



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

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Memorandum Agenda Changes/Supplemental Packet

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: OCTOBER 22, 2018
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CONSENT AGENDA

Resolution 18-077, A Resolution of the City Council of Homer, Alaska Amending the Homer Fee Schedule under Library fees, Public Works Fees, Renaming Camping Fees to Camping and Parks Fees and Amending Camping and Parks Fees. City Clerk.

Memorandum from Library Advisory Board as backup.

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PUBLIC HEARING

Ordinance 18-41, An Ordinance of the City Council of Homer, Alaska, Amending HCC 21.61.040(b) to Codify the City Council's Role as the Local Regulatory Authority under AS 17.38 and Authorizing Council to Decide Whether to Protest Marijuana Establishment Applications filed with the State of Alaska for Sites Within the City of Homer. City Clerk.

Memorandum from Planning Commission as backup.

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Ordinance 18-43, An Ordinance of the City Council of Homer, Alaska Prohibiting Sellers from Providing Buyers with Single-Use Disposable Shopping Bags. Venuti. Introduction September 24, 2018, Public Hearing October 8 and 22, 2018 and Second Reading October 22, 2018.

Ordinance 18-43(S), An Ordinance of the ~~Homer City Council Prohibiting Sellers From Providing Buyers Single-Use Plastic Carry Out Bags.~~ **City Council of Homer, Alaska, Submitting A Ballot Question To The Voters At The October 1, 2019 Regular Municipal Election Inquiring**

Whether To Amend City Code To Prohibit Sellers From Providing Buyers Single-Use Plastic Carry Out Bags.

Initiative and petition process information requested by Councilmember Smith
Page 7

RESOLUTIONS

Resolution 18-083, A Resolution of the City Council of Homer, Alaska, Amending the Homer City Council Operating Manual under City Council Agenda and Meeting Conduct Guidelines to Delete Item 3, Mayoral Recognitions and Proclamations and Item 12. City Attorney Report, and Amend Item 8. Announcements/Presentations/Borough Reports Commission Reports to Include Committee Reports; and Updating Conflict of Interest and Code of Ethics Sections. Mayor.

Attachment from City Clerk outlining amendments with strikeouts and bold underline.
Page 13

Resolution 18-085, A Resolution of the City Council of Homer, Alaska, Amending City of Homer Personnel Regulations, Chapter 3, Section 3.13 Part-Time Appointments, Section 3.14.1 Employment Of Relatives, Chapter 5, Section 5.1.2 Schedule Revisions, Chapter 6, Section 6.1.1 Part-Time Employees, Section 6.2 Leave With Pay, Section 6.8.1 Part-Time, Section 6.9.1 Part-Time, Section 6.10.1 Part-Time, Section 6.11.1 Part-Time, Chapter 7, Section 7.2.1 Probationary Period, Chapter 8, Section 8.8.3 Step 3, Section 8.8.4 Step 4, Section 8.9.3 Political Activity. City Manager/Personnel Director.

Written public comment
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Memorandum

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: LIBRARY ADVISORY BOARD

THRU: RACHEL TUSSEY, DEPUTY CITY CLERK

DATE: OCTOBER 22, 2018

SUBJECT: LIBRARY FEE SCHEDULE AMENDMENTS

At their October 1, 2018 special meeting, Library Director Dixon proposed the following fee schedule amendments to the Library Advisory Board:

- 1) **Overdue items/Digital Devices – Change to \$1/day.** Reasons: The \$5/day fine was initiated some years ago when e-readers were relatively new, expensive, and we first circulated them. The e-readers and mp3 players we have are now so old they aren't worth much. Nor are they checked out much. The only other digital devices we currently circulate are mini-robots. We have not had any problems with those being returned. Additionally, we've found in general that overdue items are more likely to be returned if the fines are affordable rather than punitive.
- 2) **Bill notice/Maximum overdue charge per item – Delete “(except digital devices)”** to align with above change.
- 3) **Replacement/repair of items/Lost out-of-print items/\$50/Alaskana – Add “or replacement cost, if higher.”** Some Alaskana costs more than \$50 to replace.
- 4) **Replacement/repair of items/Lost out-of-print items – Delete “\$40/nonfiction” and “\$35/fiction.”** These books are routinely charged at replacement cost, which is a more accurate figure.

The board reviewed and approved these changes; below is an excerpt from the special meeting minutes:

B. Fee Schedule Review

There was questions and discussion on the fee schedule and the proposed changes. Library Director Dixon explained how library staff had reviewed their fee schedule and noted some items needing revision, such as:

- *Overdue Items/Digital Devices*
- *Bill Notice/Maximum Overdue Charge per Item*
- *Replacement/Repair of Items for Alaskana Lost Out-of-Print Items*
- *Replacement/Repair of Items for Non-Fiction and Fiction Lost Out-of-Print Items*

FINN/MASSION MOVED TO RECOMMEND TO CITY COUNCIL TO APPROVE THE PROPOSED AMENDMENTS TO THE LIBRARY'S FEE SHCEDULE.

There was no further discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Recommendation

Approve the proposed amendments to the Homer Public Library's fee schedule.



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Memorandum

TO: MAYOR CASTNER AND CITY COUNCIL

FROM: ADVISORY PLANNING COMMISSION

THRU: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: OCTOBER 22, 2018

SUBJECT: ORDINANCE 18-41 AMENDING HCC 21.61.040(b) TO CODIFY THE CITY COUNCIL'S ROLE AS THE LOCAL REGULATORY AUTHORITY

The Planning Commission introduced Ordinance 18-41 at their regular meeting on September 18, 2018. There was a brief discussion with City Planner Abboud explaining the reason for making this amendment to city code. The Commission agreed by unanimous consent to move it forward to Public Hearing.

