



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue

Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

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Memorandum

Agenda Changes/Supplemental Packet

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: APRIL 8, 2019
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

SPECIAL MEETING

New Business

Memorandum 19-040 from City Clerk Re: Request for Executive Session Pursuant to AS §44.62.310(a-c)(1 & 5) Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Attorney Client Privilege. (Enstar Tariff filing TA-310-4 and RCA order U-19-014 suspending the filing and inviting the Attorney General to intervene.)

Letter from Mayor Castner to KBP Mayor Pierce and response from James Baisden, Chief of Staff

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REGULAR MEETING

Reconsideration

Ordinance 19-09(S), An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a \$100,000 Service Extension Fees and Authorizing the Extension of City of Homer Water Services to Lot 2B, Puffin Acres Milepost 3, East End Road in Kachemak City. Mayor/Smith. Introduction February 11, 2019, Public Hearing February 25, 2019, Postponed to March 11 and March 26, 2019. (*Notice to Rescind issued by Aderhold*)

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Written public comment

Kachemak City Code Title 6 – Public Utilities.

Alaska Statutes 29.35.020 – Extraterritorial jurisdiction.

Robert's Rules of Order 11th Edition §35. Rescind; Amend Something Previously Adopted.



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Office of the Mayor

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March 28, 2019

Honorable Charlie Pierce, Mayor
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669

Dear Mayor Pierce:

On January 17th I was alarmed to learn that the surcharge to pay for the Contribution in Aid of Construction (CIAC) for the natural gas trunk line extension from Anchor Point to Kachemak City, had somehow grown. Rather than the CIAC amount being decreased through the customer's surcharge payments, the tariff formula Enstar Natural Gas Company (Enstar) presented was off by more than 100%. This led to a rapid compounding of debt, with no CIAC retirement.

On February 6th, Enstar filed a new tariff, hoping to capitalize the compounded interest, and amortize the payments of that amount over a 30-year period. Enstar calculates that this will add ~\$10 million to the surcharge payments. Further examination of the filing discloses that the reduction of the remaining, and unamortized portion, decreases by only \$4,000 in the 26-month period they offer as an "example" of the retirement of the CIAC. That would, under a best-case scenario, extend the surcharge another 17 years or, if it slipped back into a compounding mode, become perpetual.

The Borough's obligation for the surcharge is disproportionate to the number of buildings it owns. The schools south of Anchor Point, and the South Peninsula Hospital, are currently paying about 25% of the annual surcharge collected. The new tariff will obligate the Borough to more than \$2.5 million over the 30-year period which, somewhat ironically, is the amount the CIAC was calculated to be when Enstar presented the tariff model to the RCA in 2012.

The RCA has suspended the February 6th filing for further information. I am hoping that the Borough, with such a large stake in the matter, might assist the City of Homer and Kachemak City, by intervening in the process. Time is of the essence, as the period to request intervention ends on April 22nd.

Thank you.

Ken Castner, Mayor
City of Homer

cc: Mayor Bill Overway, Kachemak City
cc: Homer City Council

Ken Castner

From: Baisden, James <jbaisden@kpb.us>
Sent: Tuesday, April 2, 2019 7:57 AM
To: Mayor Email
Subject: Enstar Tariff Increase - Homer Area

Mayor Castner,

We received your letter concerning the Enstar tariff increase for the Homer Area.

Mayor Pierce is out of the office for the first few weeks of April.

This is on the Mayors calendar for discussion for the 18th of April when he returns.

James Baisden, Chief of Staff
Office of the Borough Mayor
(907) 714-2157

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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Melissa Jacobsen

From: Ronald Keffer <ron.keffer01@gmail.com>
Sent: Saturday, April 06, 2019 5:24 PM
To: Heath Smith; Shelly Erickson; Tom Stroozas; Caroline Venuti; Rachel Lord; Donna Aderhold; Department Clerk
Subject: Regarding water services to Kachemak City

City Council Members,

I am writing with regard to the issue of extending City of Homer water services to a user in Kachemak City. I strongly oppose moving ahead with this project until certain steps have been taken.

Most of my concerns relate to the fact that this step has had only very limited discussion and virtually no planning efforts. Mayor Overway of Kachemak City, in a letter of 18 March, expressed just that kind of concern when he set out three stipulations for extending water service into Kachemak City. He wrote:

“ . . . Water will be available to every parcel that fronts the existing water line along East End Road, at a fixed price to be agreed upon by both cities. . . . Property owners in Kachemak City will not be required to hook up to City water. . . . The Kachemak City Council will review the proposal and vote on it before it is enacted.”

The mayor's concerns can be regarded as three questions that must be settled before any water connections properly can be made, and those three are only the beginning. For example, I have heard only the barest of mentions of how pricing can be calibrated in a manner that is fair both to Homer and to Kachemak City. When we consider the enormous investments that Homer has made in time, planning, and plant costs in order to erect its excellent water and sewer service, we have to determine what kind of fees should be assessed that fairly reflect the value Kachemak City is receiving. Kachemak City's access to some sewer services early this century did not provide solutions for a fuller roll-out.

Another question that should be on the table before advancing at all on this matter has to do with future planning. Does Homer have sufficient water for its own needs over the next several decades? What happens if climate change produces dryer conditions in our town? Science tells us these are important questions, but we don't have clear answers to them yet.

One very important consideration is the matter of how future disagreements between the cities or their residents might be resolved. If no process is in place, any dispute could grow into a major dust-up.

I agree in principle that Homer and Kachemak City can and should come together in performing the due diligence questioning and planning that is required to enhance their working together for the residents of both towns. (Mayor Overway's initial letter seemed to indicate he thought so too.) On the other hand, Kachemak City was founded with the overt intention of avoiding becoming a part of Homer and of never having to pay Homer taxes. How does one square that desire with both the apparent need for some Homer services and the important consideration that Homer be properly recompensed for use of its facilities?

