

City Council  
August 22, 2016  
Monday

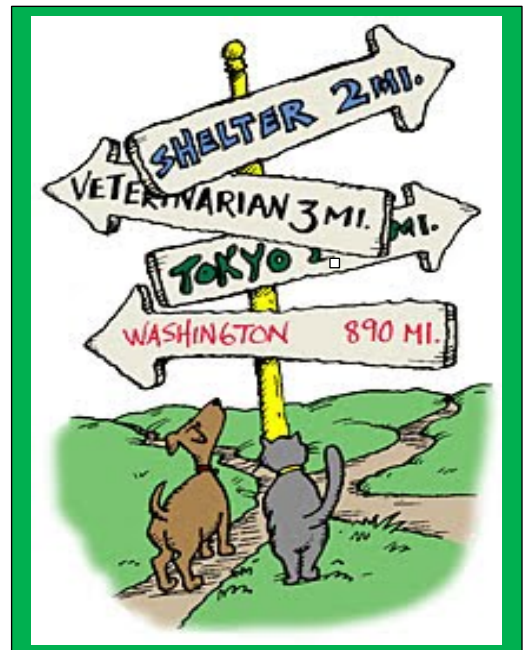


Committee of the Whole 5:00 p.m.  
Regular Meeting 6:00 p.m.

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



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# August

- Monday 22<sup>nd</sup>:** **CITY COUNCIL**  
Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.
- Wednesday 24<sup>th</sup>:** **PUBLIC SAFETY BUILDING REVIEW COMMITTEE**  
Regular Meeting 5:30 p.m.
- PORT AND HARBOR ADVISORY COMMISSION**  
Regular Meeting 6:00 p.m.
- Thursday 25<sup>th</sup>:** **CANNABIS ADVISORY COMMISSION**  
Regular Meeting 5:30 p.m.
- Tuesday 30<sup>th</sup>:** **FRISBEE COURT SPECIAL ASSESSMENT DISTRICT**  
Neighborhood Meeting 5:30 p.m.
- Monday 5<sup>th</sup>:** **CITY OFFICES CLOSED IN OBSERVANCE OF LABOR DAY**
- Tuesday 6<sup>th</sup>:** **LIBRARY ADVISORY BOARD**  
Special Meeting 5:30 p.m.
- Wednesday 7<sup>th</sup>:** **PLANNING COMMISSION**  
Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
- Thursday 8<sup>th</sup>:** **AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE**  
Meeting 4:00 p.m.
- Monday 12<sup>th</sup>:** **CITY COUNCIL**  
Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.

## Regular Meeting Schedule

- Library Advisory Board 1<sup>st</sup> Tuesday with the exception of January, April, August and November 5:30 p.m.**
- Economic Development Advisory Commission 2<sup>nd</sup> Tuesday 6:00 p.m.**
- Parks and Recreation Advisory Commission 3<sup>rd</sup> Thursday with the exception of July, December and January 5:30 p.m.**
- Planning Commission 1<sup>st</sup> and 3<sup>rd</sup> Wednesday 6:30 p.m.**
- Port and Harbor Advisory Commission 4<sup>th</sup> Wednesday 5:00 p.m. (May-August 6:00 p.m.)**
- Cannabis Advisory Commission 4<sup>th</sup> Thursday 5:30 p.m.**
- Public Arts Committee Quarterly 2<sup>nd</sup> Thursday 5:00 p.m.**
- Permanent Fund Committee Quarterly 2<sup>nd</sup> Thursday 5:15 p.m.**

## MAYOR AND CITY COUNCILMEMBERS AND TERMS

- BETH WYTHER, MAYOR – 16**
- BRYAN ZAK, COUNCILMEMBER - 16**
- DAVID LEWIS, COUNCILMEMBER – 17**
- GUS VAN DYKE, COUNCILMEMBER – 16**
- CATRIONA REYNOLDS, COUNCILMEMBER – 17**
- DONNA ADERHOLD, COUNCILMEMBER – 18**
- HEATH SMITH, COUNCILMEMBER – 18**

**City Manager, Katie Koester  
City Attorney, Holly Wells**

<http://cityofhomer-ak.gov/cityclerk> for home page access, Clerk's email address is: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us) Clerk's office phone number: direct line 235-3130, other number 435-3106

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



**COMMITTEE OF THE WHOLE**  
**5:00 P.M. MONDAY**  
**AUGUST 22, 2016**  
**COWLES COUNCIL CHAMBERS**

MAYOR BETH WYTHE  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER GUS VAN DYKE  
COUNCIL MEMBER CATRIONA REYNOLDS  
COUNCIL MEMBER DONNA ADERHOLD  
COUNCIL MEMBER HEATH SMITH  
CITY ATTORNEY HOLLY WELLS  
CITY MANAGER KATIE KOESTER  
CITY CLERK JO JOHNSON

### **COMMITTEE OF THE WHOLE AGENDA**

**1. CALL TO ORDER, 5:00 P.M.**

Councilmember Lewis has requested excusal.

**2. AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

**3. CITY MANAGER'S REPORT** Page 255

**4. CONSENT AGENDA**

**5. REGULAR MEETING AGENDA**

**6. COMMENTS OF THE AUDIENCE**

**7. ADJOURNMENT NO LATER THAN 5:50 P.M.**

Next Regular Meeting is Monday, September 12, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
AGENDA APPROVAL





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



**REGULAR MEETING**  
**6:00 P.M. MONDAY**  
**AUGUST 22, 2016**  
**COWLES COUNCIL CHAMBERS**

MAYOR BETH WYTHE  
COUNCIL MEMBER DAVID LEWIS  
COUNCIL MEMBER BRYAN ZAK  
COUNCIL MEMBER GUS VAN DYKE  
COUNCIL MEMBER CATRIONA REYNOLDS  
COUNCIL MEMBER DONNA ADERHOLD  
COUNCIL MEMBER HEATH SMITH  
CITY ATTORNEY HOLLY WELLS  
CITY MANAGER KATIE KOESTER  
CITY CLERK JO JOHNSON

## **REGULAR MEETING AGENDA**

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

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

Councilmember Lewis has requested excusal.

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

### **2. AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

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

### **4. RECONSIDERATION**

### **5. CONSENT AGENDA**

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

A. Homer City Council unapproved Regular meeting minutes of August 8, 2016. City Clerk. Recommend adoption. Page 21

B. **Ordinance 16-44**, An Ordinance of the City Council of Homer, Alaska, Amending

Homer City Code 17.04.190, Entitled “Deferment of Assessment Payments for Low Income Residents,” by Permitting Assessment Deferral Applicants to Apply for a Deferral in Any Year an Applicant is Eligible for the Deferral Regardless of Whether or Not the Applicant Applied for Deferral in the Initial Year of Assessment. City Manager. Recommended dates: Introduction August 22, 2016, Public Hearing and Second Reading September 12, 2016. Page 43

Memorandum 16-135 from City Clerk as backup. Page 49

- C. **Ordinance 16-45**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget by Appropriating Funds in the Amount of \$30,000.00 From Port and Harbor Reserves to Purchase Twelve New LED Lights for the High Mast Light Pole #7 at the Harbor. City Manager/Port and Harbor Director. Recommended dates: Introduction August 22, 2016, Public Hearing and Second Reading September 12, 2016. Page 51

Memorandum 16-136 from Port and Harbor Director as backup. Page 55

- D. **Resolution 16-088**, A Resolution of the Homer City Council Awarding the Contract for the 2016 Paving Project to McKenna Brothers Paving, Inc. of Anchorage, Alaska, in the Amount of \$418,771.30 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.

Page 59

Memorandum 16-137 from Public Works Director as backup. Page 61

- E. **Resolution 16-089**, A Resolution of the City Council of Homer, Alaska, Noting the Insufficiency of the Petition for Ocean Drive Loop Road Reconstruction and Paving Special Assessment District. City Clerk. Recommend adoption. Page 67

## 6. VISITORS

- A. Karen Wood-McGuiness, Regional Community Rating System Coordinator, FEMA, 10 minutes. Page 91

- B. Jack Bennett, Industrial Hemp Manufacturing, 10 minutes.

## 7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. Borough Report

- B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
6. Cannabis Advisory Commission

**8. PUBLIC HEARING(S)**

- A. **Ordinance 14-18(A)(S-2)**, An Ordinance of the Homer City Council Amending Homer City Code 21.03.040, Definitions Used in Zoning Code, Homer City Code 21.05.030, Measuring Heights, and Homer City Code 21.70.010, Zoning Permit Required; Repealing Homer City Code Chapter 21.58, Small Wind Energy Systems; and Enacting Homer City Code Chapter 21.58, Towers and Related Structures. Planning. Introduction April 28, 2014 and Referred to Planning Commission. Amended Substitute Adopted March 29, 2016 and Referred to Planning Commission. Second Substitute Introduced August 8, 2016, Public Hearing and Second Reading August 22, 2016. Page 103

Memorandum 16-127 from City Planner as backup. Page 117

- B. **Ordinance 16-38(S)**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15, Animals in Vehicles, Regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief. Introduction June 27, 2016, Public Hearings July 25, August 8 and 22, 2016, Second Reading August 22, 2016.

Page 119

Memorandums 16-026 and 16-111 from Deputy City Clerk as backup. Pages 137/141

Memorandum 16-114 from City Attorney as backup. Page 143

- C. **Ordinance 16-43**, An Ordinance of the City Council of Homer, Alaska, Amending Ordinance 13-03(S)(2) to Change the Terms for Adjusting the Amortization of Principal of the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager. Introduction August 8, 2016, Public Hearing and Second Reading August 22, 2016. Page 217

**9. ORDINANCE(S)**

**10. CITY MANAGER’S REPORT**

- A. City Manager’s Report Page 255
- B. Bid Report Page 269

**11. CITY ATTORNEY REPORT**

- A. City Attorney Report – July 2016 Page 273

**12. COMMITTEE REPORT**

- A. Employee Committee Report
- B. Public Safety Building Review Committee
- C. Americans with Disabilities Act Compliance Committee

**13. PENDING BUSINESS**

- A. **Resolution 16-078**, A Resolution of the Homer City Council Approving Memorandum 16-120 Establishing Conditions Under Which Adjacent and Benefitted Properties Can Connect to the Shellfish Avenue/South Slope Drive Water Main Project. City Manager/Public Works Director. Postponed from July 25, 2016. Page 279

**Resolution 16-078(S)**, A Resolution of the Homer City Council Approving Memorandum ~~16-120~~ **16-138** Establishing Conditions Under Which Adjacent and Benefitted Properties Can Connect to the Shellfish Avenue/South Slope Drive Water Main Project. City Manager/Public Works Director. Page 281

Memorandums 16-120 and 16-138 from Public Works Director as backup. Page 283

**14. NEW BUSINESS**

**15. RESOLUTIONS**

- A. **Resolution 16-090**, A Resolution of the Homer City Council Awarding the Contract for the City-Owned Dredge Materials 2016 to a Firm to be Named in an Amount to be Disclosed and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Port and Harbor Director. Page 325

- 16. COMMENTS OF THE AUDIENCE**
- 17. COMMENTS OF THE CITY ATTORNEY**
- 18. COMMENTS OF THE CITY CLERK**
- 19. COMMENTS OF THE CITY MANAGER**
- 20. COMMENTS OF THE MAYOR**
- 21. COMMENTS OF THE CITY COUNCIL**
- 22. ADJOURNMENT**

Next Regular Meeting is Monday, September 12, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



PUBLIC COMMENTS  
UPON MATTERS  
ALREADY ON THE AGENDA





# RECONSIDERATION



# CONSENT AGENDA



Session 16-16 a Regular Meeting of the Homer City Council was called to order on August 8, 2016 at 6:00 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

**PRESENT:** COUNCILMEMBERS: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN DYKE, ZAK

STAFF: CITY MANAGER KOESTER  
CITY CLERK JOHNSON  
CITY ATTORNEY WELLS  
CITY PLANNER ABBOUD  
FINANCE DIRECTOR LI  
LIBRARY DIRECTOR DIXON  
PORT AND HARBOR DIRECTOR HAWKINS

Council met as a Committee of the Whole from 5:00 p.m. to 5:36 p.m. to discuss Resolutions 16-080, 16-084, 16-085, and 16-086, Memorandums 16-128, 16-129, 16-130, and 16-131, and 2017 Budget Priorities along with Consent Agenda and Regular Meeting Agenda items.

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

### **AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The following changes were made: **PUBLIC HEARINGS - Ordinance 16-38(S)**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15, Animals in Vehicles, Regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief. Written public testimony.

Mayor Wythe called for a motion for the adoption of the agenda as amended.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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

Olga vonZiegesar, Homer resident, spoke on Resolution 16-081. She asked Council to change the time and place of the Navy practices.

Roberta Highland, city resident, supports Resolution 16-081. She referenced the Sonic Sea film showing the devastating effects of Navy exercises.

Mako Haggerty, Homer resident, supports Resolution 16-081. In 2011 Alaska let the coastal management plan go away so it now falls on the coastal municipalities to let the federal government know we care and are watching.

Sue Christiansen, city resident, spoke on Resolution 16-081. While war games are intended to help us become nationally secure, the cumulative impacts to food and marine environment are devastating.

Rhema Smith supports Resolution 16-081. The Navy can find another place and different time of year for their activities.

Robert Archibald, city resident, spoke on Resolution 16-081. The active sonar has devastating effects on mammals traveling in the areas. He would like the Navy to look at the timing and place.