At the October 3, 2018 regular meeting of the Advisory Planning Commission a Public Hearing was held there was no Public testimony during the Public Hearing. The Commissioners approved Ordinance 18-41 by unanimous consent.

Following is the excerpt from the minutes for the September 19, 2018 and October 3, 2018 regular meetings.

September 19, 2018

Regular Meeting

NEW BUSINESS

A. Staff Report 18-62, Amending HCC 21.61.040(b) to codify the City Council's Role as the local regulatory authority.

City Planner Abboud provided a brief explanation on the reason to bring this change forward and what it will provide.

BENTZ/HIGHLAND MOVED TO FORWARD DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.61.040(B) CODIFYING THE CITY COUNCIL'S ROLE AS THE LOCAL REGULATORY AUTHORITY TO PUBLIC HEARING AT THE NEXT REGULAR MEETING OF THE COMMISSION.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Advisory Planning Commission

October 3, 2018

Regular Meeting

PUBLIC HEARINGS

A. Staff Report 18-64, Ordinance 18-41, an Ordinance of the City Council of Homer, Alaska, Amending HCC 21.61.040(b) to codify the City Council's role as the local regulatory authority under AS 17.38 and authorizing Council to decide whether to protest marijuana establishment applications filed with the State of Alaska for sites within the City of Homer

City Planner Abboud provided his report to the commission. He noted that his review reflects the requirements for zoning purposes. This action will allow Council to hear other comments regarding proposed licenses within the city.

Chair Venuti opened the Public Hearing seeing no one come forward to comment he closed the Public Hearing.

Commissioners asked questions on how many licenses there were in the city limits, the types of licenses this would cover, what the change would really mean since these go before City Council at this time.

Staff explained that it makes it a formal process where Council can offer recommendations to the Marijuana Board if there are any issues such as unpaid taxes, or increased incidents that required Homer Police attention.

BOS/HIGHLAND MOVE TO ADOPT STAFF REPORT 18-64, ORDINANCE 18-41, AN ORDINANCE AMENDING HCC 21.61.040(b) TO CODIFY THE CITY COUNCIL'S ROLE AS THE LOCAL REGULATORY AUTHORITY UNDER AS 17.38 AND AUTHORIZING COUNCIL TO DECIDE WHETHER TO PROTEST MARIJUANA ESTABLISHMENT APPLICATIONS FILED WITH THE STATE OF ALASKA FOR SITES WITHIN THE CITY OF HOMER

Commissioner Banks offered comments on item e. with comparison to granting felons voting rights and did not feel that it should be included.

Staff reminded the Commission that the City is not the authority to make a final decision and Council will be just submitting recommendations. The Marijuana Control Board will consider the recommendations submitted by Council and can either approve or not.

City Planner Abboud provided clarification on recommendations from the Commission to the City Council would be considered.

VOTE. NON-OBJECTION. UANIMOUS CONSENT.

Motion approved.

Chapter 4.60 INITIATIVE, REFERENDUM AND RECALL

Sections:

[4.60.010](#) Public statement and process.

[4.60.020](#) Recall.

4.60.010 Public statement and process.

The initiative and referendum are forms of direct democracy and as such their availability to, and utilization by, the public must be facilitated while, at the same time, the integrity of the procedures must be maintained through mechanisms which discourage, reduce, and prevent both the occurrence and appearance of fraud. Further, in order to ensure clear, fixed and reliable standards, it is necessary that citizens and those officials charged with the validation of petitions be able to rely on designated official, published maps, plats and records of the City of Homer, Kenai Peninsula Borough and on the published voter registration records of the State. The provisions of AS [29.26](#), Article 2, Initiative and Referendum, are incorporated into this chapter as if fully set out. [Ord. [95-1\(S\)](#), 1995].

4.60.020 Recall.

The provisions of AS [29.26](#), Article 3, Recall, are incorporated into this chapter as if fully set out. [Ord. [95-1\(S\)](#), 1995].

The Homer City Code is current through Ordinance 18-36, passed August 13, 2018.

Disclaimer: The City Clerk's Office has the official version of the Homer City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Article 02.

INITIATIVE AND REFERENDUM

Sec. 29.26.100. Reservation of powers. The powers of initiative and referendum are reserved to the residents of municipalities, except the powers do not extend to matters restricted by art. XI, Sec. 7 of the state constitution.

Sec. 29.26.110. Application for petition.

(a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application shall be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.26.100;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Contents of petition.

(a) Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the municipal clerk. Each copy of the petition must contain

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the clerk;
- (4) notice that signatures must be secured within 90 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of

the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(7) space for indicating the total number of signatures on the petition.

(b) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(c) The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

Sec. 29.26.130. Signature requirements.

(a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform the contact person in writing. Except as provided in (e) of this section, a petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date written notice is given to the contact person that the petition is available, equal to

(1) 25 percent of the votes cast if a municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw the signer's signature on written application to the clerk before certification of the petition.

(e) If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of a municipality, only voters residing in the affected area may sign the petition. The clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available equal to

(1) 25 percent of the votes cast if the area has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the area has 7,500 persons or more.

Sec. 29.26.140. Sufficiency of petition.

(a) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall

(1) certify on the petition whether it is sufficient; and

(2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after a supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Sec. 29.26.150. Protest

If the municipal clerk certifies that an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the governing body. The governing body shall hear and decide the protest.

Sec. 29.26.160. New petition.

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

Sec. 29.26.170. Initiative election.

(a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after the certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(b) If the governing body adopts substantially the same measure, the petition is void, and the matter initiated may not be placed before the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

Sec. 29.26.180. Referendum election.

(a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(b) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

Sec. 29.26.190. Effect.