The answer to that last question is that we don't know, because no detailed discussion between the two cities has occurred. In other words, to move ahead now, without careful planning and discussion, amounts to flying by the seat of our pants, and that's really a terrible idea.

If the proper planning and discussions take place, to ensure fairness to the residents of both cities, the kind of cooperation that this water matter might initiate may be just the right step to take. On the other hand, if the process of performing due diligence reveals reasons that we should not go ahead or demonstrates that many people oppose such a step, we may have saved ourselves a great deal of trouble and the plan may be scotched.

In a nutshell, we now have the cart before the horse. I urge all council members to take a step back and do the proper preparation regarding a complex situation before taking any substantive action.

Sincerely,

Ron Keffer

Ron Keffer
189 Island View Court
Homer, Alaska 99603
H: 907-235-8293
C: 907-299-0821
ron.keffer01@gmail.com

Melissa Jacobsen

From: Milli Martin <millimom37@gmail.com>
Sent: Sunday, April 07, 2019 7:48 AM
To: Department Clerk
Subject: re: Water Line extension

For members of the City Council,

I am not a city resident, but do most of my shopping locally and support the city with my sales taxes. I was therefore hesitant to comment.
I am concerned about the casual way the Council has approached the application to extend water service to Kachemak City. As I recall, they incorporated so as not to become a part of the City of Homer, and thereby avoid Homer's taxes. Yet, to date they receive Sewer and Fire protections. Now they want water, my concern is that next it will be police. In light of reduced funding for Troopers that could happen. I sincerely hope the Council will do due diligence in determining the cost for the water. Since the water line is already there it does make sense to be able to tap into it, but the City must be properly compensated.

I wish you all the best.

Milli Martin
P.O. Box 26521
Homer, Alaska 99603

Sent from [Mail](#) for Windows 10

Regarding Ordinance 19-09(S)

Dear members of the Homer City Council,

Thank you for the time and commitment you give to Homer week after week and month after month. I know this role is bittersweet and I appreciate everyone's efforts in this endeavor.

I would like to weigh in on rescinding Ordinance 19-09(S), the ordinance regarding the extension of water service to a single parcel outside the city limits.

I feel there is a need for the community, council and the Homer City administration to take a breath, step back and tackle the subject of the current City's policy that does not allow for water services to be extended outside the City limits. It makes sense to evaluate the pros and cons of the policy, the subsequent consequences of extending services outside the City limits, the social and financial costs, issues of fairness, planning, sprawl and any number of concerns and/or benefits before taking any action that negates current city policy.

I think any ordinance is stronger when there is more public buy-in than not. Knowing that the discussion around the project that spurred Ordinance 19-09(S) started months ago, perhaps longer, I am a little confused as to why a policy discussion did not start then. The discussion always needed to be had, and it still does. Yes, there is the history around the water main being constructed along East End Road to construct a loop via Kachemak Drive, but somewhere in that endeavor, city policy and the discussion about servicing water on the north side of East End Road to parcels in Kachemak City failed to materialize and has now fallen through the cracks. To move forward with a single extension of water outside the City limits without changing City policy, is to negate City policy itself. Without further discussion around this city policy, then causes city residents to question the strength, integrity or meaning of city policy, any policy..... or even what a city boundary means other than a taxing boundary.

I feel the council needs to rescind Ordinance 19-09(S) and then seriously take up the discussion that needs to be taken. I truly am confused as to why this discussion did not take place when the City first learned that a project of the size proposed and need of piped was being presented. What was the City thinking or discussing back then? We should not feel rushed now because of a single project's deadline. This is not an example of good governance, but rather the

acceptance of money that precludes process or the notion of fairness.

sincerely,

Rika Mouw

City resident

Melissa Jacobsen

From: Donna Aderhold
Sent: Monday, April 08, 2019 8:50 AM
To: Melissa Jacobsen
Subject: Fwd: Homer ordinance

Hi Melissa,
Ms. Schoepke asked that her comments be shared with the rest of council. She is traveling and does not have good internet access.

Thank you,
Donna

Donna Robertson Aderhold
Homer City Council
491 Pioneer Ave.
Homer, AK 99603

907-244-4388

PUBLIC RECORDS LAW DISCLOSURE: Most e-mails from or to this address will be available for public inspection under Alaska public records law.

Begin forwarded message:

From: s schoepke <shepairs@hotmail.com>
Date: April 8, 2019 at 8:10:58 AM AKDT
To: "DonnaAderhold@ci.homer.ak.us" <DonnaAderhold@ci.homer.ak.us>,
"kachemak@xyz.net" <kachemak@xyz.net>
Subject: Homer ordinance

I am a resident of the City of Kachemak and I agree with you the water ordinance should be rescinded. I also do not think it complies with title 29.35.020.

For the record I am for all the properties getting water for a fair price. I'm not sure charging \$100,000 for one lot to have water with absolutely no basis for the cost is much different than what Enstar is trying to do.

In addition, I do not think it is supporting low cost housing by gouging them and charging at least 6 times the estimated cost(which I still think is much to high). That cost will be passed on to the residents or the taxpayers who are funding some of the grants or low interest money.

Thank you for listening.

Helyn Schoepke
399-1100

Sent from my iPad

April 7, 2019

Dear Council Members,

I am asking you to rescind Ordinance 19-09(S). I do not believe repeatedly dealing with one property at a time is the best way to address providing piped water to Kachemak City. I understand this approach is faster and, in this case, more lucrative for the City but I do not believe it is the right way for the City to do business. This ordinance was presented as a one-time deal, but it actually it was the 2nd or 3rd time the city has made a one-time deal regarding piped water to a Kachemak City property. I believe the City needs to either change its policy about piped water service outside the city or say no to this hookup. It is my understanding that others with property along this water line have inquired about water hookup and were simply told they were not eligible for service.