Amanda Johnston, city resident, supports Resolution 16-081. There is never a good time for the activities, but it would be less detrimental in the winter months.

Maya, Hawaii and Homer resident, supports Resolution 16-081 to minimize impacts on fish and marine mammals. It is irresponsible to have Navy war games in the areas that affect our resources.

Bob Shavelson, Cook Inletkeeper, commented on Resolution 16-081. Kachemak Bay has had a significant change in the last two years with the die-off of otters, murre, and clams. He suggested the Navy move away from areas in May and push further off the coast.

Tom Zitzmann, city resident, supports Resolution 16-081. He sees the beauty of the bay with the abundance of humpback whales playing. The timing of the events may impact the humpbacks coming to Kachemak Bay.

## **RECONSIDERATION**

## **CONSENT AGENDA**

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

- A. Homer City Council unapproved Regular meeting minutes of July 25, 2016. City Clerk. Recommend adoption.
  
- B. **Ordinance 16-43**, An Ordinance of the City Council of Homer, Alaska, Amending Ordinance 13-03(S)(2) to Change the Terms for Adjusting the Amortization of Principal of the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager. Recommended dates: Introduction August 8, 2016, Public Hearing and Second Reading August 22, 2016.
  
- C. **Resolution 16-082**, A Resolution of the Homer City Council Approving the Terms and Conditions for the Sale of Parcel No. 175-241-26, T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 57; Parcel No. 175-241-28, T6S R14W SEC 24 S.M. HM0880016 Lillian Walli Estate Lot 58; Parcel No. 175-241-27, T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 59; Parcel No. 175-241-26, T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 60; Parcel No. 175-241-30, T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 65; Parcel No. 175-241-11 T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 66; Parcel No. 175-241-12, T 6S R 14W SEC 24 S.M. HM 0880016 Lillian Walli Estate Lot 67; Parcel No. 175-241-10, T 6S R 14W S.M. HM 0880016 Lillian Walli Estate Lot 70 to the Highest, Responsible Bidder for Those Lots and Authorizing the City Manager to Execute the Appropriate Documents to Finalize the Sales. City Manager. Recommend adoption.
  
- D. **Resolution 16-084**, A Resolution of the Homer City Council Approving an Amendment to the Michael Yourkowski Lease on Lot 88-2, Homer Spit Sub No. 2 Amended, to Permit the Use of 611 Square Feet of the City of Homer's Right of Way for Restaurant Seating, Amending the Base Rent to Be Paid in Quarterly Installments, and Amending Verbiage Related to Subleasing to Bring It To-Date With Current Policies, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 16-128 from Lease Committee as backup.

Memorandum 16-129 from Port and Harbor Advisory Commission as backup.

Moved to Resolutions, Item D. Lewis.

- E. **Resolution 16-085**, A Resolution of the Homer City Council Approving a Request to Sublease to Michael Yourkowski to Permit Commercial Subleases in Eight Buildings Located on the Leased Property Lot 88-2, Homer Spit Sub No. 2 Amended. City Manager. Recommend adoption.

Memorandum 16-128 from Lease Committee as backup.

Memorandum 16-129 from Port and Harbor Advisory Commission as backup.

Moved to Resolutions, Item E. Lewis.

- F. **Resolution 16-086**, A Resolution of the Homer City Council Awarding to Global Sustainable Fisheries of Alaska a 20-Year Lease With Two, Five-Year Options for Lot 9-A and Lot 10-A, Homer Spit Replat 2006, With a Base Rent of \$36,133.00 Per Year, and Authorizing the City Manager to Move Forward With Lease Negotiations and Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 16-130 from Lease Committee as backup.

Memorandum 16-131 from Port and Harbor Advisory Commission as backup.

- G. **Resolution 16-087**, A Resolution of the City Council of Homer, Alaska, Opposing the National Park Service's Closure of the Homer Field Office for Lake Clark National Park. Aderhold. Recommend adoption.

Moved to Resolutions, Item F. Smith.

- H. **Memorandum 16-126**, from Library Advisory Board, Re: Request to Hold a Special Meeting.

Item D, Resolution 16-084 was moved to Resolutions, Item D. Lewis.

Item E, Resolution 16-085 was moved to Resolutions, Item E. Lewis.

Item G, Resolution 16-087 was moved to Resolutions, Item F. Smith.

Mayor Wythe called for a motion for the approval of the recommendations of the consent agenda as read.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.



VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **VISITORS**

- A. Emily E. Stolarcyk, Program Manager for Eyak Preservation Council, Overview of U.S. Navy Training Activities in the Gulf of Alaska

Emily E. Stolarcyk, Program Manager for Eyak Preservation Council, showed a map of the Navy designated training area. It is 12 miles from the nearest point of land and encompasses 300 x 150 nautical miles. NOAA is the authorizing agency for the training sessions that have brought forward several lawsuits. Trainings occur in the rich habitat area for five species of salmon.

Last year the Navy conducted training from June 15 – 26. The communities of Cordova, Kodiak, and Homer, along with regional tribes passed resolutions against the activities. Senator Murkowski launched an investigation, but the Navy was authorized to proceed with the training. Last year they used 3% of authorized ordnance and deployed formerly classified weapon systems. Eyak Preservation Council has been filing freedom of information acts with the Navy, but they have refused all requests. The permits run in 5-year increments so the Navy is now seeking reauthorization for the next 5 years. There is a 30-day comment period and then the Navy will release their decision for the next 5 years. The Navy has scheduled trainings for May 1 - 12, 2017. Hawaii and California had a joint lawsuit against the practices and the settlement excluded the Navy from practicing in Honolulu. The Pritzker lawsuit is currently pending for the Gulf of Alaska. Kodiak multi-tribe government to government consultation resulted in the exclusion of explosions in Portlock Bank.

The sonar is 235 decibels and causes direct injury, mortality, and exposure to chemical byproducts. It is estimated about 20% of the area will be polluted by the trainings. Over 352,000 pounds of weapons could be used; that number excludes classified weapons. The majority of testing material is nonhazardous but over 10,000 pounds is classified as hazardous. When torpedoes are exploded in the water it is 140 – 150 times the effects of cyanide.

Ms. Stolarcyk recommended passing the resolution tonight. Asking the Navy not to conduct training exercises at all is not likely to be successful. Although the military needs to show they are prepared in Arctic waters, the Navy could move further off-land.

## **ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS**

### A. Borough Report

### B. Commissions/Board Reports:

#### 1. Library Advisory Board

Jacque Peterson, Library Advisory Board Member, reported the library summer reading program is wrapping up. This year 423 people participated, an increase of 10% from 2015. Circulation continues to grow with June statistics at 13,953 items checked out, up from 10,423 from the same month in 2015. July circulation statistics had a 10% increase. On Thursdays, August 4, 11, and 18, a three-part video will be shown on Becoming Human. August 10<sup>th</sup> the Kenai Peninsula Orchestra will present a Children's Concert. In September the Library will be 10 years old; a celebration is planned for September 17<sup>th</sup>. William Henley, the summer intern, has completed two big projects in the children's area. His position is funded through the Alaska State Library. Lastly, the Tech Insider mentioned the most beautiful libraries in every state, including ours for Alaska.

#### 2. Homer Advisory Planning Commission

Planning Commissioner Roberta Highland reported the commission worked on the tower ordinance and hopes it is better. Tower regulations have been a long haul for the commission; fortunately no requests for towers have come before the commission yet. At the last meeting the commission had a long discussion on a plat on Mission Road to vacate a right-of-way easement and vacate a portion of the right-of-way. Both actions were approved. Additionally, the commission is reviewing the Homer Accelerated Water and Sewer Program (HAWSP) and hope to get enough information to make recommendations. Finance Director Li and Public Works Director Meyer made a presentation on HAWSP at their last meeting.

#### 3. Economic Development Advisory Commission

#### 4. Parks, Art, Recreation and Culture Advisory Commission

Parks, Art, Recreation and Culture Advisory Commissioner Robert Archibald reported the commission discussed the Capital Improvement Plan (CIP) and will narrow the list down and present several projects. Improvements to the water supply at Jack Gist Park are foremost. On Saturday the Pratt Museum will be working on the trail on Pioneer Avenue from 9:00 a.m. to 2:00 p.m. They are looking for volunteers. People are asked to bring work gloves, shovels, rakes, and wheelbarrows. The animal ordinance did not go before the commission, but while reviewing beaches the commission talked a lot about dogs. There are issues with loose dogs and he questioned how a dog can be under voice control.

5. Port and Harbor Advisory Commission

Cathy Ulmer, Chair of the Port and Harbor Advisory Commission, told Council the East Boat Harbor is needed. We need to rev up the economic engine. On a personal note, she expressed her deep gratitude for Resolution 16-081.

6. Cannabis Advisory Commission

Councilmember Reynolds reported at the last meeting the commission discussed items for the CIP. There was a lot of input from City Attorney Wells regarding marijuana taxes. Councilmember Lewis reported coming up with an excise tax on marijuana will cost \$25,000. We will wait and hope some other government entity comes up with the language so we can piggyback. It will save the City money, attorney time, and keep us out of court.

B. Sister City Teshio Update, by Councilmember Lewis

Councilmember Lewis reported he will be visiting Teshio from September 12 – 16 while on a personal vacation. The only expense to the City will be the costs for gifts and shipping them to Japan.

Mayor Wythe called for a recess at 7:05 p.m. and reconvened the meeting at 7:10 p.m.

**PUBLIC HEARING(S)**

A. **2017 BUDGET PRIORITIES**

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

B. **Ordinance 16-38(S)**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15,

Animals in Vehicles, Regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief. Introduction June 27, 2016, Public Hearings July 25 and August 8, 2016, Second Reading August 8, 2016.

Memorandums 16-026 and 16-111 from Deputy City Clerk as backup.  
Memorandum 16-114 from City Attorney as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to postpone Ordinance 16-38(S) to August 22<sup>nd</sup> for Public Hearing and Second Reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 16-39**, An Ordinance of the City Council of Homer, Alaska, Appropriating Funds in the Amount Of \$5,000 from the Public Safety Building Fund for Public Information Campaign in Support of the Ballot Proposition to Issue General Obligation Bonds not to Exceed \$12 Million Dollars to Finance the Acquisition and Construction of a Police Station and Provide for an Increase in the Rate of City Sales Tax from 4.5% to 5.15% from April 1 through September 30 with the Increase Providing Funds to Pay Debt Service on the General Obligation Bonds and Expiring on September 30 the Year when the City has Received Sufficient Funds from the Increase to Pay all of that Debt Service, Including Information that may Influence the Outcome of the Election on the Proposition. Mayor/City Manager. Introduction July 25, 2016, Public Hearing and Second Reading August 8, 2016.

Memorandum 16-117 from Deputy City Clerk as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-39 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 16-40**, An Ordinance of the City Council of Homer, Alaska, Transferring Recreational Powers to the Kenai Peninsula Borough for the Leasing of Borough Property as a Site for an Indoor Athletic Field. City Manager. Introduction July 25, 2016, Public Hearing and Second Reading August 8, 2016.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-40 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

SMITH/REYNOLDS - MOVED TO CHANGE IN ALL INSTANCES TRANSFER OF LIMITED RECREATIONAL POWERS.

City Attorney Wells cautioned Council about adding the limited recreational powers clause. The change to limited powers might inadvertently step into a change the Borough Assembly and legal counsel are not comfortable with, slowing down the process. At this stage the effectiveness of the ordinance is valid. The Borough does not have full parks and recreation powers for the City of Homer; they are limited to this project.

VOTE: (amendment) NO. LEWIS, SMITH, ADERHOLD, REYNOLDS, ZAK, VAN DYKE

Motion failed.

VOTE: (main motion) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Ordinance 16-41**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget to Provide for Necessary Mid-Year Adjustments by Appropriating and Transferring Funds from the General, Water and Sewer and Port and Harbor Funds. City Manager/Finance Director. Introduction July 25, 2016, Public Hearing and Second Reading August 8, 2016.

Memorandum 16-118 from City Manager as backup.

Memorandum 16-132 from City Planner as backup.

Memorandum 16-134 from Finance Director as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-41 by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

Mayor Wythe called for a recess at 7:25 p.m. and reconvened the meeting at 7:35 p.m.

ZAK/REYNOLDS – MOVED TO AMEND ORDINANCE 16-41 INSTEAD OF ALLOCATING AMOUNTS TO INDIVIDUAL DEPARTMENT RESERVES TO ALLOCATE TO INDIVIDUAL HEALTH INSURANCE COSTS.

Account information will be provided by the Finance Director. City Manager Koester confirmed the items on Ordinance 16-41 can be funded by individual department reserves.

VOTE: (amendment) YES. ZAK, SMITH, VAN DYKE

VOTE: NO. ADERHOLD, REYNOLDS, LEWIS

Mayor Wythe broke the tie with a YES vote.

Motion carried.

Asked about replacing computers at the Library, City Manager Koester explained the computers were purchased by a grant. They receive high usage and a request to replace them was denied due to tight times. Jenny is looking at other grant programs.

VOTE: (main motion as amended) YES. REYNOLDS, ADERHOLD, VAN DYKE, ZAK, SMITH

VOTE: NO. LEWIS

Motion carried.