(a) The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

(b) If an ordinance or resolution is repealed in a referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of two years.

(c) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified

CITY COUNCIL AGENDA & MEETING CONDUCT GUIDELINES

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

HCC 2.08.040(h) (Bylaws)

Four council members (quorum) is required.

Pledge of Allegiance will be said for all Regular and Special Meetings.

2. APPROVAL OF THE AGENDA

The agenda closes at 11:00 a.m., Wednesday before the Council meeting. HCC 2.08.040(d)(3) requires unanimous consent of the Council to add (or remove) business items from the agenda. Tentative agenda items, type of enactment and subject only, need to be to the City Clerk by Thursday of the week proceeding Council packet week. The final packet ready document(s) need to be to the City Clerk as soon as possible prior to 11:00 a.m. on the Wednesday for packet review. Any late agenda item not meeting the tentative agenda deadline and/or not meeting the packet deadline shall be discussed with the Mayor by the submitter if a Councilmember. All other late items, unless of an immediate nature, shall be placed on the next tentative agenda. (Reso 03-84, 2003; Reso 03-81, 2003).

~~3. **MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS**~~

~~Mayoral recognitions and mayoral proclamations must be approved by the Mayor. A request must be made timely for inclusion in the City Council packet. Official action of the City Council is not taken under this agenda item. (Reso 16-122, 2016).~~

4.3. PUBLIC COMMENTS REGARDING ITEMS ALREADY ON THE AGENDA

No prior arrangement is required. The public may have unrestricted access to the City Council for comments regarding matters already on the agenda with the exception of matters listed under Public Hearings or questions on presentations given under Visitors section of the agenda; these should be held until Comments of the Audience. Those giving testimony are requested to preface remarks with their name & address for the record. The Mayor will provide time limitations on presentations based on the volume of business before the Council. No official action will be taken by the Council under this business item. Any comments regarding Board of Adjustment hearings must be on procedure only. No comments that contain any argument or new evidence are acceptable and are subject to being cut short by the Mayor and/or Council.

5.4. RECONSIDERATION

When a Councilmember has issued notice of reconsideration on an item, the reconsideration is acted upon at this point in the meeting. The Item to be reconsidered is placed under Pending Business, Ordinances or Resolutions - depending on the item.

65. CONSENT AGENDA

The following business items are appropriate for the consent agenda. These items are acted upon by one motion for approval of the Consent Agenda. If discussion is requested on an item that item may be removed from the Consent Agenda and placed on the Regular Agenda.

- 1) Minutes approval
- 2) Liquor license renewals and transfers
- 3) Any gaming permit requiring approval of the local government unit.
- 4) Confirmation of Commission & Board Appointments
- 5) Resolutions (of a general nature required for normal business operations of the City)
- 6) Requests to hold Executive Session. (Executive Session will typically be conducted at the end of business, just prior to Audience Comments, unless the Mayor calls for the Executive Session to be held at another point in the agenda.) (Reso 03-140, 10/27/03).
- 7) Change Orders
- 8) Travel Authorization (Reso 00-08, 1/10/00).
- 9) Ordinance introduction and first reading and setting the public hearing date and second reading date. (Reso 00-82, 8/28/00).

The Mayor or any Councilmember, whether a/the sponsor or not, may remove an item and place that item on the Regular Agenda during the Tentative Agenda period and up until the printing and distribution of the packet. The City Clerk shall notify the sponsor(s) of said change. The Mayor and Council shall have agendas with blank lines under Consent Agenda, Ordinances, New Business and Resolutions for the purposes of keeping track of changes to the Consent Agenda, Ordinances, New Business and Resolutions.

This format shall be utilized as much as it reasonable for the Standing Committees, Committees, Task Forces and the like. (Reso 06-132, 09/25/06).

76. VISITOR(S)

These requests must be approved by the City Manager or Mayor. To be placed in the visitors category, an outline, letter, or other descriptive material must be provided (timely) for distribution in the City Council Packet. Official action of the City Council is not taken under this agenda item. NO questions from the audience will be taken until "Comments of the Audience"

87. ANNOUNCEMENTS/PRESENTATIONS BOROUGH, COMMISSION & COMMITTEE REPORTS

Announcements are made from the council table (Council Members, Mayor or City Manager). The Chair may be provided written information in advance of the meeting to announce for non-Councilmembers, at the Chair's discretion. Borough or Advisory Commission reports may also be presented at this time. No action by Council will be made

here, although the Council may request a matter brought to their attention in a report be placed on an agenda for a future meeting. Travel Narrative Reports. (Reso 00-08, 1/10/00).

98. PUBLIC HEARINGS

This agenda item is intended to provide for formal hearing testimony regarding ordinances, resolutions, or as directed by the Chair or majority of City Council. Those giving testimony are requested to preface remarks with their name and address for the record.

Public Hearing testimony may be time limited by the Chair. Council may make inquiries of those giving testimony. After the public has finished testifying the City Council may take final action, including amendments, on an Ordinance, provided that the public has been notified that such action may occur at this time and shall follow the other procedures as outlined under Item 9. (Reso 01-36, 06/11/01; Ord 01-18, 06/12/01).

109. ORDINANCES

For first and subsequent readings including the final reading of ordinances, and all formal votes on motions of amendment, adoption or other disposition of ordinances. Votes are taken by roll call. Placement of an ordinance is limited to the City Manager, Mayor or Council Members. However, introduction/first reading of Ordinances and setting of public hearing may be placed on the Consent Agenda. Ordinances may be postponed at introduction or subsequent readings to the next regular or special meeting.

Editing form for Ordinances: Deletions are characterized strike over and may be in brackets. Additions are characterized by bold lettering and underlining.

