homer Chamber of Commerce shop local campaign. I really appreciated the opportunity to present to the group and share how great the City is doing.

### Preferred Alternative Selected for Cooper Landing Bypass Project

After much public process, the Alaska Department of Transportation and Public Facilities selected Juneau Creek as the preferred alternative for the Cooper Landing Bypass project this month. The City of Homer signed a joint letter with Kenai Peninsula Mayors expressing concern with the G-South Alternative, which would have exposed a lot of traffic, and potential, for contamination, to the Kenai River. The Department will now collect further public involvement, after which one of the 4 alternative designs will be chosen. This project has been in the planning stages for over 30 years. Visit [www.sterlinghighway.net](http://www.sterlinghighway.net) for more information on the project and different designs.

### City of Homer Road Miles Maintained

Council has requested information on the increase in road miles maintained over the years. I appreciate the opportunity to take a historical look at road maintenance. It is easy to absorb the impact of a few extra feet of road here and there; however it is important to acknowledge that all those feet add up and have an impact on the City’s ability to provide services.

Below is information regarding road miles maintained from Public Works Director Meyer:

	Total Miles	# of Equipment Operators	Operators per Road Mile
Road Maintained 2001	27.14	4	6.8
Roads Maintained 2001 after Annexation	40.24	5	8.0
Roads added since 2006	6.56		
Roads Currently Maintained	46.8	4.5	10.4

### Sales Tax Data

Data on taxable sales is in for 2017. Revenue is up just shy of 2% (or a little over \$100,000) from 2017 budget, which is great news considering the 2017 budget took into account a steady increase in sales tax returns over the last few years. It is promising to see the trend continue. The attached chart details taxable sales by line of business and tells an interesting story about the economy of Homer. Not surprisingly, retail makes up almost half of the taxable sales in Homer. Right behind it are visitor services such as restaurant/bar, lodging, and guiding.

## **Fire Chief Kadel**

I am pleased to announce that Assistant Fire Chief Terry Kadel has accepted a permanent position as Fire Chief with the Homer Volunteer Fire Department. As you know, Terry Kadel has been serving as Acting Fire Chief since Chief Robert Painter's retirement in January. Chief Kadel is a strong communicator, understands complex organizations and has the leadership skills to grow the department. I am confident Chief Kadel will provide clear direction for the amazing group of staff and volunteers that sign up to protect our homes and property and are there for us in an emergency. I am hoping to advertise the Assistant Fire Chief position as soon as possible so we can move quickly and have a complete leadership team at the Homer Volunteer Fire Department. A ceremony officially swearing Chief Kadel in as Fire Chief is scheduled for the April 9<sup>th</sup> meeting.

The SAFER grant will provide assistance for funding HVFD staff through 2018, though the City will apply for the additional 6 months missed on the front end of the grant for the first half of 2019. I will be requesting funding for the Assistant Chief position in the 2019 budget with the hopes of being reimbursed for 6 months of salary through SAFER.

Enc:

City of Homer Taxable Sales by Line of Business  
Letter of Support for Kachemak Bay Family Planning Clinic