As a city resident, I am not comfortable that the city can be paid off to provide city services that are not available to other non-residents. Low-income housing may be beneficial to the area, but it is also a profit center for someone who has the financial capacity to build 24 rental units. I believe the issue for the City needs to be about the benefits and problems of providing piped water to Kachemak City and not what Kachemak City property owners will do on their property.

In light of the March 28, 2019 letter from Mayor Overway expressing Kachemak City's interest in working out an agreement to provide piped water service to all properties on the existing pipe, and the following letter from Mayor Castner directing Mayor Overway to rewrite the letter to say only what he was asked to say, I hope you will vote to rescind Ordinance 19-09(S). It seems like a good time to figure out if Homer and Kachemak City can work out an agreement for this water line.

It is interesting to me that East End Partners, LLC has not been vocal about the need to extend water service for this housing project. This lack of engagement might indicate they don't care how they get water. We usually see special interest issues pushed by the beneficiary, not the city.

I believe it is important to look at the big picture of extending piped water service outside of Homer. Kachemak City and borough land have different building guidelines and restrictions. The unintended consequences of providing piped water service could be devastating to the Homer and Kachemak City business communities without thoughtful planning and agreements that work for both cities.

Sincerely,

Lynn Takeoka Spence
331 Mountain View Drive
Homer, AK 99603

TITLE 6. PUBLIC UTILITIES

Chapters:

- 6.01 GENERAL PROVISIONS
- 6.02 WATER RULES AND REGULATIONS
- 6.03 SEWER RULES AND REGULATIONS
- 6.04 EXTRATERRITORIAL CONNECTIONS TO THE KACHEMAK SEWAGE COLLECTION SYSTEM (Repealed Ordinance 2011-07)

CHAPTER 6.01

GENERAL PROVISIONS

6.01.01	Purpose
6.01.02	Definition
6.01.03	Nondiscrimination
6.01.04	Additional Rules and Regulations

6.01.0 Purpose

It is the intent of this title to establish rules and regulations ensuring that utility service is provided to the municipality or its occupants in a fair and regular manner.

6.01.02 Definition

For the purpose of this title, the word "Utility" has the meaning set forth at AS 42.05.990(4) but does not include:

- A. A utility that is subject to regulation under AS 42.05;
- B. A utility that is exempted from regulation under AS 42.05.711(a) or (d)-(k); or
- C. A utility that is exempted under regulations adopted under AS 42.05.810 from complying with all or part of AS 42.05.010 - 42.05.721.

6.01.03 Nondiscrimination

A public utility may not, as to service, make or grant an unreasonable preference or advantage to any person to an unreasonable prejudice or disadvantage. A public utility may not establish, maintain, or provide an unreasonable difference as to service, but nothing in this section prohibits the establishment of reasonable classifications of service or requires unreasonable investment in facilities.

6.01.04 Additional Rules and Regulations

In addition to the rules and regulations in this title, Kachemak has adopted the appropriate existing and future rules and regulations relating to sewer operations and use constraints that are contained in Title 14 of the City of Homer Code of Ordinances (Ordinance 92-03), but not those rules and regulations relating to cost reimbursement for developers (Ordinance 96-09).

CHAPTER 6.02

WATER RULES AND REGULATIONS

- 6.02.01** Definitions.
- 6.02.02** Notice of fees and charges.
- 6.02.03** Notice of connections and extensions.

6.02.01 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below:

- A. "Water connection" means that part of the water system between the water main and the abutting property.
- B. "Water extension" means that part of the water distribution system extending from the water connection into the premises served.
- C. "Water main" means that part of the water distribution system intended to serve more than one water connection.

6.02.02 Notice of fees and charges

A water utility shall give written notice to the Kachemak City Clerk of its intention to impose fees and charges upon Kachemak occupants, by delivering to the City Clerk a written schedule of the fees and charges intended to be imposed. Furthermore, a revised and current schedule of fees and charges shall be delivered to the City Clerk whenever a fee or charge is added or changed and within thirty (30) days of the addition or change. No water connection or water extension shall be installed unless the most current written schedule of fees and charges has already been delivered to the City Clerk.

6.02.03 Notice of connections and extensions

A water utility shall give notice to the Kachemak City Clerk of its intention to install a water connection or water extension prior to doing so, and when the water connection or water extension is completed, shall, within thirty (30) days of completion, notify the City Clerk in writing that it is completed.

CHAPTER 6.03

SEWER RULES AND REGULATIONS

6.03.01	Definitions.
6.03.02	connection to sewage collection system required.
6.03.03	construction requirements.
6.03.04	Sewer service connections.
6.03.05	Abandonment of private sewage disposal systems.
6.03.06	General discharge prohibitions.
6.03.07	Permit required.
6.03.08	Assessments for property within the City of Kachemak.
6.03.09	Payment of user fees.
6.03.10	User fee a charge upon the land.
6.03.11	Enforcement of user fee payments.
6.03.12	Disposition of revenue.
6.03.13	Septic tank pumping.
6.03.14	City of Kachemak as regulating authority.
6.03.15	Penalties; civil and criminal.
6.03.16	Falsifying information.
6.03.17	Written notice of violation.
6.03.18	Appeals.
6.03.19	Delegation of authority.
6.03.20	Right of revision.
6.03.21	Sewer disconnection, reconnection, and penalties.

6.03.01 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below:

- A. "Dwelling group" means a group or row of detached or semi-detached dwellings occupying a parcel of land in one ownership and having a yard or court in common, including bungalow courts, but not including automobile courts.
- B. "LID" means a local improvement district situated within the boundaries of the City of Kachemak and formed for the purpose of constructing any part of the POTW or the SCS.
- C. "Mobile home park" means land or premises used for occupancy by trailers, mobile homes, and modular structures of a permanent or semi-permanent nature.
- D. "Multiple dwelling" means a building occupied by three or more families, each living independently as a separate housekeeping unit, including apartment houses, apartment hotels, and flats.
- E. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns, including any person or entity

contracting with either the City of Homer or the City of Kachemak, or both, for sewage service.