- F. **Ordinance 16-42**, An Ordinance of the City Council of Homer, Alaska Enacting Homer City Code 10.04.115, Appeal from Port and Harbor Citation Issued Pursuant to Homer City Code Title 7 and Homer City Code Title 10. City Manager. Introduction July 25, 2016, Public Hearing and Second Reading August 8, 2016.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-42 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **ORDINANCE(S)**

### **CITY MANAGER'S REPORT**

- A. City Manager's Report

#### **Roger's Loop Trailhead**

The City has signed an agreement to purchase two pieces of property off of Roger's Loop that serves the Homer Demonstration Forest, provides year round access to the Baycrest trail system, and is key to providing future access to the City owned Diamond Creek property. \$65,000 for acquisition of this property was budgeted for in the 2015 budget out of HART trails

and authorized in Resolution 14-118. The Parks and Recreation Advisory Commission has been advocating for acquisition of this piece for some time and will be pleased to see progress. Long term plans for this property are to pursue grants and volunteer labor to develop the vacant lots into a trailhead with amenities such as parking and a visitor kiosk.

### **Alaska North to the Future Volume V**

I am pleased to report that the books the City purchased an 8-page spread in, Alaska North to the Future Volume V have been published and delivered. I have a number of copies for the City to use as gifts when we have official visits. We were able to put this to good use on Tuesday, July 26<sup>th</sup> when the Teshio Sister City delegation met with City officials. This book will be used by communities across the state and state officials to promote Alaska. In addition, we will be given a link to the book to post the electronic copy on our website.

### **\$145,000 in Savings for Enterprise Fund**

The Enterprise experienced \$145,000 in unanticipated savings with the close out of the \$6 million dollar Cruise Ship Passenger Vessel Tax (CPV) grant we received in the 2011 State Capital Budget. The improvements of the \$6 million dollar project can be seen everywhere you turn on the Homer Spit and Downtown: restrooms on the Spit and Downtown, staging improvements for passengers, new fenders on the Deep Water Dock, new boardwalks and trails, and a new load and launch ramp. (See the attached project summary and benefits for more details). Part of the \$6 million dollar project was to provide a match to the Federal Dingel Johnson grant for replacement of the load and launch ramp (an over \$3 million dollar project). The City was required to come up with a local match of \$800,000. The City budgeted for \$600,000 to come out of the Enterprise reserves and the remaining \$200,000 by the CPV grant in Ordinance 14-27. Because a number of the CPV projects came in under budget, we were able to apply an additional \$144,000 of CPV grant money to the load and launch ramp match and recoup Enterprise expenses.

### **Termination of Lease Negotiations for Communications Tower on Homer Spit**

Resolution 15-049 (6/29/2015) authorized the City Manager to enter into lease negotiations with SpitwSpots to construct a communications tower on Lot 11 of the Homer Spit that they would own, operate and manage. The City values the improved communications that a tower on the Spit could provide for mobile, internet, and public safety. However, the City has not been able to reach an agreement with the company on specifics of the lease. After a year of negotiations, multiple meetings, letters, emails, and back and forth with draft lease versions, there are a number of technical and safety points where we have not been able to come to an agreement that is mutually satisfactory to both parties. Part VII of the Tower RFP states that “the City of Homer reserves the right to terminate negotiations with any proposer should it be in the City of Homer’s best interest.” Lease Committee members will deliberate how to best move forward and will advise whether or not they recommend reissuing an RFP.



### **Most Beautiful Library**

The Homer Public Library has put the City on the map again. In a July 29, 2016 online publication, Tech Insider, nominated the Homer Public Library as the most beautiful library in Alaska. The list highlights a library in each of the 50 states.

### **Soundview Project Receives TAP Grant Award**

I am pleased to announce that the City of Homer received a \$500,000 grant from ADOT&PF Transportation Alternative Program (TAP) for pedestrian safety improvements on Soundview Avenue. This, combined with a City of Homer match (\$200,000) will make the area much safer for children walking to school. As you recall, Council approved sidewalk and pedestrian safety improvements in the 2016 budget process. The City became aware of this grant opportunity as a way to leverage HART funds, save some money, and expand the project to bring the sidewalk all the way to the school. It was a very competitive grant with 42 applicants and only 8 awards. Credit goes to the community for bringing this needed improvement to Council's attention, Council for having the foresight to budget for it which allowed us to do preliminary engineering and be eligible for the grant, Jenny Carroll for pulling together a well written grant in a short time frame and Carey Meyer for providing all the technical information and project scope required. Because federal dollars are being used, there are additional environmental and permitting processes to go through that will push the construction start date to 2017. Once we receive a grant agreement, I will bring an ordinance before Council accepting the grant. We have been told this could take a few months due to DOT's internal processes. See attached press release for more information.

### **Investment Policy**

I regret that I had to cancel the investment policy worksession scheduled for today. Staff is overwhelmed and has not been able to put the time and attention into developing a 50-minute worksession that makes the best use of Council time. As you know, reviewing the investment policy to ensure that the City is receiving the highest rate of return while protecting the public's money has been on my radar since I was hired. Nevertheless, the City has a very robust investment policy on the books that is well within government standards and prioritizes safety (see attached HCC 3.10). When the Council has the time to dive into the details, I anticipate you will need to give staff direction and make minor tweaks in lieu of a wholesale re-write. Thanks for your patience as staff and Council juggles the many time consuming issues we are dealing with.

### **Statewide Transportation Improvement Plan (STIP)**

Amendment Number 1 to the STIP was released by AKDOT&PF mid-July that delays/changes projects that are critical to Homer's downtown core: The amendment was released just days after DOT had an open house for the two projects which were summarized in the June 27<sup>th</sup> City Manager's Report. Full funding of Lake Street Rehabilitation has been delayed from 2018 to indefinitely (after 2019 is listed in the amendment). Rehabilitation of Pioneer Avenue has been eliminated entirely. DOT staff has informed us this project has been downgraded to a pavement preservation project which is funded as part of statewide appropriation, however we do not know at what funding level. City Planner Abboud has prepared comments on the

STIP Amendment 1 (attached) that will be submitted after this Council meeting. Comments and/or additions from Council are welcome.

### **Alaska Municipal League Position Statements**

The July 25<sup>th</sup> City Manager's report included a copy of the AML Position Statement that was adopted at the 2015 AML Annual Conference. AML asked municipalities to review the Position Statement and submit a resolution if any amendments are recommended. No comments were received; therefore the City of Homer will not be forwarding recommendations on the Alaska Municipal League Position Statements (due by resolution August 12). The AML Legislative Committee will present final recommendations to be voted on by the membership at the 2016 AML Annual Conference in November.

City Manager Koester referenced the letter to Governor Walker and the legislative delegation about a proposed state sales tax. The letter was written at the direction of the Council to express their concern about the impact on the local economy.

The Soundview TAP Grant award will allow for the expansion of more sidewalk. The scope of the project and details will be provided in the next city manager's report. Because federal dollars will be spent the project will be more expensive, but the City hopes to save \$100,000 with our match. We won't have a grant agreement until September because of the internal process at DOT. Although the grant will slow down the project in the end we will have a better project, get more done, and be able to save HART dollars for another use.

The termination of lease negotiations for a communications tower on the Homer Spit is a contractual issue. Council doesn't have a mechanism to intervene. City Manager Koester told Council if the successful bidder feels that they have complaints they can put them in writing. City Attorney Wells added that is a good approach and provides the City opportunity to respond to any concerns that may be raised. The way Homer has set up its administrative and legislative processes, this is a contractual issue.

B. Bid Report

### **CITY ATTORNEY REPORT**

Attorney Wells reported there will be an attorney report in the next council packet. There are two Supreme Court cases brought by Frank Griswold. Pleadings are due this month so there will be an update on the report.

### **COMMITTEE REPORT**

- A. Employee Committee Report
- B. Public Safety Building Review Committee

Mayor Wythe announced the next meeting on August 10<sup>th</sup> at 5:30 p.m.

- C. Americans with Disabilities Act Compliance Committee

Councilmember Aderhold announced the next meeting on August 11<sup>th</sup> at 4:00 p.m.

### **PENDING BUSINESS**

- A. **Ordinance 14-18(A)(S)**, An Ordinance of the Homer City Council Amending Homer City Code 21.03.040, Definitions Used in Zoning Code, Homer City Code 21.05.030, Measuring Heights, and Homer City Code 21.70.010, Zoning Permit Required; Repealing Homer City Code Chapter 21.58, Small Wind Energy Systems; and Enacting Homer City Code Chapter 21.58, Towers and Related Structures. Planning. Introduction April 28, 2014 and Referred to Planning Commission. Amended Substitute Adopted March 29, 2016 and Referred to Planning Commission.

**Ordinance 14-18(A)(S-2)**, An Ordinance of the Homer City Council Amending Homer City Code 21.03.040, Definitions Used in Zoning Code, Homer City Code 21.05.030, Measuring Heights, and Homer City Code 21.70.010, Zoning Permit Required; Repealing Homer City Code Chapter 21.58, Small Wind Energy Systems; and Enacting Homer City Code Chapter 21.58, Towers and Related Structures. Planning.

Memorandum 16-127 from City Planner as backup.

*Motion on the floor from March 29, 2016:* MOTION FOR THE ADOPTION OF ORDINANCE 14-18(A)(S) FOR INTRODUCTION AND FIRST READING BY READING OF TITLE ONLY.

Mayor Wythe called for a motion to substitute Ordinance 14-18(A)(S-2) for Ordinance 14-18(A)(S).

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: (substitute) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion to postpone to August 22<sup>nd</sup> for Public Hearing and Second Reading.

ZAK/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## **NEW BUSINESS**

### **RESOLUTIONS**

- A. **Resolution 16-080**, A Resolution of the Homer City Council Reconfirming the Sister City Relationship With Teshio, Hokkaido, Japan. Lewis.

Mayor Wythe called for a motion for the adoption of Resolution 16-080 by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

Mayor Wythe thanked Councilmember Lewis for bringing the resolution forward and taking time out of his vacation to visit Teshio.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 16-081**, A Resolution of the City Council of Homer, Alaska, Opposing Siting and Timing of U.S. Navy Training Exercises That Pose Risks to Fish and Fisheries in the Gulf of Alaska. Lewis.

Mayor Wythe called for a motion for the adoption of Resolution 16-081 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

Councilmember Lewis acknowledged the letter from Senator Murkowski's office asking us to postpone the resolution. A similar resolution was sent to Senator Murkowski last year asking for the same thing and never heard from them. He questioned the timing of their request and recommended passing the resolution.

The comment period ends on August 29<sup>th</sup>. Postponing the resolution until September will not allow the Council to provide public comment.

Councilmember Aderhold noted Resolution 16-081 asks the Navy to postpone training exercises next year. It is not part of the EIS, which would require a different resolution.

ZAK/REYNOLDS – MOVED TO AMEND LINE 57 AFTER NAVY, TO REPLACE THE REST OF THE SENTENCE WITH “NOT TO CONDUCT ITS TRAINING EXERCISES IN THE GULF OF ALASKA.”

Mayor Wythe noted the amendment will conflict other whereas clauses in the resolution.

Council discussed the need for the Navy to be ready to respond to our national security and providing an area where they can do the training exercises. Council requests that the training be scheduled after the salmon and whale migration. It was suggested Council could adopt a resolution asking the Navy to study the effects after a training exercise to see if there is documented damage.

VOTE: (amendment) YES. ZAK

VOTE: NO. VAN DYKE, LEWIS, REYNOLDS, ADERHOLD, SMITH

Motion failed.

Mayor Wythe called for a motion to amend Resolution 16-081 to add a new whereas clause at Line 15: “WHEREAS, THE CITY OF HOMER RECOGNIZES THE VALUE OF NAVAL PRACTICES IN PREPARATION OF OUR NAVY FOR WARTIME ACTIVITIES.”

LEWIS/VAN DYKE – SO MOVED.

Mayor Wythe commented if we cannot acknowledge that we appreciate the job the Navy does she will not support Resolution 16-081. It is important what they do for us and where we are right now in the world for potential conflict in our backyard. She would like them to be really prepared when it happens. It is not an “if” it is a “when” it will happen when you see them staffing up our military all across Alaska.

VOTE: (amendment) YES. VAN DYKE, SMITH, LEWIS, ADERHOLD

VOTE: NO. ZAK, REYNOLDS

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Resolution 16-083**, A Resolution of the City Council of Homer, Alaska, Supporting the Cannabis Advisory Commission's Opposition to the Marijuana Control Board's Requirement of Federal Background Checks and Fingerprinting to Receive a Marijuana Handler Permit. Lewis/Cannabis Advisory Commission.

Memorandum 16-133 from Cannabis Advisory Commission as backup.

Mayor Wythe called for a motion for the adoption of Resolution 16-083 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

Councilmember Lewis explained the law reads that anyone that works in an establishment must be fingerprinted and go through a federal background check. It costs between \$200 and \$300 to acquire a Marijuana Handler Permit. This requirement includes people that mop the floors and is required even if you are not dealing with any kind of product. It exceeds the standard for people working at a liquor store or bar employees who just need a TAM card. Councilmember Reynolds concurred.

Councilmember Smith would be in favor of supporting change within the Marijuana Handler Permit requirements, instead of not supporting the requirements at all.

Mayor Wythe suspended the rules to address Resolutions 16-084, 16-085, and 16-087 while the city attorney was reviewing the regulations for marijuana handlers.