**City of Homer**

Taxable Sales by Line of Business

For Period of 1/2017-12/2017

	% of Sales	1/2017-12/2017	1/2016-12/2016	1/2015-12/2015	1/2014-12/2014	% Change	
						1 Year	3 Year
RETAIL TRADE	46.46%	83,682,658	81,563,672	80,772,233	84,047,749	2.60%	-0.43%
RESTAURANT/BAR	11.56%	20,818,300	20,525,258	19,519,154	17,887,144	1.43%	16.39%
HOTEL/MOTEL/BED & BREAKFA	8.13%	14,640,751	15,253,912	14,508,831	13,508,318	-4.02%	8.38%
GUIDING	5.10%	9,191,177	9,134,727	7,861,951	7,896,849	0.62%	16.39%
SERVICES	5.03%	9,063,831	7,924,876	7,567,805	7,430,554	14.37%	21.98%
UTILITIES	4.59%	8,267,214	7,438,399	7,365,131	6,958,442	11.14%	18.81%
PUBLIC ADMINISTRATION	3.31%	5,970,332	4,938,287	5,578,535	5,248,008	20.90%	13.76%
RENTAL RESIDENTAL PROPERT	3.04%	5,470,115	5,344,611	5,131,346	4,719,617	2.35%	15.90%
INFORMATION	2.57%	4,624,712	4,771,335	5,522,868	5,333,836	-3.07%	-13.29%
PROFESSIONAL, SCIENTIFIC	1.61%	2,892,536	2,806,618	2,714,452	2,122,648	3.06%	36.27%
TRANSPORTATION AND WAREHO	1.51%	2,728,929	2,060,341	1,886,266	2,010,119	32.45%	35.76%
TELECOMMUNICATIONS	0.95%	1,713,470	1,636,001	1,544,909	1,562,454	4.74%	9.67%
CONSTRUCTION CONTRACTING	0.93%	1,673,552	1,743,827	1,603,726	1,798,443	-4.03%	-6.94%
MANUFACTURING	0.88%	1,589,299	1,532,052	1,364,185	1,600,188	3.74%	-0.68%
RENTAL OF SELF-STORAGE &	0.72%	1,295,285	1,575,368	1,628,733	1,697,016	-17.78%	-23.67%
ARTS AND ENTERTAINMENT	0.71%	1,273,940	1,240,742	1,177,032	1,017,374	2.68%	25.22%
WHOLESALE TRADE	0.67%	1,211,058	1,170,229	1,127,491	1,375,377	3.49%	-11.95%
ADMINISTRATIVE, WASTE MAN	0.52%	933,946	1,171,334	1,170,222	1,252,800	-20.27%	-25.45%
RENTAL NON-RESIDENTAL PRO	0.39%	699,535	722,907	679,209	572,754	-3.23%	22.14%
RENTAL PERSONAL PROPERTY	0.38%	682,954	637,324	685,412	843,466	7.16%	-19.03%
AGRICULTURE, FORESTRY, FI	0.23%	417,608	287,179	219,508	191,231	45.42%	118.38%
HEALTH CARE AND SOCIAL AS	0.23%	406,823	316,404	228,341	231,073	28.58%	76.06%
RENTAL COMMERCIAL PROPERT	0.18%	318,506	225,359	208,962	183,443	41.33%	73.63%
EDUCATIONAL SERVICES	0.14%	244,672	238,290	227,241	220,947	2.68%	10.74%
REMEDICATION SERVICES	0.12%	216,679	187,201	200,371	449,077	15.75%	-51.75%
FINANCE AND INSURANCE	0.05%	98,445	66,811	55,809	65,529	47.35%	50.23%
Other	0.00%	1,430	487	3,500	2,000	193.63%	-28.50%
<b>Grand Totals</b>	<b>100.00%</b>	<b>180,127,757</b>	<b>174,513,551</b>	<b>170,553,223</b>	<b>170,226,456</b>	<b>3.22%</b>	<b>5.82%</b>





## City of Homer

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

## Office of the Mayor

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

March 27, 2018

Kachemak Bay Family Planning Clinic  
3959 Ben Walters Lane  
Homer, AK 99603

Dear Ms. Reynolds,

I am writing in support of Kachemak Bay Family Planning Clinic's (KBFP) proposal to the State of Alaska Department of Health and Social Services Teen and Unintended Pregnancy Prevention Grant Program to continue its Peer Education program in the local schools.

KBFP Youth Programs already successfully deliver the Resiliency Informed Sexual Health and Wellness Lesson Package in middle and high schools across our community. Their accompanying Adult Talks create a high level of parental and community engagement. KBFP has the skills and expertise in place to successfully continue this community service.

Kenai Peninsula Borough School District teachers do not currently receive training in sexual health education. Consensus from school staff on the lower Kenai Peninsula is that young people need to receive information about sexual and reproductive health earlier and consistently. Teen and Unintended Pregnancy Prevention Grant Program funding will allow KBFP to continue and expand its Resiliency Informed Sexual Health and Wellness Lesson Package, strengthening its existing program.