- F. "Premises" means a parcel of land, lot, building, or establishment.
- G. "Publicly owned treatment works (POTW)" means a treatment works funded, operated, and regulated by a municipality or by two or more municipalities jointly, in this instance Homer and Kachemak. This definition includes any sewers that convey sewage and any other wastewater present to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, POTW shall also include any sewers that convey sewage and other wastewater present to the POTW from persons outside Homer or Kachemak who are users of the municipalities' POTW.
- H. "POTW treatment plant" means that portion of the POTW designed to provide treatment to sewage and other wastewater.
- I. "Sewage" means a combination of liquid and water carried industrial, commercial, or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, excluding any ground water, surface water, and storm water, which is permitted to enter the POTW.
- J. "Sewage collection system (SCS)" means that portion of the POTW situated within the corporate boundaries of Kachemak.
- K. "Sewer" means, for the purposes of this chapter, a pipe or conduit for carrying sewage, and to which storm, surface, and ground waters are not intentionally admitted.
- L. "Sewer connection" means that part of the sewage collection system between the sewer main and the abutting property.
- M. "Sewer extension" means that part of the sewage collection system extending from the sewer connection to the septic tank.
- N. "Sewer main" means that part of the sewage collection system intended to serve more than one sewer connection.
- O. "Sewer service connection" means that portion of sewer line between the septic tank and the facility served.
- P. "The City" means the City of Kachemak.
- Q. "Two-family dwelling" means a building occupied by two families exclusively, living independent of each other.
- R. "User" means any person who contributes, causes, or permits the contribution of sewage or other wastewater into the POTW.
- S. "Wastewater" means any sewage, ground water, surface water, and storm water, individually or combined, whether treated or untreated.

6.03.02 Connection to sewage collection system required

- A. It shall be unlawful for any person to place, deposit, discharge, or permit to be placed, deposited, or discharged, any sewage, wastewater, or other polluted water on any public or private property or in any natural outlet within the City of Kachemak (the City) or in any area under the jurisdiction of said city except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- B. Except as provided in part C of this section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal or treatment of sewage within or upon any premises located within a Local

Improvement District (LID) formed for the construction of any part of the sewage collection system (SCS), other than an approved septic tank connected to the SCS in accordance with subsequent provisions of this chapter.

- C. The owner or occupant of all structures or properties used for human occupancy situated within the LID equipped with well, cistern, spring, or other on-site water supply is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the SCS in accordance with the provisions of this chapter, within ninety (90) days after the date of official notice to do so. All structures used for residential, commercial, industrial, or other business purposes are also subject to this requirement unless specifically exempt by DEC standards as not required to provide sewage disposal. Properties having no well, cistern, spring, or other on-site water supply are exempt from this section.

6.03.03 Construction requirements

- A. All septic approved tanks initially and subsequently installed within the LID shall be considered part of the SCS and meet standards specified by the Kachemak City/Bear Creek LID, and provisions of this chapter.
- B. The installation of septic tanks and the connecting of lines to the SCS shall be performed by a Homer/Kachemak approved licensed contractor.
- C. Each property within the LID shall have no less than one SCS septic tank serving inhabited improvements. Additional structures on the property may be connected to the same tank if the topography of the property allows, and use of the tank remains in compliance with this chapter.
- D. Septic tanks shall be installed on a level compacted base at a depth to provide a minimum of four (4) feet of soil cover to finish grade. Septic tank clean-out covers shall be installed at grade level and be approved by Homer/Kachemak. Clean-out stand pipes shall be a minimum of four (4) inches in diameter. Sewer extension, connection, and service connection lines shall be installed at a depth to provide a minimum of five (5) feet of soil cover to finish grade.
- E. Except as otherwise required by subsequent provisions of this chapter, lines connected to the SCS shall be a minimum of three (3) inches in diameter and be laid on a compacted base to insure a one to three percent grade fall. All connections shall be made gastight and watertight, and shall be made under the supervision of the POTW inspector.

6.03.04 Sewer service connections

- A. Sewer service connections from the facility served to the SCS septic tank are the responsibility of the land/property owner and must be approved in advance by the POTW inspector. Construction of a sewer service connections shall not commence without first making application to the City of Kachemak. Upon completion of the sewer service connection the owner shall, within thirty (30) days of completion, notify the Kachemak City Clerk in writing that it is completed, and also provide at that time an accurate drawing clearly showing the location of the sewer service line.

- B. The sewer service line shall be a minimum of four (4) inches in diameter with a minimum bury of four (4) feet. If cases require a shallower depth, the minimum bury may be less provided adequate insulating board is placed above the line.
- C. The sewer service pipe shall continue at a grade of one (1) percent from the facility served to the septic tank. Greater grade fall should be facilitated by step-downs.
- D. The bottom of the sewer service line excavation shall be uniformly graded and free of dips, bumps, and large rocks. Back filling shall be done in such a manner as to assure that neither large rocks nor frozen lumps fall on the pipe.

6.03.05 Abandonment of private sewage disposal systems

All unapproved septic tanks, cesspools, or vaults used for sewage disposal within the LID shall be abandoned, cleaned of sludge, and filled with suitable material or destroyed, or removed entirely, immediately following connection to the SCS.

6.03.06 General discharge prohibitions.

- A. No person shall contribute or cause to contribute, directly, or indirectly, any pollutant, substance, or wastewater which interferes with the normal operation or performance of the POTW, including, but not limited to:
 - 1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW.
 - 2. Solid or viscous substances which may cause obstruction to the flow within the POTW.
 - 3. Sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the sewer structures, equipment or treatment works, either by chemical or by mechanical action.
 - 4. Sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the POTW, or any part thereof.
 - 5. Any wastewater containing toxic pollutants or hazardous wastes as defined by the Resource Conservation and Recovery Act whether or not they are considered to be hazardous after entering the POTW.
- B. No person shall intentionally contribute, cause to contribute, or allow to be contributed persistently rain water, surface run-off, underground seepage, or storm water into the SCS.