City Attorney Wells advised Council the Marijuana Handler Permit application includes the regulations. The permit is required for each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufacturers, tests, or transports marijuana or marijuana products, or who checks the identification of the consumer or visitor. There is a clearer definition of someone who sells in a store and someone who does tasks at the back of the store. The person who sweeps the floor may need the permit. The concern is who is involved in the retail activity. It is the person selling the product, handing the product over, taking the money, and talking directly to the consumers. In cultivation activities waste disposal requires handling of all the byproducts of marijuana. Janitorial services in a greenhouse require the Handler Permit as that person is charged with disposing of the waste. Although the line may be clear in retail, it is less clear in manufacturing and cultivation.

Councilmember Reynolds added the Marijuana Handler Permit should not be tied to fingerprints and background check as it is much more onerous than what is expected of alcohol handlers. They should be held to a similar standard of alcohol servers and liquor store employees.

VOTE: YES. REYNOLDS, LEWIS, ADERHOLD

VOTE: NO. SMITH, ZAK, VAN DYKE

Mayor Wythe broke the tie with a NO vote.

Motion failed.

D. **Resolution 16-084**, A Resolution of the Homer City Council Approving an Amendment to the Michael Yourkowski Lease on Lot 88-2, Homer Spit Sub No. 2 Amended, to Permit the Use of 611 Square Feet of the City of Homer's Right of Way for Restaurant Seating, Amending the Base Rent to Be Paid in Quarterly Installments, and Amending Verbiage Related to Subleasing to Bring It To-Date With Current Policies, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager.

Memorandum 16-128 from Lease Committee as backup.

Memorandum 16-129 from Port and Harbor Advisory Commission as backup.

Councilmember Reynolds expressed a possible conflict of interest. Her husband's business, Cycle Logical, is one of the subleases. The conflict applies to Resolutions 16-084 and 16-085.

Mayor Wythe ruled Councilmember Reynolds did have a conflict of interest. There was no objection from the Council.

Councilmember Reynolds was excused from her seat at the dais.

Mayor Wythe called for a motion for the adoption of Resolution 16-084 by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Resolution 16-085**, A Resolution of the Homer City Council Approving a Request to Sublease to Michael Yourkowski to Permit Commercial Subleases in Eight Buildings Located on the Leased Property Lot 88-2, Homer Spit Sub No. 2 Amended. City Manager.

Memorandum 16-128 from Lease Committee as backup.

Memorandum 16-129 from Port and Harbor Advisory Commission as backup.

Councilmember Reynolds was conflicted out of discussion and decision due to her husband's business, Cycle Logical, is one of the subleases.

Councilmember Reynolds remained excused from her seat at the dais.

Mayor Wythe called for a motion for the adoption of Resolution 16-085 by reading of title only.

LEWIS/ZAK – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Reynolds returned to her seat at the dais.

- F. **Resolution 16-087**, A Resolution of the City Council of Homer, Alaska, Opposing the National Park Service's Closure of the Homer Field Office for Lake Clark National Park. Aderhold.

Mayor Wythe called for a motion for the adoption of Resolution 16-087 by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

Council discussed the need for a field office in Homer. Only one national park service staff is based in Homer and the field office has been here for ten years. The position is a federal job.



VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **COMMENTS OF THE AUDIENCE**

Emily Stolarcyk, Eyak Preservation Council, thanked Council for passing Resolution 16-081.

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

City Attorney Wells had no comments.

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

City Clerk Johnson announced candidacy filing for the mayor and two councilmember seats is open until noon on August 15<sup>th</sup>. Absentee voting for the Primary Election is open now and continues through August 15<sup>th</sup> at City Hall, downstairs lobby.

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

City Manager Koester thanked the Planning Commission for taking on HAWSP rewrites and the debt service ratio on special assessment districts. The commission and the Planning Department staff have stretched their noggins to make clear perimeters. She appreciates the hard work and thought the commission is putting into it.

### **COMMENTS OF THE MAYOR**

Mayor Wythe thanked Council for the opportunity to be absent from the July 25<sup>th</sup> council meeting. In twelve years it is the second time she hasn't been at a council meeting. They had a lovely reception for her daughter and son-in-law.

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

Councilmember Lewis had no comments.

Councilmember Smith commented funding has been lost for CARTS and the voucher program in the community. The Independent Living Center has received added funding. CARTS is limiting when people can use the vouchers. He encouraged Council to weigh in on that with the director of the Independent Living Center. People should be able to use the vouchers when they want. It is important to community members.

Councilmember Aderhold thanked the people who came out for public testimony and those that sent comments. It is very helpful to her in deciding how to represent residents. She

thanked the commissions and committees who do the heavy lifting. She appreciates people reporting from the commissions. Farmers Market is wonderful with fantastic vendors and a lot of people support it. It is great to see the parking lot full on Saturday mornings. People are now being rewarded for riding bicycles with bike bucks. There is no on-street parking on Ocean Drive and it becomes very unsafe. She asked that people park in the parking lot or in a business nearby that allows parking.

Councilmember Van Dyke commented he is a huge proponent of less government with core responsibilities. One of those is the safekeeping of the people. Emily mentioned the loudness of the sonar at 235 decibals. Mammals or fish are being hit with the sounds 100x louder than a gunshot. The Navy says 20% of the area used will be polluted. Imagine what EPA would do to him. The Navy should do it at another time and further away from shore.

Councilmember Zak appreciates the guests and public testimony here tonight. He attended Salmonfest and met some guests who provided education for citizens to understand our environment. The event is close to Homer, it is well organized, and completely different than what he expected. The Port and Harbor Advisory Commission agrees with the East Boat Harbor expansion. He knows people are having a hard time parking boats. The harbor is a key asset and is operating efficiently on its own. We need to support them. He thanked Roberta for coming to tell us it is time for towers.

Councilmember Reynolds thanked everyone for a great meeting. Participants and commissioners are the experts and we are the generalists. She asked for anyone who is not happy with government to vote. We have the opportunity to change one-third of the council each year. Call her at 299-3410 to see how much work it entails. She appreciates people putting their names in. The syringe exchange program has been extended through November on alternate Tuesdays. There was no added funding; it is a volunteer effort.

## **ADJOURNMENT**

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:41 p.m. The next Regular Meeting is Monday, August 22, 2016 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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JO JOHNSON, MMC, CITY CLERK

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

**ORDINANCE REFERENCE SHEET**  
**2016 ORDINANCE**  
**ORDINANCE 16-44**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 17.04.190, Entitled “Deferment of Assessment Payments for Low Income Residents,” by Permitting Assessment Deferral Applicants to Apply for a Deferral in Any Year an Applicant is Eligible for the Deferral Regardless of Whether or Not the Applicant Applied for Deferral in the Initial Year of Assessment.

Sponsor: City Manager

1. Council Regular Meeting August 22, 2016 Introduction
  - a. Memorandum 16-135 from City Clerk



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

3 City Manager

4 **ORDINANCE 16-44**

5 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
6 AMENDING HOMER CITY CODE 17.04.190, ENTITLED  
7 “DEFERMENT OF ASSESSMENT PAYMENTS FOR LOW INCOME  
8 RESIDENTS,” BY PERMITTING ASSESSMENT DEFERRAL  
9 APPLICANTS TO APPLY FOR A DEFERRAL IN ANY YEAR AN  
10 APPLICANT IS ELIGIBLE FOR THE DEFERRAL REGARDLESS OF  
11 WHETHER OR NOT THE APPLICANT APPLIED FOR DEFERRAL IN  
12 THE INITIAL YEAR OF ASSESSMENT.  
13

14  
15 WHEREAS, Eligibility for a deferral from an assessment payment under Homer City  
16 Code 17.04.190(a) may arise in the initial year of an assessment or in a subsequent year the  
17 assessment continues to be levied; and  
18

19 WHEREAS, It is in the City’s best interest to defer assessments under HCC 17.04.190 for  
20 each year a person is eligible and timely requests an application even where eligibility arose  
21 after the initial year of assessment.  
22

23 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

24  
25 Section 1. Homer City Code 17.04.190, Deferment of assessment payments for low  
26 income residents, is amended to read as follows:

27  
28 a. Assessment payments, including payments of assessments levied in the City of  
29 Homer Natural Gas Distribution Special Assessment District created by Ordinance 13-  
30 02, but excluding other assessment payments for the infrastructure of a privately  
31 owned utility, may be deferred under the provisions of this section. A person may  
32 obtain a deferment of assessment payments under this section if the person:

33 1. Has an annual family income that is less than 125 percent of the current U.S.  
34 Health and Human Services Poverty Guidelines for Alaska;

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

37 3. Is not determined by the City, after notice and hearing, to have been  
38 conveyed the property primarily for the purpose of obtaining the exemption.  
39

40 b. An assessment payment deferment is subject to approval by the Council. A person  
41 seeking deferment of an assessment payment shall file a written application with the  
42 Finance Director ~~on or before the first payment is due~~, supported by documentation

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

43 showing that the applicant meets the criteria in subsection (a) of this section. A  
44 person ~~requesting receiving~~ an assessment payment deferment ~~must file with the City~~  
45 ~~by April 15<sup>th</sup> of each subsequent year a new application proving eligibility as of~~  
46 ~~January 1<sup>st</sup> of that year in order to retain the exemption.~~ **the first year the**  
47 **assessment is levied must file an application for deferment** with the City **no more**  
48 **than 15 days after receiving the initial assessment. A person requesting an**  
49 **assessment payment deferment under this section in any year after the first year**  
50 **must file an application for deferment no later than** by April 15<sup>th</sup> of each  
51 subsequent ~~of the~~ year **for which the deferment is sought.** ~~a new application.~~ **A**  
52 **person must file an application each year for which deferment is sought and shall**  
53 **be required to prove eligibility for deferment as of January 1<sup>st</sup> of each year for**  
54 **which a deferment is requested.** ~~proving eligibility as of January 1<sup>st</sup> of that year in~~  
55 ~~order to retain the exemption.~~ Within the same year the City for good cause shown  
56 may waive the claimant's failure to make timely application and approve the  
57 application as if timely filed.

58 c. Assessment payment deferments are subject to the availability of funds  
59 appropriated for that purpose. An application for an assessment payment deferment  
60 shall be submitted to the Council with a report from the Finance Director as to the  
61 availability of funds to appropriate for the deferment. Deferred assessments are  
62 funded from the following sources:

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

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

67 3. The source that the Council designates for other deferred assessment  
68 payments.

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

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

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

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

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

80  
81 Section 2. This ordinance shall be of a permanent and general character and shall be  
82 included in the City code.

83  
84 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of

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

85 \_\_\_\_\_, 2016.

86

CITY OF HOMER

87

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89

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

90

91

92 ATTEST:

93

94

95

96 \_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

97

98

99

100 YES:

101 NO:

102 ABSTAIN:

103 ABSENT:

104

105

106 First Reading:

107 Public Hearing:

108 Second Reading:

109 Effective Date:

110

111 Reviewed and approved as to form.

112

113

114

115 \_\_\_\_\_  
Mary K. Koester, City Manager

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

116

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

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

118

119

120 Fiscal Note: N/A







# City of Homer

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

Office of the City Clerk

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

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 16-135

TO: MAYOR WYTHE AND THE HOMER CITY COUNCIL  
FROM: JO JOHNSON, CITY CLERK  
DATE: AUGUST 16, 2016  
SUBJECT: AMENDMENTS TO HOMER CITY CODE 17.04.190(B) DEFERRED ASSESSMENTS

---

Ordinance 16-44 removes the requirement for a person to request deferment of an assessment on or before the first payment is due. The amendment allows a person to seek deferment of an assessment when the annual payment is due. The applicant must have an annual family income that is less than 125 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska.

The amendment provides consideration to a person who may fall into financial hardship while the assessment is pending. It allows a person to apply for a deferment of an assessment in subsequent years of the pending assessment instead of the first year.

All provisions of a deferment of assessment payments remain if the person:

1. Has an annual family income that is less than 125 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska;
2. Owns or has a life tenancy in the assessed property, and permanently resides in a single-family dwelling on the property; and
3. Is not determined by the City, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

An assessment payment deferment is subject to approval by the Council. A person receiving an assessment payment deferment must file with the City by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Assessment payment deferments are subject to the availability of funds appropriated for that purpose.

**RECOMMENDATION:**

Introduce Ordinance 16-44 to provide consideration to a person with a financial hardship to request a deferment of assessment in any year that the annual assessment is due.

**ORDINANCE REFERENCE SHEET**  
**2016 ORDINANCE**  
**ORDINANCE 16-45**

An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget by Appropriating Funds in the Amount of \$30,000.00 From Port and Harbor Reserves to Purchase Twelve New LED Lights for the High Mast Light Pole #7 at the Harbor.

Sponsor: City Manager/Port and Harbor Director

1. Council Regular Meeting August 22, 2016 Introduction
  - a. Memorandum 16-136 from Port and Harbor Director
  - b. Return on Investment (ROI) for High Mast Pole #7 provided by Puffin Electric
  - c. Photos of current and new LED Light Fixtures



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

3 City Manager/  
4 Port and Harbor Director

5 **ORDINANCE 16-45**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING THE FY 2016 OPERATING BUDGET BY APPROPRIATING  
9 FUNDS IN THE AMOUNT OF \$30,000.00 FROM PORT AND HARBOR  
10 RESERVES TO PURCHASE TWELVE NEW LED LIGHTS FOR THE HIGH  
11 MAST LIGHT POLE #7 AT THE HARBOR.