Continued funding through the Teen and Unintended Prevention Grant Program will sustain important capacity building activities to further solidify KBFP's ability to provide sexual health and human development education to youth on the southern Kenai Peninsula far into the future; a critical need for our community.

KBFP's Peer Education program is the only program of its kind on the Southern Kenai Peninsula. KBFP's experience implementing the Resiliency Informed Sexual Health and Wellness Lesson Package for two years, coupled with its 20 year history of teaching sexual health education in the local schools built a strong foundation to successfully meet and support the goals of the Teen and Unintended Pregnancy Prevention Grant Program.

Sincerely,

Bryan Zak, Mayor



# CITY ATTORNEY REPORT



# COMMITTEE REPORTS





PENDING BUSINESS



# NEW BUSINESS



# RESOLUTIONS



CITY OF HOMER  
HOMER, ALASKA

Smith

RESOLUTION 18-034

A RESOLUTION OF THE HOMER CITY COUNCIL REQUESTING THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (AKDOT/PF) INSTALL A CROSSWALK ON LAKE STREET WHERE GRUBSTAKE MEETS LAKE STREET AS PART OF THE HOMER LAKE STREET REHABILITATION PROJECT.

WHEREAS, The City of Homer completed the Grubstake extension in 2016 which empties traffic out onto Lake Street; and

WHEREAS, Part of the Grubstake extension project the City installed pedestrian and cyclist amenities such as a bike lane, sidewalk, curb and gutter; and

WHEREAS, Pedestrian traffic onto Lake Street has increased as a result of these improvements; and

WHEREAS, A crosswalk at this location would increase pedestrian safety; and

WHEREAS, The Alaska Department of Transportation and Public Facilities is planning on rehabilitating and repaving Lake Street in 2019; and

WHEREAS, Installing a crosswalk during the repaving of Lake Street will allow for a long lasting paint to be embedded into the pavement prolonging the life and visibility of the crosswalk.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, respectfully requests the Alaska Department of Transportation and Public Facilities install a crosswalk where Grubstake meets Lake Street as part of the Homer Lake Street Rehabilitation Project.

CITY OF HOMER

\_\_\_\_\_  
BRYAN ZAK, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA JACOBSEN, MMC, CITY CLERK





# Alaska Department of Transportation & Public Facilities / Central Region

## Homer Lake Street Rehabilitation



### Open House

When: Tuesday, June 6, 2017

Stop by any time between 6 and 9 p.m.

Where: City Hall Cowles Council Chambers

491 E Pioneer Avenue, Homer

### Project Overview

The Homer Lake Street project will rehabilitate Lake Street between the Sterling Highway and Pioneer Avenue/East End Road. The project is intended to extend the life of the roadway, improve pedestrian and bicycle facilities, and improve drainage.

This phase of the project includes right-of-way appraisal and acquisition. Previous work on the project includes geotechnical exploration, ground survey, and environmental documentation. Design documents are 75% complete. The project will:

- Rehabilitate 2,500 feet of pavement;
- Widen the road to the west and add bike lanes to both sides of the road;
- Reconstruct curb/gutter and sidewalk on the east side of the road;
- Re-establish existing ditches;
- Improve drainage by replacing failing culverts;
- Acquire right-of-way interests as needed; and
- Relocate utilities as needed.



The project will rehabilitate a crucial link in Homer's road network. The project team will coordinate with Homer drivers, bicyclists, pedestrians and individual property owners through the remaining work on the project.

Department of Transportation & Public Facilities  
PO Box 112500  
3132 Channel Drive  
Juneau, Alaska 99811-2500

## [Contact Information](#)

State of Alaska © 2011 [Web Manager](#)

# Project Information

- [Project Overview](#)
- [Public Involvement Documentation](#)
- [Schedule](#)
- [Project Comments](#)
- [Frequently Asked Questions.](#)

## **Contact Information**

Clint Adler, P.E., Project Manager  
DOT&PF, Highway Design Section  
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Suzanne Taylor, PM/Planner  
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Join our Project  
Email List

Join

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