6.03.07 Permit required

It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter, or disturb any part of the SCS, including the gravity and force mains, without first obtaining a written permit from the City of Kachemak.

6.03.08 Assessments for property within the City

- A. Properties in the City situated within a LID shall pay a prorated share of the capital cost of its construction based on lot area and extent of improvements.
- B. The assessment shall be a charge on the land and be a continuing lien upon the property until paid, and is prior and paramount to all liens except municipal tax liens, and may be enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of property tax liens. If, at any time, a property subject to assessment is divided into smaller parcels after its relative share of the construction costs have been determined, the newly formed parcels shall be each assigned, by the City, a pro-rata share of the original total assessment for the property before re-division, according to parcel area and location of both property and SCS improvements. Such re-division of a property already subject to assessment shall require that, when any newly created parcel is sold or falls under new ownership, the pro-rata share of the original assessment assigned to it by the City, not already paid, shall become due and payable in full, and be paid to the City at the closing of the sale or signing of the assignment of ownership. Exception: If all newly formed parcels are sold or assigned to one person in one transaction the payment agreement for the original assessment for the whole property may remain unchanged.
- C. Properties in the City situated outside a LID, but connecting to a LID, shall not be assessed for any portion of the capital cost of LID construction. Such properties will however, pay as a separate cost payable directly to suppliers of services and materials, the cost of any additional sewer connections required to serve those properties.
- D. Properties in the City connecting to sewer lines constructed by a developer who was not assessed for any portion of LID capital costs shall not be required to reimburse that developer for any capital costs.
- E. No City funds will be expended on construction of additional sewer connections without formation of a LID for that purpose. (Ordinance 96-08)

6.03.09 Payment of user fees

6.03.090. Payment of user fees.

- A. All property connected to the SCS within the City of Kachemak shall be charged a user fee determined according to the Intergovernmental Agreement for Wastewater Utilities Facilities and Service between the Cities of Homer and Kachemak. The user fee shall be billed monthly and shall include the cost of pumping the SCS septic tanks every three years. As of January 1, 2019 the user fee for unmetered customers is \$ 78.95 (plus sales tax if applicable) per month, per tank connected. If a property is connected to the SCS but does not require pumping the monthly user fee will be \$72.20 (plus sales tax if applicable).

B. If a property elects to install a water meter to measure sewer usage, their sewer rate will be variable based on Homer's Resolution 15-074(A-2).
(Ordinance 2016-06)

C. Payment of user fees are due by the 10th day of the month following the period for which service was provided. A late charge of \$3 per month shall be assessed on all bills not received by the 15th day of the month due and for each month remaining unpaid.

D. The property owner is responsible for paying the user fees for his property, although, if the property is rented, the City may accept the payments from the renter. If the renter fails to make any payment, subsequent payments shall thereafter be required directly from the property owner. If the arrears are paid and the next six (6) payments are timely, the City may accept payments once again from a renter of the property upon written request of the property owner.

E. The user fee for being connected to the SCS shall be a continuous and regular monthly charge against the property even if the property does not actually discharge into the SCS.

6.03.10 User fee a charge upon the land

- A. Although the user fee is a personal obligation to the City by the person owning the property, it shall also be, together with interest, late charges, costs, and reasonable attorney's fees resulting from non-payment, a charge on the land and a continuing lien upon the property against which the charge is made, with all amounts due, from time to time, payable in full when due without notice or demand, and without set-off or deduction.
- B. If user fees and costs remain delinquent and the property is sold, ownership assigned, or title to the property changes by way of foreclosure, said delinquent fees and costs shall be paid in full to the City at closing of the sale, upon the signing of the assignment of ownership, or upon completion of the foreclosure. If for any reason payment of the delinquent amounts fails to be made to the City at that time, the delinquent amount shall become an obligation of the person taking title, and shall be collected as provided in this chapter.

6.03.11 Enforcement of user fee payments

- A. User fee payments remaining unpaid after 75 days after original billing therefore, together with interest, late charges, costs, and reasonable attorney's fees, are hereby declared delinquent for the purposes of collection by way of an action at law in civil court. Any claim by or award to the City shall be recorded as a lien against the property against which the user fees and costs were charged, without regard to the actual user or person billed for the user fees and costs resulting from the property's connection to the SCS. Interest and late fees shall continue to accrue until the entire amount due is paid to the City.
- B. If any property against which user fees have been declared delinquent is generating income such as rental income, the City may petition the court to appoint a receiver to apply said income to the delinquent fees and costs owed the City until paid in full, and thereafter to current user fee charges, if current payments are not timely made.

- C. As an additional remedy the City may seek to recover amounts declared delinquent by way of legal attachment of the Permanent Fund Dividends of the person liable for the delinquent amounts as provided in this Chapter, until all amounts due are paid in full.
- D. In the event unpaid fees remain one year after original billing, the Kachemak City Council may, at its discretion, order the connection to the SCS of the property involved, along with any connection to municipal water to the property involved, to be disconnected and sealed, all costs of which shall become a further charge upon the property and further personal obligation of the person owning the property at the time of disconnection. Any costs of reconnection shall be entirely at the expense of the property owner.
- E. Before any property disconnected as described in this section may be reconnected to either water or the SCS, all amounts owing to the City as charged against the property or the person owning the property shall first be paid in full to the City, together with all costs of the disconnect and reconnect that the City may have incurred.