12  
13 WHEREAS, The Homer Harbor facility is primarily illuminated using 150' high mast  
14 light poles with 1000w high-pressure sodium lights; and

15  
16 WHEREAS, The light fixtures in the high mast lights are nearly 30 years old, are  
17 showing wear and tear, and energy costs are expensive; and

18  
19 WHEREAS, Port and Harbor staff has sought the expertise of Puffin Electric, has  
20 researched and tested new LED lights, and has determined the new LED lights will provide  
21 glare reduction, may be directed, and will result in lower operation and maintenance costs;  
22 and

23  
24 WHEREAS, Port and Harbor is requesting \$30,000 to purchase twelve new LED lights  
25 for the high mast light pole #7, with plans to upgrade the other six high mast lights around the  
26 Port and Harbor facility at a later date.

27  
28 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

29  
30 Section 1. The Homer City Council hereby amends the FY 2016 Operating Budget by  
31 appropriating \$30,000.00 from Port and Harbor Reserves to purchase twelve new LED lights  
32 for the high mast light pole #7 at the Harbor.

33  
34 Expenditure:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
	Twelve LED Lights for the High Mast Light Pole #7	\$30,000.00

35  
36  
37  
38  
39 Section 2. This is a budget amendment ordinance only, is not permanent in nature,  
40 and shall not be codified.

42 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of  
43 \_\_\_\_\_, 2016.

44 CITY OF HOMER

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47 \_\_\_\_\_  
48 MARY E. WYTHE, MAYOR

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50 ATTEST:

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53 \_\_\_\_\_  
54 JO JOHNSON, MMC, CITY CLERK

55  
56  
57  
58 YES:

59 NO:

60 ABSTAIN:

61 ABSENT:

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64 First Reading:

65 Public Hearing:

66 Second Reading:

67 Effective Date:

68  
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70 Reviewed and approved as to form:

71  
72 \_\_\_\_\_  
73 Mary K. Koester, City Manager

74  
75 \_\_\_\_\_  
76 Holly C. Wells, City Attorney

77  
78 Date: \_\_\_\_\_

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



# City of Homer

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

Port and Harbor

4311 Freight Dock Road  
Homer, AK 99603

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

(p) 907-235-3160

(f) 907-235-3152

## Memorandum 16-136

TO: MAYOR BETH WYTHE & HOMER CITY COUNCIL

THROUGH: KATIE KOESTER, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER

DATE: AUGUST 12, 2016

SUBJECT: APPROPRIATION FOR NEW LED LIGHTS FOR HIGH MAST LIGHT #7

---

The Homer Harbor facility is primarily illuminated using 150' high mast light poles with 1000w high-pressure sodium lights. Although these fixtures have served us well up to now, they are expensive to operate in terms of energy costs. On the seven poles, we have 69 – 1000w lights. We estimate that all seven poles are operating an average of 12 hours per day, 365 days a year, with the costs broken down as follows:

$69\text{KW per hour} \times 12 \text{ hour per day} = 828 \text{ kilowatts use per day}$

$828\text{KW} \times 365 \text{ days a year} = 302,220 \text{ kilowatts per year}$

$302,220\text{KW} \times \$0.22 \text{ current per kilowatt current cost} = \$66,488.40 \text{ annual electricity costs}$

Plenty of motivation there to switch to something more efficient! Another reason for switching is the fact that most of the light fixtures in the high mast lights are almost 30 years old; even though they have been well maintained, they are showing significant wear and tear from all the years of being on the Homer Spit.

The Port and Harbor's plan has been to find the best replacement light fixture for all seven poles that will cut operation and maintenance costs, and that will stand the test of time on the Homer Spit. To begin our research, we teamed up with Puffin Electric for their expertise; they have turned area lighting into one of their specialties and have installed new high mast LED lamps in Dutch Harbor and have plans to install these same LED fixtures for the new harbor in Valdez. The biggest challenge with lighting on high mast lights is finding a replacement light fixture that will work as a direct replacement for LED that will work from that height of the poles. When LED's first came out, they were only recommending them to be installed on 40' street-level poles. After many years of research, Port and Harbor staff is now convinced that the LED technology has finally reached the 150' level.

We've done the homework to determine if these new LED lights will work for us. Last winter, Port and Harbor Staff laid out a large grid around pole #7, turned off all the other high mast lights, and using a light meter to measure foot candles of light we recorded the current light levels produced by this one pole. Those numbers were then fed into a new software program at Puffin Electric and a base was created that could then be used to compare new lighting

products against our old lights. This program also gives us the ability to fine tune our lights, which will help us to better direct the light to where it needs to go. Another improvement in the field of lighting systems has to do with glare reduction; the new lights come with visors that help direct the lights, reducing glare and light pollution, and will help improve our dark sky that we all enjoy. The new lights are also smaller in size, weigh less, and have simple wiring requirements. Port Maintenance Staff will be able to install the new lights so no specialists are required.

Port and Harbor is requesting an appropriation of \$30,000 to purchase 12 new LED lights for the high mast light pole #7. Once installed, we will re-run our ground test in order to confirm our levels of light are at least the same as what we had with the old light fixtures. Because of all the pre-purchase work and studies, we feel confident that this test will be successful and shall take us to the next logical step of upgrading the six other high mast lights around the Port and Harbor facility.

Attached is a breakdown ROI (return on investment) provided by Puffin Electric that shows a little over 4-year payback for our investment, which is a really great ROI in terms of energy efficiency upgrades.

**Recommendation:**

Adopt Ordinance 16-45, appropriating \$30,000 from the Port and Harbor Reserves for the purpose of purchasing 12 new LED lights for the high mast light #7. Once this initial purchase is made and successfully tested, it is Port and Harbor's intention to request another appropriation of approximately \$125,000 from Port and Harbor reserves in order to upgrade the remaining six high mast light poles around the Port and Harbor facility.

Attached: Puffin Electric's ROI Breakdown for High Mast Pole #7  
Photos of Current & New LED Light Fixtures

Fiscal Note: 456-0380 – \$30,000.00



Location: **Homer Harbor High Mast Pole 7**

**ROI**

Variable	Units	1000 w HID	Apack F640A	Commentary
Fixture Cost	\$/fixture		\$2,148	
Fixture Requirement	# fixtures	12	12	
Gateway			\$0.00	
<b>Initial Capital Cost</b>	<b>Total \$</b>		<b>\$25,776</b>	
Mean Power Draw	watts/fixture	1,170	610	
Hourly Usage	hours/day	12	12	Average hours per day
Daily Usage	days/year	365	365	Days operation per year
Pole 7 Energy Useage	kWH/year	61,495	32,062	
Energy Unit Cost	\$/kWH	\$0.21	\$0.21	
<b>Annual Energy Cost</b>	<b>\$/year</b>	<b>\$12,914</b>	<b>\$6,733</b>	

**\$6,181** Annual Energy Cost Savings

**Replacement Payback**  
**4.17 Years**



**CITY OF HOMER  
HOMER, ALASKA**

City Manager/  
Public Works Director

**RESOLUTION 16-088**

A RESOLUTION OF THE HOMER CITY COUNCIL AWARDING THE CONTRACT FOR THE 2016 PAVING PROJECT TO THE FIRM OF MCKENNA BROTHERS PAVING, INC. OF ANCHORAGE, ALASKA, IN THE AMOUNT OF \$418,771.30 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, In accordance with the Procurement Policy the Invitation to Bid was advertised in the Homer News on July 21 and 28, 2016, the Peninsula Clarion and Alaska Dispatch News on July 24, 2016, sent to two in-state plans rooms, and posted on the Clerk's home page; and

WHEREAS, Bids were due on August 11, 2016 and five bids were received; and

WHEREAS, Bids were opened and the firm of McKenna Brothers Paving, Inc. was determined to be the low responsive bidder and found to be qualified to complete the work; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the contract award for the 2016 Paving Project to the firm of McKenna Brothers Paving, Inc. of Anchorage, Alaska, in the amount of \$418,771.30 and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 22<sup>nd</sup> day of August, 2016.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

43 ATTEST:

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47 \_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

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49 Fiscal Note: HART Funds per Ordinance 16-29, Acct. No. 160-766, \$418,771.30.



## Memorandum 16-137

To: Katie Koester, City Manager  
From: Carey Meyer, PW Director  
Date: August 12, 2016  
Subject: **Award of Construction Contract  
2016 Paving Project**

On August 11, 2016, bids were received for the **2016 Paving Project**. This work was advertised in the Homer News – July 21, 28, the Peninsula Clarion – July 24; and the Alaska Dispatch - July 24, 2016.

This project consists of grinding and repaving portions of several streets within the Homer city limits consisting of approximately 15,395 square yards of pavement.

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

Responsive Bidder's Names	Local Bidder?	Amount
Granite Construction Co.	No	\$ 690,500.00
Clark Management, Inc.	No	\$ 630,570.00
Knik Construction	No	\$ 513,592.50
Build Alaska General Contractors, LLC	No	\$ 419,245.64
McKenna Bros. Paving	No	\$ 418,771.30
Engineer's Estimate		\$ 545,695.00

The City's 5% local bidder's preference does not apply as there were no bidders that qualify under the Local Bidder Preference article of City Code (3.16.080). Build Alaska General Contractors did make a request to be considered as a Local Bidder, but in researching the language of the code, and after legal counsel was obtained from the City's construction attorney, it was determined that the bidder did not meet the Local Bidder requirements. Key language in the requirements is that the bidder must have "*maintained and staffed a place of business within the boundaries of the City of Homer for a period of at least six months preceding the date of the bid...*". The bidder owns a vacant lot within the city of Homer and has some materials stockpiled on the lot. The bidder's contractor and business license lists the physical address of the business within Kachemak City.

### **Recommendation:**

Based on the bids and legal counsel, City Council pass a resolution awarding the construction contract for the 2016 Paving Project in the amount of \$418,771.30 to McKenna Brothers Paving,

Anchorage, Alaska and authorizing the City Manager to execute all appropriate documents necessary to complete this project. (Fiscal Note – HART Funds per Ord 16-29, 160-766)

**INVITATION TO BID**  
**By the City of Homer, Alaska, for the**  
**2016 Paving Project**

Sealed bids for the **City of Homer 2016 Paving Project** will be received at the Office of the City Clerk, 491 East Pioneer Avenue, Homer Alaska, until **2:00 PM, Thursday, August 11<sup>th</sup> 2016**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

The City of Homer local bidder's preference requirements and State of Alaska prevailing wage rates will apply. A non-mandatory pre-bid conference will be held at the Public Works office, 3575 Heath Street, at 1:30 PM, Thursday, August 4th, 2016. The work includes, but is not limited to the following:

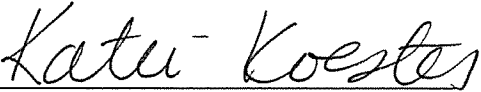
Construction survey, crushing existing AC pavement, 15,395 SY of 2" asphalt pavement, adjustment of utilities and monuments to grade and other bid items indicated on the bid tabs. Construction and Contract incidentals are within the 2011 City of Homer Standard Construction Specifications.

Please direct all technical questions regarding this project to: Dan Gardner, City of Homer, Public Works Department, 3575 Heath Street, Homer, Alaska 99603 (907) 235-3170

An electronic copy of Plans and Specifications is available on the City's website <http://www.cityofhomer-ak.gov/rfps> or you may purchase hard copies at the Office of the City Clerk upon payment of \$170 per set (\$200 for overnight delivery). City of Homer Standard Construction Specifications 2011 Edition (containing general contract provisions) may be downloaded from the City's web site. All fees are non-refundable. The City of Homer reserves the right to accept or reject any or all bids, to waive irregularities or informalities in the bids, and to award the contract to the lowest responsive bidder.

DATED this 14th day of July, 2016

**CITY OF HOMER**

  
Katie Koester, City Manager

Publish: Homer News – July 21, 28, 2016  
Peninsula Clarion – July 24, 2016  
Alaska Dispatch News- July 24, 2016

Fiscal Note: 160-766

# Unofficial Bid Results

CITY OF HOMER

Page 1 of 1

**BID TALLY SHEET:**      **PROJECT:** 2016 Paving Projects  
**Due Date and Time:** August 11, 2016 @ 2:00 p.m.      **PROJECT No:** 160-0766  
**City Clerk's Office**

Bidder No.	Bidder Name and Address	Part B / Part A	Bid Amount / Additive Alternate Amt.
1.	Build Alaska General Contracting P.O. Box 2216 Homer, AK 99603	✓ / ✓	\$373,151.19 / \$46,092.44
2.	Granite Construction Company 11471 Lang Street Anchorage, AK 99515-3008	✓ / ✓	\$707,840.00 / \$47,660.0 Bid Mod (\$65,000)
3.	McKenna Brothers Paving, Inc. P.O. Box 240007 Anchorage, AK 99524	✓ / ✓	\$370,865.30 / \$47,906.00
4.	Clark Management P.O. Box 952 Anchor Point, AK 99556	✓ / ✓	\$564,400.00 / \$67,870.00
5.	Knik Construction 44482 Frontier Avenue Soldotna, AK 99669	✓ / ✓	\$461,472.50 / \$51,720.00
6.			