Sponsors, authors, Directed by Council or Requested by staff may be placed at the top of the Ordinance. (Reso 01-36, 06/11/01; Ord 01-18, 06/12/01).

1110. CITY MANAGER'S REPORT

The Manager or his designee reports to the City Council. Questions and answers between the Council and Manager are appropriate. Official action is not taken by the Council under this agenda item. A monthly report will be provided in the Council informational packet.

1211. CITY ATTORNEY REPORT

The Attorney reports to the City Council. Questions and answers between the Council and the Attorney are appropriate. Official action is not taken by the Council under this agenda item. A monthly report will be provided in the Council informational packet.

13. COMMITTEE REPORTS

~~Reports of Council standing committees are given. Official action is not normally taken by the Council under this agenda item.~~

~~14~~ **12. PENDING BUSINESS**

Access is limited to the City Manager, Mayor and members of the City Council. Requests for items to be placed on agendas at Council meetings for future council agendas will be subject to vote of the City Council. Voice vote or roll call vote will constitute action of the City Council. Reference HCC 2.08.040(h) for By-law provisions.

~~15~~ **13. NEW BUSINESS**

The same provisions as under pending business apply here.

~~16~~ **14. RESOLUTIONS**

A Council Member, Mayor or City Manager can direct that a resolution appear on the agenda. Notation of sponsor can appear on the face of the resolution. Formal action of the Council will be by roll call vote. HCC 2.08.040(h).

Sponsors, authors, Directed by Council or staff may be placed at the top of the Resolution.

Council Training & Informational Materials

Deleted from the Packet by Council consensus and signing of a Memorandum by the Councilmembers on June 8, 1992. Also noted was that backup up materials of any kind are not required in consecutive packets provided a reference sheet is submitted with the item denoting the backup materials previously submitted.

~~17~~ **15. COMMENTS OF THE AUDIENCE**

Members of the audience may address the City Council at will on any subject whether or not on the agenda. The Mayor may time limit remarks.

~~18.~~ **COMMENTS OF THE CITY ATTORNEY**

~~Reserved for Comments of the City Attorney. Action of the Council is not taken here.~~

~~19~~ **16. COMMENTS OF THE CITY CLERK**

Reserved for comments of the City Clerk. Action of the City Council is not taken here.

~~20~~ **17. COMMENTS OF THE MANAGER**

Reserved for comments of the City Manager. Action of the City Council is not taken here.

~~21~~ **18. COMMENTS OF THE MAYOR**

Reserved for comments, reports, or notification of the Mayor. No Council action is taken here.

22 19. COMMENTS OF THE COUNCIL

Each Council Member may comment regarding any subject whether or not on the agenda. This is an appropriate place to note or bring to the attention of the Mayor, Council and Administration any miscellaneous business or point of interest. Miscellaneous announcements, notifications of absence from future Council meetings, and requests for items to appear on the agenda, are other areas appropriately covered.

Notice of reconsideration may be given, re: 2.08.040(i).

23 20. ADJOURNMENT/NOTICE OF NEXT REGULAR MEETING

Meetings will be concluded by or recessed by midnight, unless Council votes to suspend the rules. The balance of any business will be held over until call of the Chair. Notice of the next regular, and/or special meeting will appear on the agenda following "adjournment". (Reso 10-73, 09/13/10; Reso 00-82, 08/28/00; Reso 00-08, 01/10/00; Reso 98-58, 07/13/98).

Homer City Code 1.18 reads as follows:

1.18.010 Purpose.

a. The proper functioning of democratic government requires ethical behavior by public officials. Ethics involves the commitment to take individual responsibility in creating a government that has the trust and respect of its citizens. The purpose of this chapter is to set reasonable standards of conduct for City officials and the City Manager so that the public may be assured that its trust in such persons is well placed and that the City officials and the City Manager themselves are aware of the standards of conduct demanded.

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

c. This chapter also defines conflict of interest and partiality, the standards stating when and to whom it applies, and the procedures for declaration and the proper action of the body when possible conflicts and partiality arise.

d. This chapter is also intended to establish a process which will ensure that complaints or inquiries regarding the conduct of City officials and the City Manager are resolved in the shortest practicable time in order to protect the rights of the public at large and the rights of the City and the City Manager.

e. The City Council intends this code to be interpreted to promote fair, honest, and impartial dealings with members of the public, to ensure proper use of City resources, and to avoid conflicts of interest.

f. This chapter does not create or prevent a private cause of action against any person, City official, or the City Manager. [Ord. 08-24(S-2)(A), 2008].

1.18.020 Definitions.

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

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

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

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

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

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

“Financial interest” means:

1. An interest currently held by that person or an immediate family member including:
 - a. Involvement or ownership in a business; or
 - b. Property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person receives a financial benefit; or
 - c. An affiliation with an organization in which the person holds a position of management, or is an officer, director, trustee, employee, or the like.
2. Financial interest does not include:
 - a. Affiliation as unpaid volunteer with a legally recognized nonprofit organization; or
 - b. Financial interests of a type which are generally possessed in common with all other citizens or a large class of citizens.

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

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

“Immediate family member” means:

1. The spouse of the person;
2. A life partner or person cohabiting with the person;
3. A child, including a stepchild and an adoptive child, of the person;
4. A parent, sibling, or grandparent of the person; and
5. A parent or sibling of the person’s spouse.

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

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

“Large class of citizens” does not include:

1. A single profession, regardless of the number of persons.
2. An individual business or organization regardless of the number of citizens it contains.

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

“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.

“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. [Ord. 08-24(S-2)(A), 2008].