6.03.12 Disposition of revenue

Payment of all sewer user fees due the City of Homer shall be paid monthly on or before the tenth day of the month following the month for which service was rendered. Payment of the full amount due Homer shall be made by Kachemak City regardless of the fact that fees have not yet been collected from individual users. However, the amount per tank connected paid to Homer shall never exceed the amount paid by a user of the same class in Homer less \$3.00 which is retained by the City of Kachemak to cover the cost of billing. (Ordinance 00-02 substitute)

6.03.13 Septic tank pumping

- A. No septic tank pumping shall occur when the ground is typically snow covered or frozen so as to impair efficient performance of the pumping operation, nor when load limit restrictions are in effect on state roadways, except when a situation exists that a septic tank is overflowing with solids as to risk impairing the operation of the SCS, or other harm to the POTW is imminent. Pumping shall be performed by a pumping contractor approved in advance by Homer/Kachemak City.
- B. The frequency of septic tank pumping shall normally be every two years for each tank to prevent build-up of compacted solids, even if it receives so little use as to contain only a small amount of solids after that period of time. Tanks being at risk of discharging solids into the SCS at the time of normal pumping shall be pumped approximately twelve (12) months later at the property owner's expense, proof of which shall be delivered to the City within thirty (30) days after the pumping has been accomplished, together with an estimate made by the pumping contractor as to the depth of solids then removed from the tank. If the tank again is at high risk of discharging solids into the SCS at that time, the tank shall be pumped every six (6) months at the property owners's expense, proof of which shall be provided to the City as herein required, together with the pumping contractor's estimate of existing solids, except that regular scheduled pumping shall replace one (1) pumping every two (2) years. If pumping is required at yet a greater frequency than every six months, a second tank shall be installed at the property owner's expense to prevent overflow of solids into the SCS. Failure of the person owning the property requiring extra pumping to comply with this chapter shall be found by the City to be in violation of this

chapter and be subject to the penalties therein provided, with each day of failure to comply deemed as a separate offense.

- C. The frequency of pumping and the number of septic tanks required by this chapter for any property served shall be dependent entirely upon the quantity and quality of the discharge load entering the SCS at the tank end of the sewer service connection of that property. The weight of a concrete tank prohibits increasing the size of the tank, and the number of persons residing on any particular property varies too greatly from time to time within any single family, two family, or multiple dwelling, or dwelling group, and from owner to owner, to be relied upon as a constant for classifying load requirements. Increasing the number of tanks, and thereby increasing the maintenance costs of the SCS shall be avoided whenever the alternative of increasing pumping frequency can be reasonably employed.
- D. Normally scheduled pumping for each SCS septic tank shall occur once every two (2) years, the cost of which shall be included in and paid from the user fees applicable to that period of time for each property served.

6.03.14 Kachemak City as regulating authority

The City of Kachemak shall have full authority to act and perform such functions as are provided in this chapter, and shall be the final authority with respect to the use of, expansion of, and connection to any part of the POTW located within its boundaries, and with respect to any redesign or modification of the POTW effecting the operation of the SCS.

6.03.15 Penalties; civil and criminal

- A. Civil penalties:
 - 1. Any person who violates any provision of this chapter, or any order, rule, regulation or permit issued thereunder, shall be subject to a civil penalty of not more than five thousand dollars (\$5,000) per day for each day during which such violation occurs or continues.
 - 2. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.
- B. Criminal penalties:
 - 1. Any person who violates any provision of this chapter, or any order, rule, regulation, or permit issued thereunder, shall, upon conviction, be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment for not more than six (6) months, or by both.
 - 2. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

6.03.16 Falsifying information

It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed with the City or required to be

maintained or provided pursuant to this chapter, or to knowingly falsify, tamper with, or render inaccurate any monitoring device or method required under this chapter.

6.03.17 Written notice of violation

Whenever the City finds that any person violated, or is violating this article or the rules and regulations promulgated hereunder, or any prohibition, limitation or requirement contained in any agreement entered into with the City by such a person, the City may serve upon such person written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by such person. If the response received by the City from such person is not satisfactory to the City, the City shall proceed with such remedies as are further provided by this chapter.

6.03.18 Appeals

- A. Any person who is dissatisfied with any action of the City Clerk or other designated City official under this chapter in which the person may be affected, may, within thirty (30) days from the date of such action, appeal to the City Council by giving notice thereof to the City Clerk.
- B. The City Council shall have full power to review any action on the part of the City Clerk or other official under this chapter, and the determination of the City Council shall be final.

6.03.19 Delegation of authority

The City of Kachemak shall have the power to delegate its authority, or any part thereof reserved under this chapter, to any other government entity as the City shall deem appropriate. Delegation of its authority by the City shall be by written agreement only with the entity receiving said authority, and the responsibility for actions taken under the authority so delegated shall transfer with it.

6.03.20 Right of revision

The City reserves the right to establish more stringent limitations or requirements on discharges to the POTW if deemed necessary to protect its continued and efficient operation.

6.03.21 Sewer disconnection, reconnection, and penalties

- A. If an owner certifies structure will be unoccupied for 90 days or longer the structure may be disconnected from the Kachemak Sewer System. The disconnect will be effective on the last day of the month of the requested date and a one month sewer fee will be charged for the disconnect.
- B. To reconnect to the sewer system the owner must apply in person or by telephone within 72 hours of re-occupying the structure. The reconnect will be effective the first day of the month in which it is requested. There is no charge for reconnect. Reconnect date can be set at time of disconnect.

- C. Penalty for failure to reconnect will be one month's sewer charge for violations of 30 days or less; if violation exceeds 30 days, penalty will equal all sewer bills missed since disconnect.

Sec. 29.35.020. Extraterritorial jurisdiction.

(a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide facilities for the confinement and care of prisoners, parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection and may enforce the ordinance outside its boundaries. Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance, and before a power authorized by this subsection may be exercised inside a village, as that term is defined by [AS 46.08.900](#) , the approval of the village must be given by resolution. A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed; or

(2) contain, clean up, or prevent the release or threatened release of oil or a hazardous substance that may pose an imminent or substantial threat to persons, property, or natural resources within the municipality’s boundaries; however, this paragraph does not authorize a municipality to enforce an ordinance outside its boundaries to regulate exploration, development, production, or transportation of oil, gas, or minerals in a manner inconsistent with the state’s management of those resources, and enforcement of the ordinance must be consistent with a regional master plan prepared by the Department of Environmental Conservation under [AS 46.04.210](#) ; in this paragraph, “natural resources” has the meaning given in [AS 46.03.826](#) .