**City Engineer's Estimate if applicable:** \_\_\_\_\_

**Staff Present:** Dan Gardner, Jenna DeLumeau, Renee Krause, Mitch Hrachiar

**Comments:** \_\_\_\_\_



**CITY OF HOMER  
HOMER, ALASKA**

Smith

**ORDINANCE 16-29**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING ORDINANCE 16-10, THE COMPLETION OF THE 2016  
STREETS REPAVING PROJECT UTILIZING HOMER ACCELERATED  
ROADS AND TRAILS (HART) FUNDS FROM \$638,000 TO \$562,506.

WHEREAS, Ordinance 16-10 appropriated \$638,000 for the 2016 Streets Repaving Project; and

WHEREAS, This amount included project management/administrative charges; and

WHEREAS, It is not the practice of the City to charge project management/administrative fees on internal projects; and

WHEREAS, In the past the general administrative charge to HART in the operating budget covered all project management/administrative fees.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Ordinance 16-10 is amended to appropriate \$562,506 for the completion of the 2016 Streets Repaving Project utilizing Homer Accelerated Roads and Trails (HART) Funds.

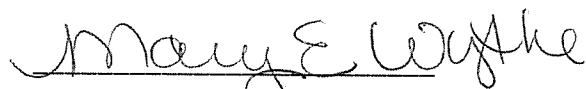
Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
160-766	HART	\$562,506

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

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 13<sup>th</sup> day of June, 2016.

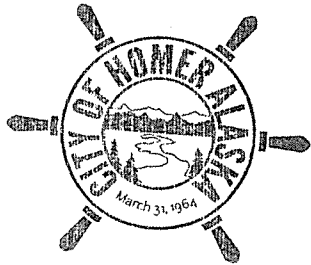
CITY OF HOMER

  
MARY E. WYTHE, MAYOR

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ATTEST:

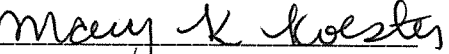
  
\_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK



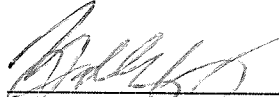
AYES: 6  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

First Reading: 5/23/16  
Public Hearing: 6/13/16  
Second Reading: 6/13/16  
Effective Date: 6/14/16

Reviewed and approved as to form:

  
\_\_\_\_\_  
Mary K. Koester, City Manager

Date: 6.15.16

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

Date: 7.1.16

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

3 City Clerk

4 **RESOLUTION 16-089**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, NOTING THE  
7 INSUFFICIENCY OF THE PETITION FOR OCEAN DRIVE LOOP ROAD  
8 RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT.  
9

10 WHEREAS, The petition was circulated from June 6, 2016 to August 5, 2016; and

11  
12 WHEREAS, On April 27, 2016 when the request for the special assessment district was  
13 filed, the City was operating under Homer City Code 17.04.040(a)(2)<sup>1</sup> where the sufficiency of  
14 the petition required signatures of the record owners of not less than one half in value of the  
15 real property in the proposed improvement district.  
16

17 WHEREAS, Signatures from property owners in favor of the road improvements  
18 petition equals 29% of the property value; and  
19

20 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, notes the  
21 insufficiency of the petition for Ocean Drive Loop Road Reconstruction and Paving  
22 Improvements.  
23

24 BE IT FURTHER RESOLVED this does not preclude further petitioning by property  
25 owners for road improvements for a modified area or any other type of improvement by  
26 initiating a new petition.  
27

28 PASSED AND ADOPTED by the Homer City Council this 22<sup>nd</sup> day of August, 2016.  
29

30 CITY OF HOMER  
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33 \_\_\_\_\_  
34 MARY E. WYTHE, MAYOR  
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<sup>1</sup> HCC 17.04.040(a)(2) was amended by Ordinance 16-20 on May 9, 2016 to change the methodology for determining the sufficiency of a petition to the record owners of real property that would bear not less than 50 percent of the assessed cost of the improvement in the proposed district.

40 ATTEST:

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44 \_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

45

46 Fiscal Note: N/A



## City of Homer

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

## Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

June 6, 2016

Dear Property Owner:

A request for road improvements was made for your neighborhood. The request was made by Marilyn and Paul Hueper on April 27, 2016.

A Special Assessment District may be initiated with petition signatures of the record owners of one half or more in value of the real property in the proposed district. We have compiled a list of the property owners within the boundaries of the Ocean Drive Loop, Parson Lane, Cape Douglas Way, Lake Street, Cranberry Place, Krueth Way and Seabreeze Court Road improvement district, including your parcel(s).

If you support the road reconstruction and paving improvements and wish for the City to determine a cost estimate of the project you will need to sign and return the Property Owner Petition. By signing you are indicating that you may favor the road improvements and wish to hear more about the project, including costs. The Property Owner Petition must be returned to the City Clerk by **August 5, 2016**.

If you are not interested in starting the road reconstruction and paving improvements you do not need to sign the Property Owner Petition. Your lack of response indicates that you are not in favor of the Special Assessment District.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is \$30 per front foot for gravel and \$17 per front foot for paving. Projects will be authorized only after a public hearing to insure public participation in the process.

We will determine the amount of interested property owners by the number of signatures that are returned. You will be notified of the results once the petition deadline has passed.

Please call with questions you may have about the Special Assessment District. We would be happy to assist you.

Sincerely,

Renee Krause  
Deputy City Clerk

Enc. Property Owner Petition  
Map of proposed project



CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

**Marilyn and Paul Hueper** of **895 Ocean Drive Loop Homer, Alaska, 99603** filed a request for road reconstruction and paving improvements.  
Request Date: **April 27, 2016**

District Name: **Ocean Drive Loop Special Assessment District (SAD) 2016** Requested: Water \_ Sewer \_Road Reconstruction  Paving

We the undersigned owners of real property fronting, predominately, **Ocean Drive Loop, Parson Lane, Cape Douglas Way, Lake Street, Cranberry Place, Krueh Way and Seabreeze Court** within the City of Homer, Alaska, request that a Homer Accelerated Roads and Trails Program Special Assessment District for road reconstruction and paving improvements be created to include the properties listed below. We represent the owners of at least one-half or more in value of the real property to be benefited by these improvements.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is \$30 per front foot for gravel and \$17 per front foot for paving. Projects will be authorized only after a public hearing to insure public participation in the process.

If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **August 5, 2016**. For this petition to be sufficient, signatures representing at least one half or more in value of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

<b>Signature / Date (Phone number Optional)</b>	<b>Owner(s) Name and Address</b>	<b>Legal Description KPB Parcel No.</b>	<b>Assessed Property Value</b>
1.	CARR TIMOTHY C 3236 LAKE ST HOMER AK 99603-7929	<b>17717801</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 54 <b>17717803</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 52 <b>17717804</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 51	\$371,200.00  \$261,800.00  \$37,300.00
2.	JESKA CLIFFORD L & DIANA M PO BOX 654 HOMER AK 99603-0654	<b>17717805</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 50	\$35,700.00
3.	DUGGAN WILLIAM F II 1293 IRIS CT HOMER AK 99603-7744	<b>17717806</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 49	\$141,300.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

**Marilyn and Paul Hueper** of **895 Ocean Drive Loop Homer, Alaska, 99603** filed a request for road reconstruction and paving improvements. Request Date: **April 27, 2016**

District Name: **Ocean Drive Loop Special Assessment District (SAD) 2016** Requested: Water \_ Sewer \_ Road Reconstruction  Paving

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IN WITNESS WHEREOF, we have set our hands:

Signature / Date (Phone number Optional)	Owner(s) Name and Address	Legal Description KPB Parcel No.	Assessed Property Value
4.	MATTHEWS KELLY E & MATTHEWS RONDY 1154 KRUEH WAY HOMER AK 99603-792	<b>17717808</b> T 6S R 13W SEC 20 Seward Meridian HM 0721325 OSCAR MUNSON SUB REPLAT OF LOTS 46 & 47 LOT 47A	\$253,600.00
5.	JUMP CHARLENE A PO BOX 2714 HOMER AK 99603-2714	<b>17717904</b> T 6S R 13W SEC 20 & 29 Seward Meridian HM 0850114 OSCAR MUNSON SUB NO 18 LOT 45-A	\$193,400.00
6.	GOODE LARRY JACK LIVING TRUST 1065 KRUEH WAY HOMER AK 99603-7924	<b>17717903</b> T 6S R 13W SEC 20 & 29 Seward Meridian HM 0850114 OSCAR MUNSON SUB NO 18 LOT 45B	\$450,900.00
7.	KING LAWRENCE A KING SHARON S 6296 E MOUNTAIN VIEW AVE SELMA CA 93662-9503	<b>17923036</b> T 6S R 13W SEC 21 Seward Meridian HM BEGINNING AT CORNER OF SEC 20 21 28 & 29 T HENCE N 64 DEG 10 MIN E 50.00 FT TH	\$442,800.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.



CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

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		S 64 DEG 10 MIN E 50.00 FT TH EAST 35.00 FT TH N 0 DEG 05 MIN W 450.00 FT TH WEST 125.00 FT TH S 0 DEG 05 MIN E 450.00 FT TO THE POB	
8.	FRANKLIN CAMARRON JAY 1121 SEABREEZE CT HOMER AK 99603-7935	<b>17923026</b> T 6S R 13W SEC 21 Seward Meridian HM 0860087 TAMIAN SUB LOT 1	\$282,000.00
9.	LAWER DAVID A LAWER ROXANNA E 101 w 36 <sup>TH</sup> #333 ANCHORAGE AK 99503	<b>17923028</b> T 6S R 13W SEC 21 Seward Meridian HM 0860098 SEABREEZE SUB LOT 5	\$259,200.00
10.	LAWER DAVID A & BETSY 1273 BANNISTER DR ANCHORAGE AK 99503	<b>17923029</b> T 6S R 13W SEC 21 Seward Meridian HM 0860098 SEABREEZE SUB LOT 4	\$467,800.00

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11.	CUDDY JANE TRUSTEE LAWER CHILDRENS TRUST 7531 SPORTSMENS POINT CIR ANCHORAGE AK 99502-4182	<b>17923030</b> T 6S R 13W SEC 21 Seward Meridian HM 0860098 SEABREEZE SUB LOT 3	\$62,600.00
12.	LAWER SARAH 2012 IRREVOCABLE TRUST 1273 BANNISTER DR ANCHORAGE AK 99503	<b>17923033</b> T 6S R 13W SEC 21 Seward Meridian HM 0890029 SEABREEZE SUB NO 2 LOT 1-A <b>17923027</b> T 6S R 13W SEC 21 Seward Meridian HM 0860087 TAMIAN SUB LOT 2	\$215,000.00  \$68,000.00
13.	HOMER CITY OF 491 E PIONEER AVE HOMER AK 99603-7624	<b>17717707</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 44 <b>17717706</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 43	\$1,000.00  \$800.00

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14.	ABBOTT FINDLAY PO BOX 3000 HOMER AK 99603-3000	<b>17717705</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 42	\$46,700.00
15.	PFEFFER MARK E REVOCABLE TRUST 425 G ST STE 210 ANCHORAGE AK 99501-2169	<b>17717704</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 41	\$46,100.00
16.	IRWIN PATRICK L 939 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717703</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 40	\$111,000.00
17.	SCHUMACHER NORMAN 917 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717612</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 87 <b>17717702</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 39	\$31,700.00  \$163,900.00

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18.	HUEPER MARILYN 895 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717701</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 38	\$391,400.00
19.	SZAJKOWSKI JOHN J & JANET L 869 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17718016</b> 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 37	\$384,500.00
20.	NEWBY REVOCABLE TRUST PO BOX 1124 HOMER AK 99603-1124	<b>17718019</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 35 & 36 <b>17717419</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 82 <b>17717417</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 84	\$371,300.00  \$31,700.00  \$31,700.00

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21.	RENNER MARTIN & HEATHER M 811 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17718013</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 34	\$308,200.00
22.	TILLION CLEMENT V III & TRACEY A 791 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17718022</b> 6S R 13W SEC 29 Seward Meridian HM 2002044 OSCAR MUNSON SUB NO 20 LOT 32 A	\$670,600.00
23.	CHRISTIANSEN SUE ELLEN PO BOX 15096 FRITZ CREEK AK 99603-6096	<b>17718010</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 31 <b>17717422</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 79	\$83,000.00  \$146,500.00
24.	WIMMERSTEDT WILLIAM & ANN MARGRET 616 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17718001</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 22	\$323,100.00

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25.	RUTZEBECK DEL KIRK & DEBORAH ALLEN PO BOX 90 IDAHO SPRINGS CO 80452-0090	<b>17718007</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 28  <b>17717426</b> T 6S R 13W SEC 20 & 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 75	\$137,900.00     \$31,500.00
26.	BRADEN LORETTA & EDWARD 3027 E 84TH AVE ANCHORAGE AK 99507-3609	<b>17718009</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 30 <b>17718008</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 29 <b>17718006</b> T 6S R 13W SEC 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 27	\$70,800.00    \$70,800.00  \$70,800.00

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27.	WHALE ROCK TRUST PO BOX 194 HOMER AK 99603-0194	<b>17718023</b> T 6S R 13W SEC 29 Seward Meridian HM 2008049 OSCAR MUNSON SUB NO 24 LOT 23-A- 1 <b>17718024</b> 6S R 13W SEC 20 & 29 Seward Meridian HM 2008049 OSCAR MUNSON SUB NO 24 LOT 72-A	\$496,700.00       \$43,800.00
28.	OLSON JAMES S PO BOX 2194 HOMER AK 99603-2194	<b>17717425</b> T 6S R 13W SEC 20 & 29 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 76	\$155,100.00
29.	GORMAN SHARON M & SPAEDER JOSEPH J PO BOX 2087 HOMER AK 99603-2087	<b>17717424</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 77	\$194,500.00