1.18.025 Scope and duration.

a. Except as otherwise provided in this chapter, this chapter applies to the conduct of City officials and the City Manager.

b. Enforcement proceedings may be commenced and continue to completion after a person is no longer a City official or City Manager for conduct that occurred during the time the person was serving or engaged in such a capacity for the City. [Ord. 08-24(S-2)(A), 2008].

1.18.030 Standards and prohibited acts.

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.

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

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

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

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

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

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

1. A meal of reasonable value;
2. Discounts or prizes that are generally available to the public or large sections thereof;
3. Gifts presented by an employer to its employees in recognition of meritorious service, or civic or public awards;

4. A lawful campaign contribution made to a candidate for public office;
5. An occasional nonpecuniary gift insignificant in value;
6. Any gift which would have been offered or given to them if they were not a City official or the City Manager.

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

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

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

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

1. They or the City is the applicant; or
2. They fully and publicly disclose the nature of their interest in the subject of the action.

q. No City official may violate HCC [2.04.030](#). [Ord. [16-48\(S\)\(A\)](#) § 1, 2016; Ord. 08-24(S-2)(A), 2008].

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

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

1.18.040 Business dealings with City.

a. Not less than 10 days before the date when official action may be taken by the Council or by any officer, the City Manager, commission or other agency of the City upon business dealings between the City and a City official or an organization in which the City official has a substantial financial interest, the City official shall file a statement with the City Clerk. The statement shall set forth the nature of such business dealings and the City official's interest therein. This statement is only required when the person receives a beneficial substantial financial interest. If all other provisions of this chapter are complied with, the statement shall be sufficient for continuing transactions of a similar or like nature for one year from the date of its filing. However, if an official has violated any of the provisions of this chapter, he shall be precluded from engaging in business with the City on that particular matter for one year.

b. Upon taking office or upon subsequently acquiring the interest, an official shall, within 10 days, file

with the City Clerk a statement disclosing any substantial financial interests of the official or the City Manager in any existing business with the City, including those of any organization in which the official or the City Manager has a substantial financial interest.

c. The City Manager shall not engage in business with the City outside the duties of City Manager. [Ord. 08-24(S-2)(A), 2008].

1.18.043 Public disclosure.

a. City officials and the City Manager must annually file the following financial interest disclosure on forms prepared by the City Clerk:

1. For each City official and the City Manager the information that is required on the following selected schedules from the Alaska Public Offices Commission Public Official Financial Disclosure Statement: Schedules B (business interests), C (real property interests/rent to own), E (the portion relating to natural resource leases only), F (government contracts and leases) and G (close economic associations); and

2. For each elected City official a list of each business in which an immediate family member is a partner, proprietor or employee to the extent not provided in response to subsection (a)(1) of this section.

b. The financial interest disclosure must be filed by November 1st each year. A newly appointed official must file a statement within 30 days after taking office. Each candidate for elected City office must file a disclosure statement at the time he or she files a declaration of candidacy, except an incumbent seeking reelection with a current disclosure statement on file. Refusal or failure of a candidate to file the required disclosure statement before the end of the time period for filing declarations of candidacy shall require that the candidate's declaration of candidacy be rejected and the candidate disqualified.

c. The disclosure statement must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury. Not filing a statement within the stipulated period is a violation of this chapter.

d. The disclosure statement shall be filed with the City Clerk and shall be open to public inspection and copying at the office of the City Clerk. The disclosure statement will not be sent to the Alaska Public Offices Commission. [Ord. [16-26](#) § 1, 2016; Ord. 08-24(S-2)(A), 2008].

1.18.045 Procedure for declaring potential conflict of interest – City officials.

a. A City official who has or may have a substantial financial interest in an official action shall disclose the facts concerning that interest to the body of the City of which the official is a member prior to the body taking any official action. Any member of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

b. If the official is a City Council member, the Mayor, or the Mayor Pro Tem in the absence of the Mayor, shall rule on whether the Council member must be excused from participation or must vote. The ruling may be immediately overridden by a majority vote of the City Council. There is no appeal from the action or inaction of the City Council to override or not override the ruling of the Mayor.

c. If the official is not a City Council member, the official may excuse themselves without a vote for conflict of interest, otherwise the board, commission, or other body of which the official is a member shall by majority vote rule on whether the member must be excused from participation, which must be the ruling when the body determines the official has a substantial financial interest in the official action. There is no appeal from the ruling of the body.

d. The official shall abide by the ruling. If the official is not a City Council member, the ruling applies (without the need for further disclosures and rulings) to all subsequent occasions on which the same official action comes before the same body, unless there has been a material change of circumstances. On each such subsequent occasion, the presiding officer shall note for the minutes that the ruling previously made continues in effect.

e. An official who is ruled to be excused from participation shall leave the official table and not vote, debate, testify, or otherwise take part in the official action, except an official who is an applicant may testify on his or her own behalf from the public testimony area.

f. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be made in cases where:

1. By reason of being excused for conflicts of interest the number of members of the Council or other body eligible to vote is reduced to less than the minimum number required to approve the official action;
2. No other body of the City has jurisdiction and authority to take the official action on the matter; and
3. The official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for conflicts of interest.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action. [Ord. 08-24(S-2)(A), 2008].

1.18.047 Procedure for declaring potential conflicts of interest – City Manager.

The City Manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the Manager's financial interests to the City Council prior to taking any official action. If the City Council determines the Manager has a substantial financial interest in the action, the City Council shall excuse the Manager and assign another City employee to the matter. [Ord. 08-24(S-2)(A), 2008].