(c) A municipality may enter into agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

(d) This section applies to home rule and general law municipalities.

(e) In this section, “village”

(1) means the area within a five-mile radius of the village post office or, if there is no post office, another site designated by the commissioner;

(2) does not include an area described in (1) of this subsection that is within a city or another village.

History.

(§ 10 ch 74 SLA 1985; am § 1 ch 191 SLA 1990; am §§ 2, 3 ch 83 SLA 1991; am § 3 ch 15 SLA 1998)

1 At the next session any such order is exhausted and the regular rules of debate prevail.

5 Form and Example

The form used in making this motion is, for example, "I move to take from the table the resolution relating to ... and its amendment."

10 If Member A, who has risen to seek the floor for the purpose of making this motion, observes that the chair has recognized another member who rose at about the same time and who apparently intends to make a new main motion, the procedure would be as follows:

15 MEMBER A (remaining standing and interrupting): Mr. President, I rise for the purpose of moving to take a question from the table.

Upon recognition, Member A then would move "... to take from the table the motion relating to ..."

20 If Member A did not rise to claim the floor before the chair recognized another member who already has made a new motion, then before this question has been stated by the chair, Member A can quickly rise and address the chair, thus:

25 MEMBER A: Madam President.

CHAIR: For what purpose does the member rise?

MEMBER A: I rise for the purpose of moving ... [and so on, as in the case above].

§35. RESCIND; AMEND SOMETHING PREVIOUSLY ADOPTED 1

By means of the motions to *Rescind* and to *Amend Something Previously Adopted*—which are two forms of one incidental main motion governed by identical rules—the assembly can change an action previously taken or ordered. *Rescind*—also known as *Repeal* or *Annul*—is the motion by which a previous action or order can be canceled or countermanded. The effect of *Rescind* is to strike out an entire main motion, resolution, order, or rule that has been adopted at some previous time. *Amend Something Previously Adopted* is the motion that can be used if it is desired to change only a part of the text, or to substitute a different version. 10 15

Standard Descriptive Characteristics 15

The motions to *Rescind* and to *Amend Something Previously Adopted*: 20

1. Take precedence over nothing, and can therefore be moved only when no other motion is pending. *Previous notice* (pp. 121–24) of intent to offer one of these motions at the next meeting can be given while another question is pending, however—provided that it does not interrupt a speaker (see Standard Characteristic 7). These motions yield to subsidiary, privileged, and incidental motions. 25
2. Can be applied to anything (e.g., bylaw, rule, policy, decision, or choice) which has continuing force and effect and which was made or created at any time or times as the result of the *adoption* of one or more main motions. (However, see below for actions that cannot be rescinded or amended.) All of the subsidiary motions can be applied to the motions to *Rescind* and to *Amend Something Previously Adopted*. 30 35

- 1 3. Are out of order when another has the floor; but previous notice of intent to offer one of these motions at the next meeting can be given after another member has been assigned the floor, provided that he has not begun to speak.
- 5 4. Must be seconded.
- 5. Are debatable; debate can go into the merits of the question which it is proposed to rescind or amend.
- 6. Are amendable, by the processes of primary and secondary amendment in any of the forms discussed in 12, as applicable to the particular case. Thus, a motion to *Rescind* can be amended, for example, by substituting for it a motion to amend what is proposed to be rescinded. But if a motion to *Rescind* or to *Amend Something Previously Adopted* is amended so that the change proposed by the amended motion then exceeds the scope of a previous notice that was given, the effect of the previous notice is destroyed and the motion can no longer be adopted by a majority vote (see Standard Characteristic 7). When these motions *require* previous notice (as may be the case with respect to a motion to rescind or amend a provision of the bylaws or a special rule of order), such a motion cannot be amended so as to make the proposed change greater than that for which notice has been given.
- 7. In an assembly, except when applied to a constitution, bylaws, or special rules of order, require (a) a two-thirds vote, (b) a majority vote when notice of intent to make the motion, stating the complete substance of the proposed change, has been given at the previous meeting within a quarterly time interval or in the call of the present meeting, or (c) a vote of a majority of the entire membership—any one of which will suffice. The same vote is required for the assembly to rescind or amend an action taken by subordinate bodies, such as some executive boards, empowered to act on behalf of the assembly. In a committee, these motions require a two-thirds vote unless all committee members who voted for the motion to be

- rescinded or amended are present or have received ample notice, in which case they require a majority vote. A motion to rescind or amend provisions of a constitution or bylaws is subject to the requirements for amendment as contained in the constitution or bylaws (see 56, 57). If the bylaws or governing instrument contains no provision relating to amendment, a motion to rescind or amend applied to a constitution or to bylaws is subject to the same voting requirement as to rescind or amend special rules of order—that is, it requires (a) previous notice as described above *and* a two-thirds vote or (b) a vote of a majority of the entire membership.
- 8. A negative vote on these motions can be reconsidered, but not an affirmative vote.

Further Rules and Explanation

RIGHT OF ANY MEMBER TO MAKE THE MOTIONS, WITHOUT TIME LIMIT. In contrast to the case of the motion to *Reconsider*, there is no time limit on making these motions after the adoption of the measure to which they are applied, and they can be moved by any member, regardless of how he voted on the original question. When previous notice has been given, it is usual to wait for the member who gave notice of these motions to move them; but if he does not, any member can do so.