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30.	MCNAMARA DONALD THOMAS FAULKNER DONNA RAE 58508 E END RD HOMER AK 99603-9468	<b>17717423</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 78  <b>17717420</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 81	\$184,600.00   \$76,200.00
31.	BUTLER SUSAN 786 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717421</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 80	\$109,000.00
32.	KENNEDY GEORGE M 844 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717418</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 83	\$40,800.00
33.	OLSON RICHARD J & JACKMAN KELLY PO BOX 3145 HOMER AK 99603-3145	<b>17717416</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 85	\$82,100.00

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34.	BRANT PAMELA J 908 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717613</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 86 <b>17717616</b> T 6S R 13W SEC 20 Seward Meridian HM 2005048 OSCAR MUNSON SUB BRANT REPLAT LO T 90-A	\$212,100.00  \$43,100.00
35.	MILLER MICHELE C 946 OCEAN DRIVE LOOP HOMER AK 99603-7920	<b>17717611</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 88	\$150,200.00
36.	ROUSE STEVEN PO BOX 1850 SOLDOTNA AK 99669-1850	<b>17717610</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 89	\$31,700.00
37.	DIFRANCIA SUSAN 1002 OCEAN DRIVE LOOP HOMER AK 99603-7921	<b>17717615</b> T 6S R 13W SEC 20 Seward Meridian HM 2003094 OSCAR MUNSON SUB NO 21 LOT 91-A	\$77,000.00

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<b>Signature / Date (Phone number Optional)</b>	<b>Owner(s) Name and Address</b>	<b>Legal Description KPB Parcel No.</b>	<b>Assessed Property Value</b>
38.	TALBOTT JOSEPH C & LISA M 3119 LAKE ST HOMER AK 99603-7908	<b>17717614</b> T 6S R 13W SEC 20 Seward Meridian HM 2003094 OSCAR MUNSON SUB NO 21 LOT 92-A	\$213,400.00
39.	MACK ROBERT A & DONNA B 2105 N GREENWOOD ST PUEBLO CO 81003-2558	<b>17717606</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 93	\$211,700.00
40.	CUSHING JACK & SUSAN PHILLIPS-CUSHING 1423 BAY AVE HOMER AK 99603-7941	<b>17717605</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 94	\$87,600.00
41.	JONES MORGAN EDWARD JACKINSKY PO BOX 1044 HOMER AK 99603-1044	<b>17717603</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 96	\$143,800.00
42.	CHOW GUY 1242 OCEAN DR HOMER AK 99603-7911	<b>17717602</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 97	\$31,700.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

**Marilyn and Paul Hueper** of **895 Ocean Drive Loop Homer, Alaska, 99603** filed a request for road reconstruction and paving improvements. Request Date: **April 27, 2016**

District Name: **Ocean Drive Loop Special Assessment District (SAD) 2016** Requested: Water \_ Sewer \_ Road Reconstruction **X** Paving **X**

We the undersigned owners of real property fronting, predominately, **Ocean Drive Loop, Parson Lane, Cape Douglas Way, Lake Street, Cranberry Place, Krueh Way and Seabreeze Court** within the City of Homer, Alaska, request that a Homer Accelerated Roads and Trails Program Special Assessment District for road reconstruction and paving improvements be created to include the properties listed below. We represent the owners of at least one-half or more in value of the real property to be benefited by these improvements.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is \$30 per front foot for gravel and \$17 per front foot for paving. Projects will be authorized only after a public hearing to insure public participation in the process.

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<b>Signature / Date (Phone number Optional)</b>	<b>Owner(s) Name and Address</b>	<b>Legal Description KPB Parcel No.</b>	<b>Assessed Property Value</b>
43.	APPLEGATE RICHARD L & PENNY CLAIRE R 11400 THUNDERBRUSH CIR ANCHORAGE AK 99516-1728	<b>17717601</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 98	\$30,500.00
44.	SCHEFFEL TIM & FRANCES 3179 LAKE ST HOMER AK 99603-7908	<b>17717506</b> T 6S R 13W SEC 20 Seward Meridian HM 2004053 OSCAR MUNSON SUB SCHEFFEL REPLAT LOT 100-A	\$371,600.00
45.	ANDERSON EVERETT C 3180 PARSON LN HOMER AK 99603-7969	<b>17717505</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 99	\$90,200.00
46.	MASTOLIER PROPERTIES LLC 1025 DEWBERRY LN HOMER AK 99603-8305	<b>17717502</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 55	\$825,000.00
47.	STEWART JOYCE & STEWART ANDREA T PO BOX 3576 HOMER AK 99603-3576	<b>17717501</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 56	\$150,300.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

**Marilyn and Paul Hueper** of **895 Ocean Drive Loop Homer, Alaska, 99603** filed a request for road reconstruction and paving improvements. Request Date: **April 27, 2016**

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Signature / Date (Phone number Optional)	Owner(s) Name and Address	Legal Description KPB Parcel No.	Assessed Property Value
48.	FISCHER CHRISTOPHER & ROBIN 281 OCEAN DRIVE LOOP HOMER AK 99603-7966	<b>17717415</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 57	\$159,800.00
49.	RONNE MARSHALL & ESTHER LIVING TRUST PO BOX 723 SEWARD AK 99664-0723	<b>17717807</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 48 <b>17717431</b> T 6S R 13W SEC 20 Seward Meridian HM 0800006 OSCAR MUNSON SUB NO 3 LOT 59-A <b>17717318</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 04	\$37,600.00  \$49,200.00  \$64,600.00
50.	CHASE MONICA L 3141 PARSON LN HOMER AK 99603-7969	<b>17717414</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 58	\$40,800.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

CITY OF HOMER, ALASKA  
PROPERTY OWNER PETITION

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District Name: **Ocean Drive Loop Special Assessment District (SAD) 2016** Requested: Water \_ Sewer \_ Road Reconstruction **X** Paving **X**

We the undersigned owners of real property fronting, predominately, **Ocean Drive Loop, Parson Lane, Cape Douglas Way, Lake Street, Cranberry Place, Krueh Way and Seabreeze Court** within the City of Homer, Alaska, request that a Homer Accelerated Roads and Trails Program Special Assessment District for road reconstruction and paving improvements be created to include the properties listed below. We represent the owners of at least one-half or more in value of the real property to be benefited by these improvements.

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51.	BISHOP CAROLYN A 325 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717430</b> T 6S R 13W SEC 20 Seward Meridian HM 0800006 OSCAR MUNSON SUB NO 3 LOT 60-A	\$209,300.00
52.	FIELDS GRANVILLE J 341 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717411</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 61	\$114,000.00
53.	COX DONALD E & JOCELYN PO BOX 240982 ANCHORAGE AK 99524-0982	<b>17717410</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 62	\$54,400.00
54.	CHASE KENNETH E 2584 CACTUS AVE CHICO CA 95973-7607	<b>17717409</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 63	\$39,900.00
55.	TERRY MARK & BETH 10041 HANLEY CIR ANCHORAGE AK 99507-6534	<b>17717408</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 64	\$34,700.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

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56.	VAN HOOSER GARY E & MARY K 465 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717407</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 65	\$134,200.00
57.	BROOKS LAURA W 483A OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717406</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 66	\$162,500.00
58.	VAN SANDT FRANCES C 527 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717432</b> T 6S R 13W SEC 20 Seward Meridian HM 2004023 OSCAR MUNSON SUB NO 22 LOT 67A	\$233,900.00
59.	PETERSEN LANCE W PO BOX 894 HOMER AK 99603-0894	<b>17717325</b> T 6S R 13W SEC 20 Seward Meridian HM 2006066 OSCAR MUNSON SUB NO 23 LOT 18-A	\$155,800.00
60.	GRINICH NICHOLAS P 708 NW 21ST ST MCMINNVILLE OR 97128-2549	<b>17717314</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 08	\$32,500.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

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61.	BELL-KELSEY REVOCABLE TRUST PO BOX 894 HOMER AK 99603-0894	<b>17717403</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 69 <b>17717308</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 14 <b>17717311</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 12	\$28,700.00  \$36,500.00  \$36,600.00
62.	CRANBERRY POINT LLC PO BOX 894 HOMER AK 99603-0894	<b>17717433</b> T 6S R 13W SEC 20 & 29 Seward Meridian HM 2006066 OSCAR MUNSON SUB NO 23 LOT 70-A <b>17717323</b> T 6S R 13W SEC 20 Seward Meridian HM 2006066 OSCAR MUNSON SUB NO 23 LOT 9-A	\$73,100.00  \$156,800.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.

CITY OF HOMER, ALASKA  
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<b>Signature / Date (Phone number Optional)</b>	<b>Owner(s) Name and Address</b>	<b>Legal Description KPB Parcel No.</b>	<b>Assessed Property Value</b>
63.	CRANBERRY POINT BLS LLC PO BOX 894 HOMER AK 99603-0894	<b>17717324</b> T 6S R 13W SEC 20 Seward Meridian HM 2006066 OSCAR MUNSON SUB NO 23 LOT 15-A	\$51,000.00
64.	CALLIS RICHARD & HATFIELD JEAN ANN PO BOX 2214 HOMER AK 99603-2214	<b>17717315</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 7	\$218,700.00
65.	CARSSOW KATHRYN L & LUNNY JAMES W PO BOX 3518 HOMER AK 99603-3518	<b>17717316</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 06	\$147,400.00
66.	RICHARDS EVERETT C & COLLEEN 308 OCEAN DRIVE LOOP HOMER AK 99603-7965	<b>17717317</b> T 6S R 13W SEC 20 Seward Meridian HM 0003415 OSCAR MUNSON SUB LOT 05	\$191,300.00
67.	JOHNSON INN HOMER LLC 575 STERLING HWY HOMER AK 99603-7447	<b>17717322</b> T 6S R 13W SEC 20 Seward Meridian HM 0840025 OSCAR MUNSON SUB NO 4 LOT 2-A-1	\$791,200.00

Total property value is \$14,374,800.00. At least one half or more in value of the real property to be benefitted is \$7,187,400.00.



# VISITORS



July 25, 2016

Ms. Katie Koester  
City Manager, City of Homer  
491 E Pioneer Avenue  
Homer, AK 99603



Dear Ms. Koester:

I want to congratulate your community on its application to the National Flood Insurance Program (NFIP) Community Rating System (CRS). The Department of Homeland Security, Federal Emergency Management Agency (FEMA), Federal Insurance and Mitigation Administration (FIMA), has verified that the voluntary floodplain management actions undertaken by your community exceed the minimum standards of the NFIP and meet the criteria for a CRS Class 8 rating.

The floodplain management activities implemented by your community qualify it for a 10 percent discount in the premium cost of flood insurance for NFIP policies issued or renewed in Special Flood Hazard Areas on or after May 1, 2016. This savings is a tangible result of the flood mitigation activities your community implements to protect lives and reduce property damage. I am enclosing the field verification report showing the results of your application review for your records.

Please note that Preferred Risk Policies, applicable in Zones B, C, and X on your community's NFIP Flood Insurance Rate Map, are not eligible for the CRS discount. Standard rated flood insurance policies in Zones B, C, X, D, AR, and A99 are limited to a CRS discount of 10 percent in CRS Class 1–6 communities and 5 percent in CRS Class 7–9 communities. The rates for these zones already reflect significant premium reductions.

If your community remains in compliance with NFIP floodplain management regulations, the CRS rating will automatically be renewed annually and a notification letter will not be sent to your community. This renewal will occur as long as your community continues to implement the CRS activities you certify each October. If no additional modifications or new CRS activities are added, the next verification visit for your community will be in accordance with its established 5-year cycle. FEMA will periodically send the *NFIP/CRS Update* newsletter and other notices to your CRS Coordinator.

I commend you on your community's actions and your determination to lead your community to be more disaster resistant. This commitment enhances public safety, protects property, preserves the natural functions of floodplains, and reduces flood insurance premiums.

If you have any questions or need additional information, please contact the FEMA Region X Office, CRS Coordinator, Karen Wood-McGuiness, CFM, by telephone at (425) 487 - 4675.

Sincerely,

A handwritten signature in black ink that reads "William H. Lesser". The signature is written in a cursive style.

William H. Lesser  
CRS Program Coordinator  
Federal Insurance and Mitigation Administration

Enclosure

cc: Dotti Harness-Foster, Planning Technician





**City of Homer, AK**

**Verified Class 8**

NFIP Number: 020107

New Application

Date of Verification Visit: August 4, 2015

This Verification Report is provided to explain the recommendations of Insurance Services Office, Inc. (ISO) to DHS/FEMA concerning credits under the Community Rating System (CRS) for the above named community.