1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.

a. A City official or the City Manager who has partiality concerning a quasi-judicial matter shall not advise on matter, adjudicate the matter or serve as a member of a body adjudicating the matter.

b. A City official who is a member of a quasi-judicial body and who has or may have partiality concerning a matter to be adjudicated shall disclose the facts concerning the official's possible partiality to the body to the parties to the matter prior to the commencement of proceedings by the body. Any member of the body, and any party to a matter before the body, may raise a question concerning a member's partiality, in which case the member in question shall disclose facts concerning the official's possible

partiality in the matter.

c. After such disclosure, the City official may excuse themselves for partiality without a vote of the body, otherwise the body (including a body comprised of City Council members when serving in a quasi-judicial capacity) shall by majority vote rule on whether the member must be excused from participation, which must be the ruling when the body determines the official has partiality concerning the matter.

d. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be made in cases where:

1. By reason of being excused for partiality the number of members of the Council or other body eligible to vote is reduced to less than the minimum number required to approve the official action;
2. No other body of the City has jurisdiction and authority to take the official action on the matter; and
3. The official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for partiality.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action.

e. The City Manager who has or may have partiality concerning a quasi-judicial matter over which the Manager has decision-making authority shall either (1) appoint another City employee to make the decision or (2) disclose the facts concerning the possible partiality to the City Council and to the parties to the matter prior to taking any official action. If referred to the City Council and the City Council determines the Manager has partiality concerning the matter, the City Council shall excuse the Manager and cause another City employee to be assigned to decide the matter. [Ord. 08-24(S-2)(A), 2008].

1.18.050 Procedures for violation reporting

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

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

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

~~d. The City Clerk shall appoint a hearing officer to decide and investigate properly filed written complaints against City Council members or the Mayor and shall have sole jurisdiction to decide the merits of the complaint filed under this section. (Ord 17-06 §1, 2017).~~

1.18.060 Advisory opinions.

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

b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. An advisory opinion shall be applicable and binding only to the particular set of facts and instances of conduct for which it was requested and shall have no force or effect for purposes of general application. Such opinion shall not be binding or admissible in evidence in any action initiated by any private citizen. (Ord 08-24(S-2)(A) §1, 2008).

c. Any act or omission taken by any City Official or the City Manager in their official capacity based upon the advice of the City Attorney provided in writing, during a Council or Commission meeting or acknowledged by the City Attorney in response to a complaint shall not be subject to an ethics complaint under Chapter 1.18 HCC.

1.18.070 Violation and penalty.

Any official who violates any of the provisions of this chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16. (Ord 08-24(S-2)(A) §1, 2008).

1.18.090 Distribution of Code.

The city clerk shall cause a copy of this chapter to be distributed to each city official elected or appointed before entering upon the duties of his office and to the City Manager upon employment. (Ord 08-24(S-2)(A) §1, 2008).

1.18.100 Application of state statutes.

a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

b. All municipal officers as defined by Alaska Statutes Chapter 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord 08-24(S-2)(A) §1, 2008).

BOARD OF ETHICS.

Sections:

- 1.19.010 Board of Ethics established – General provisions.**
- 1.19.020 Function and authority.**
- 1.19.030 Procedures for violation reporting.**
- 1.19.040 Confidentiality – Initial review.**
- 1.19.050 Disclosure of complaint of potential violation prohibited.**
- 1.19.060 Conduct of investigation and standard of proof.**
- 1.19.070 Deliberations of the Board.**
- 1.19.080 Decisions on the record.**
- 1.19.090 Timely completion.**
- 1.19.100 Sanctions, civil penalties and remedies.**
- 1.19.110 Board member and hearing officer disclosures.**
- 1.19.120 Duty of cooperation.**
- 1.19.130 Settlement of complaints.**
- 1.19.140 Record of proceedings and public record.**
- 1.19.150 Limitation period.**

1.19.010 Board of Ethics established – General provisions.

a. There is hereby established a Board of Ethics.

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

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

d. A quorum of the Board shall be a majority of all members who are not excused for cause, such as being the complainant, the respondent, a witness, having a conflict of interest, or other cause for recusal. However, in no event may a quorum be less than three. If no quorum of the Board can be established due to conflicts of interest or other cause of recusal, the present members of the Board shall direct the clerk to transfer the complaint to a hearing officer.

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

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

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

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

1.19.020 Function and authority.

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

a. Investigate reported violations of Chapter 1.18 HCC.

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

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

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

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

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

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

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

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

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

1.19.030 Procedures for violation reporting.

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

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

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

d. The City Clerk shall appoint a hearing officer to decide and investigate properly filed written complaints against City Council members or the Mayor. Except as provided in section 1.19.040, the hearing officer shall have sole jurisdiction to decide the merits of a complaint under this chapter.

1.19.040 Confidentiality- Initial review

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

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

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

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

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

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

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

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

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

1.19.050 Disclosure of complaint of potential violation prohibited.

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

1. No person, including the complainant, shall knowingly disclose to another person, or otherwise make public in violation of this chapter, the contents of a complaint of potential

violation filed with the Board or hearing officer, unless:

a. The respondent elects to proceed in public; or

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

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

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

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

1.19.060 Conduct of investigation and standard of proof.

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

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

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

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

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

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

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

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

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

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

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

1.19.070 Deliberations of the Board.

Deliberations of the Board shall be conducted in executive session.

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

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

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

1.19.080 Decisions on the record.

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

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

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

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

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

1.19.090 Timely completion.

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

1.19.100 Sanctions, civil penalties and remedies.

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

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

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

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

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

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

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

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

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

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

1.19.110 Board member and hearing officer disclosures.

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

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

1.19.120 Duty of cooperation.

A City official or the City Manager subject to a complaint of a violation shall work cooperatively with the City Clerk to establish a hearing date and shall appear at the place and time set for the hearing, regardless of the respondent's intentions concerning defense or exercise of other rights. Failure to appear, except when failure results from a serious condition or event that prevented the respondent's appearance, is a breach of respondent's duties under this chapter and in itself may result in a summary finding of violation by the Board or hearing officer and imposition of remedies, penalties and disciplinary action under HCC 1.19.110. For the purposes of this section, a "serious condition or event" may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar cause that prevents the respondent's attendance at the hearing. Nothing in this section shall prevent the rescheduling of a hearing for cause upon request of the respondent or the complainant.