PROPOSED AMENDMENTS BEYOND THE SCOPE OF THE NOTICE. As noted in Standard Descriptive Characteristic 6 above, when previous notice is a *requirement* for the adoption of a motion to rescind or amend something previously adopted, no subsidiary motion to amend is in order that proposes a change greater than that for which notice was given. This is always the case, for example, when the bylaws of an organization require previous notice for their amendment, which they should do (pp. 580–82). It will also

1 be the case, as a practical matter, whenever a majority of the
 entire membership is not in attendance at the time the vote
 is taken on a motion to rescind or amend a provision of the
 constitution or bylaws, or a special rule of order. In either of
 5 the situations described above, no subsidiary motion to
 amend is in order that proposes a change going beyond the
 scope of the notice which was given, for the reason that adop-
 tion of such a motion will destroy the effect of the notice,
 and the motion is thus tantamount to a motion to *Postpone*
 10 *Indefinitely*.

ACTIONS THAT CANNOT BE RESCINDED OR
 AMENDED. The motions to *Rescind* and to *Amend Some-*
thing Previously Adopted are not in order under the following
 15 circumstances:

- a) When it has previously been moved to reconsider the vote
 on the main motion, and the question can be reached by
 calling up the motion to *Reconsider* (37).
- 20 b) When something has been done, as a result of the vote
 on the main motion, that is impossible to undo. (The un-
 executed part of an order, however, can be rescinded or
 amended.)
- 25 c) When a resignation has been acted upon, or a person has
 been elected to or expelled from membership or office,
 and the person was present or has been officially notified
 of the action. (The only way to reverse an expulsion is to
 follow whatever procedure is prescribed by the bylaws for
 admission or reinstatement. For the case of an election, see
 30 pp. 653-54 regarding removal of a person from office.)

Form and Example

35 When previous notice has been given, the motions to
Rescind or to *Amend Something Previously Adopted* may be
 made as follows:

MEMBER A (obtaining the floor): In accordance with notice given at
 the last meeting, I move to rescind the resolution that authorized addi- 1
 tional landscaping of the grounds. [Or "... to amend the resolution ...
 by adding ..."] (Second.)

In such a case, a majority vote is sufficient. 5

When no notice of the motion to *Rescind* or to *Amend*
Something Previously Adopted has been given, the motions
 may be made as follows:

MEMBER A (obtaining the floor): I move to rescind the motion relat- 10
 ing to ... adopted at the May meeting. [Or "... to amend the motion ...
 by inserting ..."] (Second.)

Without previous notice, the motion requires a two-thirds 15
 vote or a majority of the entire membership for its adoption.

In a great many instances, the motion or resolution origi-
 nally adopted is not referred to, and only the bylaw, rule,
 or policy to be rescinded or amended is mentioned. For
 example: 20

MEMBER A (obtaining the floor): In accordance with the notice given
 in the call of this meeting, I move to amend Article V, Section 3 of the
 bylaws by striking out subparagraph (c) thereof. (Second.) 25

To offer an amendment to change one form of the mo-
 tion into the other:

If the motion was made "to amend the motion relating
 to ... adopted at the May meeting ... by inserting ...": 30

MEMBER A (obtaining the floor): I move to substitute for the pending
 motion the following: "To rescind the motion relating to ... adopted at
 the May meeting."

If the motion was made "To rescind the resolution that 35
 authorized additional landscaping of the grounds.":

1 MEMBER A (obtaining the floor): I move to substitute for the pending
 motion the following: "To amend the resolution that authorized addi-
 tional landscaping of the grounds by adding 'at a cost not to exceed
 \$100,000.'"

5 **Rescind and Expunge from the Minutes**

10 On extremely rare occasions when it is desired not only
 to rescind action but also to express the strongest disapproval,
 a member may move to *Rescind and Expunge from the*
Minutes (or the Record). Adoption of this motion requires an
 affirmative vote of a majority of the entire membership, and
 may be inadvisable unless the support is even greater. Even a
 unanimous vote at a meeting is insufficient if that vote is not
 15 a majority of the entire membership. If such a motion is
 adopted, the secretary, in the presence of the assembly, draws
 a single line through or around the offending words in the
 minutes, and writes across them the words, "Rescinded and
 Ordered Expunged," with the date and his signature. In the
 20 recorded minutes the words that are expunged must not be
 blotted or cut out so that they cannot be read, since this
 would make it impossible to verify whether more was expunged
 than ordered. In any published record of the proceedings, the
 expunged material is omitted. Rather than
 25 expunging, it is usually better to rescind the previous action
 and then, if advisable, to adopt a resolution condemning the
 action which has been rescinded.

30 **§36. DISCHARGE A COMMITTEE**

By means of the motion to *Discharge a Committee* from
 further consideration of a question or subject, the assembly
 can take the matter out of a committee's hands* after refer-

*Or a committee can take it out of a subcommittee's hands.

ring it to the committee and before the committee has made
 a final report on it, and the assembly itself can consider it.

So long as a question is in the hands of a committee, the
 assembly cannot consider another motion involving practi-
 cally the same question.

The rules governing this motion are similar to those
 applying to the motion to *Rescind* or to *Amend Something*
Previously Adopted—of which it is a particular case in certain
 applications, as explained on pages 313-14.

Standard Descriptive Characteristics

The motion to *Discharge a Committee*:

1. Takes precedence over nothing, and therefore can be
 moved only when no other question is pending. *Previous*
notice of intent to offer the motion at the next meeting
 can be given while another question is pending, how-
 ever—provided that it does not interrupt a speaker. This
 motion yields to all subsidiary, privileged, and incidental
 motions. 15
2. Can be applied to any main motion, or any other matter,
 that has been referred to a committee and that the com-
 mittee has not yet finally reported to the assembly. All of
 the subsidiary motions can be applied to it. 20
3. Is out of order when another has the floor; but previous
 notice of intent to offer this motion at the next meeting
 can be given after another member has been assigned the
 floor, provided that he has not begun to speak. 25
4. Must be seconded. 30
5. Is debatable; debate can go into the merits of the question
 in the hands of the committee.
6. Is amendable. For example, the motion can be amended
 as to the time at which the assembly is to consider
 the question; or an amendment to the effect that the 35