1.19.130 Settlement of complaints.

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

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

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

1.19.140 Record of proceedings and public record.

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

1.19.150 Limitation period.

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

b. After the time limitation in subsection (a) of this section has expired, the Board or hearing officer may investigate or otherwise act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City Clerk's office within one year after the date of discovery of the alleged violation, but in no case shall this subsection extend the period of limitation in subsection (a) of this section by more than three years.

~~2.80.010 Board of Ethics established - General provisions:~~

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

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

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

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

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

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

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

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

~~2.80.020 Function and authority:~~

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

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

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

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

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

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

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

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

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

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

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

2.80.030 Confidentiality—Initial review.

~~a. Each written complaint of a violation of Chapter 1.18 HCC received by the City Clerk's office shall be assigned an identification number, which shall be used in lieu of names when referring to the complaint to maintain confidentiality. The City Clerk and the Board or hearing officer shall keep all written complaints of potential violation confidential during investigation and the Board's or hearing officer's deliberative process. Complaints of potential violation may be disclosed only to the staff member of the City Clerk's office providing administrative support to the Board or hearing officer, members of the Board except when a hearing officer has been appointed, and legal counsel. Upon receipt of a notification of potential violation, the Board or hearing officer shall, at its next scheduled meeting or earlier, as determined by the Board Chair or hearing officer, review the complaint of potential violation and determine if further action on the notification of potential violation is warranted. The Board shall review the complaint of potential violation in executive session. A hearing officer appointed under this chapter shall review the complaint in a confidential manner.~~

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

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

- ~~1. Give the respondent a copy of the complaint of potential violation, along with a copy of the outline of the Board's process under this chapter, including notice that the respondent may choose to hold the proceeding in public and may be represented by legal counsel of~~

respondent's choosing and at respondent's own expense; and

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

2.80.040 Disclosure of complaint of potential violation prohibited.

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

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

- a. The respondent elects to proceed in public; or
- b. The written report of the Board or hearing officer is electronically published by the City Clerk.

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

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

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

2.80.050 Conduct of investigation and standard of proof.

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

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

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

3. ~~Persons appearing before the Board or hearing officer may be represented by counsel or other person serving in a representative capacity.~~
4. ~~The Board or hearing officer may question the respondent, the person who filed the notification of potential violation, and other persons appearing before the Board or hearing officer.~~
5. ~~The Board or hearing officer may solicit questions and testimony from the person filing the notification of potential violation, the respondent and other persons appearing for the purpose of providing information to the Board or hearing officer. The Board or hearing officer may solicit questions from counsel present to represent persons appearing before the Board or hearing officer, but all questions during the Board's or hearing officer's investigation shall be posed through and by a member of the Board or the hearing officer. Consistent with due process, the Board or hearing officer may limit or prohibit questions suggested to the Board or hearing officer by or on behalf of persons appearing before the Board or hearing officer.~~
6. ~~The standard of proof to be applied by the Board or hearing officer in determining a violation under this chapter is proof by a preponderance of the evidence.~~
7. ~~Technical rules of evidence do not apply, but the findings of the Board shall be based upon reliable and relevant information presented to the Board.~~
8. ~~The Board's or hearing officer's finding of a violation of this chapter must be supported by substantial evidence.~~
9. ~~The Board's or hearing officer's findings shall not be binding in a subsequent sanctions proceeding.~~
10. ~~When the Board's or hearing officer's investigation is conducted in executive session or confidentially, the public shall be excluded but an executive session of the Board shall be electronically recorded. The recording shall be available for access as a public record after publication by the municipal clerk of the proposed resolution and settlement.~~

2.80.060 Board member and hearing officer disclosures.

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

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

2.80.061 Duty of cooperation.

~~A City official or the City Manager subject to a complaint of a violation shall work cooperatively with the City Clerk to establish a hearing date and shall appear at the place and time set for the hearing, regardless of the respondent's intentions concerning defense or exercise of other rights. Failure to appear, except when failure results from a serious condition or event that prevented the respondent's appearance, is a breach of respondent's duties under this chapter and in itself may result in a summary finding of violation by the Board or hearing officer and imposition of remedies, penalties and~~

disciplinary action under HCC 2.80.070. For the purposes of this section, a “serious condition or event” may include a serious medical condition, a serious family emergency requiring the presence of the party, a death in the family, or other similar cause that prevents the respondent’s attendance at the hearing. Nothing in this section shall prevent the rescheduling of a hearing for cause upon request of the respondent or the complainant.

2.80.065 Decisions on the record.

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

- a. Whether the Board or hearing officer finds by a preponderance of the evidence one or more violations within the jurisdiction of the Board or hearing officer; and
- b. Whether the Board or hearing officer recommends further administrative or remedial actions; and
- c. What specific sanctions, corrective actions or referrals, if any, the Board or hearing officer recommends pursuant to 2.80.070.
- d. If the Board or hearing officer does not find a violation under Chapter 1.18 HCC, the Board or hearing officer shall prepare a confidential statement of closure listing the complainant and respondent, the assigned identification number, the allegations, the hearing date, and the finding that no allegation was substantiated by the Board or hearing officer in whole or in part, and the date of Board or hearing officer closure. At the sole discretion of the respondent, the Board or hearing officer may release the statement of closure as a public document.

2.80.067 Timely completion.

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

2.80.070 Sanctions, civil penalties and remedies.

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

1. A recommendation to the City Council that the office of a City Council member or the position of City Manager be declared vacant for a serious violation that is (a) flagrant or (b) willful and knowing. A recommendation that the office of the Mayor be declared vacant may be made only if the violation justifies a declaration of vacancy under AS 29.20.280. Only the City Council may actually declare any of these positions vacant.
2. A member of a board or commission may be removed from the board or commission.
3. A public or private reprimand may be given to the official.

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

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

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

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

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

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

2.80.080 Record of proceedings and public record:

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

2.80.090 Settlement of complaints:

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

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

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

2.80.100 Limitation period:

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

b. After the time limitation in subsection (a) of this section has expired, the Board or hearing officer may investigate or otherwise act upon a complaint of a potential violation of Chapter 1.18 HCC that is

received by the City Clerk's office within one year after the date of discovery of the alleged violation, but in no case shall this subsection extend the period of limitation in subsection (a) of this section by more than three years. (Ord 17-06 §1, 2017).

ADVISORY OPINIONS.

a. Where any official has a doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein, he may apply in writing to the city attorney for an advisory opinion. The official shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the chapter before such advisory opinion is made.

b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. An advisory opinion shall be applicable and binding only to the particular set of facts and instances of conduct for which it was requested and shall have no force or effect for purposes of general application. Such opinion shall not be binding or admissible in evidence in any action initiated by any private citizen. (Ord 06-68(S)(A), 02/13/07).

VIOLATION AND PENALTY.

Any official who willfully and knowingly violates any of the provisions of this chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16. (Ord 06-68(S)(A), 02/13/07).

SANCTIONS, CIVIL PENALTIES AND REMEDIES.

Upon conviction for any violation of this chapter under criminal procedures or upon a determination of any violation of this chapter after a hearing conducted pursuant to section 2.80.050, the Board of Ethics may impose as a sanction, penalty or remedy any or all of the following, as appropriate to the seriousness of the violation:

a. The Board of Ethics may declare the office of a city councilmember vacant for a serious violation that is (i) flagrant or (ii) willful and knowing. The office of the mayor may be declared vacant only by the city council and only if the violation justifies a declaration of vacancy under AS 29.20.280.

b. The Board of Ethics may remove a member of a board or commission from the board or commission.

c. The Board of Ethics may issue a public reprimand to the official.

d. The Board of Ethics may order the official to refrain from voting, deliberating, or participating in any matter in violation of this chapter.

e. The Board of Ethics may revoke any committee assignments of the official.

f. The Board of Ethics may revoke or restrict the official's privilege to travel at city expense on city business.

g. The Board of Ethics may recommend that a contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this chapter, or which involved the violation of a provision of this chapter, should be voided. If such recommendation is confirmed by the city council, the contract or transaction is voided.

~~h. The Board of Ethics may order the official to forfeit or make restitution of any financial benefit the official received as a consequence of a violation of this chapter.~~

~~i. The Board of Ethics may impose a civil fine of not more than \$1,000.~~

~~j. The Board of Ethics may direct the city administration (i) to pursue legal action to enforce any order of the Board of Ethics made under this section and (ii) to exercise any other legal and equitable remedies available to seek whatever relief is appropriate. (Ord 06-68(S)(A), 2007; Ord 07-35(A-2) §4, part, 2007). ———~~

Melissa Jacobsen

To: Andrea Browning
Subject: RE: comment for council

From: David Bernard
Sent: Tuesday, October 16, 2018 10:46 AM
To: Andrea Browning <abrowning@ci.homer.ak.us>
Subject: comment for council

Hi Andrea,
Please include this with the packet. If you need it in a different format, just let me know.
David

I was hired as a permanent part-time city employee in 2011. It was demoralizing knowing that even though I was a permanent employee, I did not receive any paid time off until I had worked for the city for five years. Every time I was sick, I had to choose between losing income or going to work anyway and possibly infecting my coworkers. Every holiday meant missed pay. This was compounded by the fact that the City of Homer seemed to be the only nearby municipality that did not immediately extend these benefits to all permanent employees. And then when I was promoted to a full-time position, the nearly two years that I had served the city were essentially erased, starting my employment clock back at zero. Therefore I encourage you to accept the changes to the employee regulations. They are enormously important to current permanent part-time employees, as well as any who may be hired in the future.

David Bernard
Library Tech II

October 21, 2018

Re: Resolution 18-085

Dear Council Members,

I am writing to support amending the Personnel Regulations as suggested in Resolution 18-085. There are few part-time employees working for the City of Homer, but we have much the same levels of education, experience, and dedication as our full-time colleagues. It seems fair to give your part-time employees the same consideration as full-time workers on a pro-rated basis, bringing Homer in line with other municipalities.

Part-time employees are important to the smooth functioning of the city; besides what we normally contribute each week, we can be called on to cover for full-time employees when they are sick or unexpectedly absent. And yet we ourselves are not afforded the benefit of sick leave or bereavement leave during our first five years of service.

Current regulations state that even when part-time employees reach the five year mark, we accrue benefits at a pro-rated amount based on *starting* full-time employees. Does it make sense for an employee who has worked 28 hours a week for five years (equivalent to someone full-time for 3.5 years but with five years of institutional knowledge) to be rewarded at a fraction of the rate of someone *brand new* to the job? I trust the council values the loyalty of their part-time employees and will agree to the proposed adjustments.

What part-time employees do in the balance of our time--taking care of family, volunteering in the community, growing a small business--enhances what we do for Homer. Thank you in advance for correcting these oversights, and making the Personnel Regulations more equitable for all city employees.

yours,

Jacqueline McDonough

479 Mountain View Dr
Homer, AK 99603