A total of 1096 credit points are verified which results in a recommendation that the community improve from a CRS Class 10 to a CRS Class 8. The following is a summary of our findings with the total credit points for each activity noted in parenthesis:

**Activity 310 – Elevation Certificates:** The Planning Department maintains elevation certificates for new and substantially improved buildings. Copies of elevation certificates are made available upon request. (38 points)

**Activity 320 – Map Information Service:** Credit is provided for furnishing inquirers with basic flood zone information from the community's latest Flood Insurance Rate Map (FIRM). Credit is also provided for the community furnishing special flood related hazards and natural floodplain functions. The service is publicized annually and records are maintained. (70 points)

**Activity 330 – Outreach Projects:** Credit is provided for an informational outreach projects that encourages the purchase of flood insurance displayed in five public locations. (5 points)

**Activity 340 – Hazard Disclosure:** Credit is provided for state and community regulations requiring disclosure of flood hazards. (15 points)

**Activity 350 – Flood Protection Information:** Documents relating to floodplain management are available in the reference section of the Homer Public Library. Credit is also provided for floodplain information displayed on the community's website. (17 points)

**Activity 420 – Open Space Preservation:** Credit is provided for preserving approximately 23 percent of the Special Flood Hazard Area (SFHA) as open space, protecting open space land with deed restrictions, and preserving open space land in a natural state. (453 points)

**Activity 430 – Higher Regulatory Standards:** Credit is provided for enforcing regulations that require freeboard for new and substantial improvement construction. Credit is also provided for regulations administration. (80 points)

**Activity 440 – Flood Data Maintenance:** Credit is provided for maintaining and using digitized maps records in the day to day management of the floodplain. (140 points)

**Activity 450 – Stormwater Management:** The community enforces regulations for soil and erosion control and water quality. (78 points)

**Section 502 - Repetitive Loss Category:** The City of Homer, AK is a Category A community for CRS purposes and no action is required. (No credit points are applicable to this section)

**Activity 540 – Drainage System Maintenance:** All of the community's drainage system is inspected regularly throughout the year and maintenance is performed as needed. (200 points)

**Activity 710 – County Growth Adjustment:** All credit in the 400 series is multiplied by the growth rate of the county to account for growth pressures. The growth rate for the Kenai Peninsula Borough is 1.17.

Attached is the Community Calculations Worksheet that lists the verified credit points for the Community Rating System.

**CEO Name / Address:**

Katie Koester  
City Manager  
491 E Pioneer Avenue  
Homer, Alaska 99603

**CRS Coordinator Name / Address:**

Dotti Harness-Foster  
Planning Technician  
481 E Pioneer Avenue  
Homer, Alaska 99603  
(907) 235 3106

Date Report Prepared: December 21, 2015

**720 COMMUNITY CREDIT CALCULATIONS (New Application):**

**CALCULATION SECTION :**

Verified Activity Calculations:				Credit
c310	38			38
c320	70			70
c330	5			5
c340	15			15
c350	17			17
c360				
c370				
c410		x CGA	=	
c420	387	x CGA	1.17 =	453
c430	68	x CGA	1.17 =	80
c440	120	x CGA	1.17 =	140
c450	67	x CGA	1.17 =	78
c510				
c520				
c530				
c540	200			200
c610				
c620				
c630				

**Community Classification Calculation:**

cT = total of above	cT =	<u>1096</u>
Community Classification (from Table 110-1):	Class =	<u>8</u>

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 Homer, Alaska 99603  
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Date Report Prepared: December 21, 2015





ANNOUNCEMENTS  
PRESENTATIONS  
BOROUGH REPORT  
COMMISSION REPORTS



# PUBLIC HEARING(S)



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

**Ordinances 14-18(A)(S-2), 16-38(S), and 16-43**

A **public hearing** is scheduled for **Monday, August 22, 2016** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**Ordinances 14-18(A)(S-2), 16-38(S), and 16-43 internet address:**  
<http://www.cityofhomer-ak.gov/ordinances>

**Ordinance 14-18(A)(S-2)**, An Ordinance of the Homer City Council Amending Homer City Code 21.03.040, Definitions Used in Zoning Code, Homer City Code 21.05.030, Measuring Heights, and Homer City Code 21.70.010, Zoning Permit Required; Repealing Homer City Code Chapter 21.58, Small Wind Energy Systems; and Enacting Homer City Code Chapter 21.58, Towers and Related Structures. Planning.

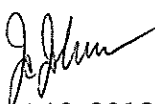
**Ordinance 16-38(S)**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15, Animals in Vehicles, Regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief.

**Ordinance 16-43**, An Ordinance of the City Council of Homer, Alaska, Amending Ordinance 13-03(S)(2) to Change the Terms for Adjusting the Amortization of Principal of the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager.



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

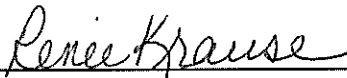
\*\* Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us) or fax 235-3143.

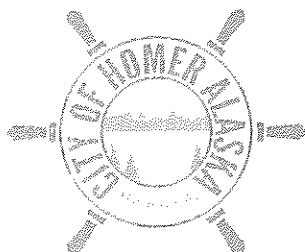
Jo Johnson, MMC, City Clerk   
Publish: Homer Tribune: August 18, 2016

**CLERK'S AFFIDAVIT OF POSTING**

I, Renee Krause, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for **Ordinance 14-(A)(S-2)**, Amending HCC 21.03.040, Definitions Used in Zoning Code, HCC 21.05.030, Measuring Heights, and HCC 21.70.010, Zoning Permit Required: Repealing HCC Chapter 21.58, Small Wind Energy Systems; Enacting HCC Chapter 21.58, Towers and Related Structures; **Ordinance 16-38(S)**, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15, Animals in Vehicles, regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations; **Ordinance 16-43**, Amending Ordinance 13-03(S)(2) to Change the Terms for Adjusting the Amortization of Principal of the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement between the City and the Kenai Peninsula Borough Regarding the Bond was distributed to the City of Homer kiosks located at City Clerk's Office, and the Homer Public Library on Wednesday August 10, 2016 and posted the same on City of Homer Website on Tuesday, August 9, 2016.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 10th day of August, 2016.

  
\_\_\_\_\_  
Renee Krause, CMC, Deputy City Clerk



**ORDINANCE REFERENCE SHEET**  
**2014 ORDINANCE**  
**ORDINANCE 14-18**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.03.04, Definitions Used in Zoning Code, the Title of Homer City Code 21.58 and Homer City Code 21.58.010, Purpose and Application; and Enacting Homer City Code 21.58.040, Communications Tower Requirements; to Define and Establish Standards for Communications Towers.

Sponsor: Zak

1. City Council Regular Meeting April 28, 2014 Introduction and Referred to Planning Commission
2. City Council Regular Meeting March 29, 2016 Returned from Planning Commission
  - a. Substitute Ordinance 14-18(A)(S) from Planning Commission
  - b. Memorandum 16-054 from City Planner as backup
3. City Council Regular Meeting August 8, 2016 Returned from Planning Commission
  - a. Substitute Ordinance 14-18(A)(S) as adopted by Council on March 29, 2016
  - b. Substitute Ordinance 14-18(A)(S-2) from Planning Commission
  - c. Memorandum 16-127 from City Planner as backup
  - d. Staff reports and minutes
4. City Council Regular Meeting August 22, 2016 Public Hearing and Second Reading
  - a. Ordinance 14-18(A)(S-2) as adopted by Council on August 8, 2016
  - b. Memorandum 16-127 from City Planner as backup
  - c. Staff reports and minutes





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**CITY OF HOMER  
HOMER, ALASKA**

Planning Commission

**ORDINANCE 14-18(A)(S-2)**

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS USED IN ZONING CODE, HOMER CITY CODE 21.05.030, MEASURING HEIGHTS, AND HOMER CITY CODE 21.70.010, ZONING PERMIT REQUIRED; REPEALING HOMER CITY CODE CHAPTER 21.58, SMALL WIND ENERGY SYSTEMS; AND ENACTING HOMER CITY CODE CHAPTER 21.58, TOWERS AND RELATED STRUCTURES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.03.040, Definitions used in zoning code, is amended by adding the following definitions:

“Collocation” means the placement or installation of wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

“Equipment compound” means the area occupied by a wireless communications support structure and within which wireless communications equipment is located.

“Tower, amateur radio” means a fixed vertical structure used exclusively to support an antenna used by an amateur radio operator licensed by the Federal Communications Commission, plus its accompanying base plates, anchors, guy cables and hardware.

“Tower, communications” means a fixed vertical structure built for the primary purpose of supporting wireless communications equipment, plus its accompanying base plates, anchors, guy cables and hardware.

“Wireless communications equipment” means the set of equipment and network components used in the provision of wireless communications services, including without limitation antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding any wireless communications support structure.

“Wireless communications services” means transmitting and receiving information by electromagnetic radiation, by an operator (other than an amateur radio operator) licensed by the Federal Communications Commission.

43 “Wireless communications support structure” means a structure that is designed to  
44 support, or is capable of supporting, wireless communications equipment, including a  
45 communications tower, utility pole, or building.  
46

47 Section 2. Subsection (b) of HCC 21.05.030, Measuring heights, is amended to read as  
48 follows:

49 b. When measuring height of a building, the following are excluded from the  
50 measurement:

51 **1. Steeples** ~~steeple~~s, spires, belfries, cupolas and domes if not used for human  
52 occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads,  
53 monuments, flagpoles, wind energy systems, television and radio antennas, other  
54 similar features, and necessary mechanical appurtenances usually carried above roof  
55 level.  
56

57 **2. Wireless communications equipment that does not extend more than 10**  
58 **feet above the height of the building.**

59 Section 3. Subsection (d) of Homer City Code 21.05.030, Measuring heights, is  
60 amended to read as follows:  
61

62 d. When determining the height of a nonbuilding structure, such as a sign, ~~or~~ fence,  
63 **amateur radio tower, communications tower or wireless communications support**  
64 **structure**, the height shall be calculated as the distance from the base of the structure at  
65 normal grade to the top of the highest part of the structure, **excluding lightning rods**. For  
66 this calculation, normal grade shall be construed to be the lower of (1) existing grade prior to  
67 construction or (2) the newly established grade after construction, exclusive of any fill, berm,  
68 mound, or excavation made for the purpose of locating or supporting the structure. In cases  
69 in which the normal grade cannot reasonably be determined, structure height shall be  
70 calculated on the assumption that the elevation of the normal grade at the base of the  
71 structure is equal to the elevation of the nearest point of the crown of a public street or the  
72 grade of the land at the principal entrance to the main building on the lot, whichever is lower.  
73

74 Section 4. Homer City Code Chapter 21.58, Small Wind Energy Systems, is repealed.  
75

76 Section 5. Homer City Code Chapter 21.58, Towers and Related Structures, is enacted  
77 to read as follows:  
78

79  
80 CHAPTER 21.58

81  
82 TOWERS AND RELATED STRUCTURES

83  
84 Article I. Communications Towers and Wireless Communications Equipment

85           21.58.010 Purpose.

86           The purpose of this article is to provide standards and procedures for communications  
87 towers and for wireless communications equipment.

88  
89           21.58.020 Exemption from regulation.

90           a. Each of the following communications towers is a permitted principal or accessory  
91 use or structure in each zoning district and is exempt from the provisions of this article:

92                   1. A communications tower that is placed temporarily to support wireless  
93 communications equipment that is provided in response to a state of emergency  
94 declared by a federal, state, or local government authority and is removed within 12  
95 months after the termination of the state of emergency.

96                   2. A communications tower that is placed temporarily to support wireless  
97 communications equipment that is provided for media coverage of a special event,  
98 and that is placed no more than 30 days before the special event and removed no  
99 more than 15 days after the end of the special event.

100                   3. A communications tower with a height not exceeding 35 feet.

101                   4. An amateur radio tower, to the extent that it is exempt from regulation under  
102 AS 29.35.141.

103           b. The collocation, removal, replacement or installation of wireless communications  
104 equipment is a permitted principal or accessory use or structure in each zoning district and is  
105 not subject to approval under this title if it meets all of the following requirements:

106                   1. The collocation, removal or replacement is in an existing wireless  
107 communications support structure or existing equipment compound that is in  
108 compliance with the requirements of this title in effect at the time of its construction  
109 and with the terms and conditions of any previous final approval under this title.

110                   2. The collocation, removal or replacement will not do any of the following:

111                           A. Increase the overall height of the wireless communications support  
112 structure by more than 20 feet or 10% of its original height, whichever is  
113 greater.

114                           B. Increase the width of the wireless communications support structure  
115 by more than the minimum necessary to permit the collocation, removal or  
116 replacement.

117                   3. The collocation, removal or replacement complies with the terms and  
118 conditions of any previous final approval of the wireless communications support  
119 structure or equipment compound under this title.

120                   4. The installation is on an existing building that is in compliance with the  
121 requirements of this title and with the terms and conditions of any previous final  
122 approval under this title, and the wireless communications equipment does not  
123 extend more than 10 feet above the height of the building.

124  
125  
126

127 21.58.030 Permission for communications towers.

128 a. Except as provided in subsection (b) of this section, a communications tower is  
129 permitted as a principal or accessory use or structure in each zoning district.

130 b. A communications tower that exceeds the following maximum height for the zoning  
131 district in which the communications tower is located is permitted only when authorized by  
132 conditional use permit issued in accordance with Chapter 21.71.

133	<u>District</u>	<u>Maximum Height (feet)</u>
134	CBD	60
135	TC	60
136	GBD	60
137	GC1	120
138	RO	85
139	UR	60
140	RR	85
141	CONS	60
142	GC2	120
143	EEMU	120
144	MI	120
145	MC	120
146	OSR	60
147	BCWPD	120

148  
149 21.58.040 Application requirements.

150 a. An application for a zoning permit or conditional use permit for a communications  
151 tower that is subject to regulation under this article shall include the following information, in  
152 addition to information required by other provisions of this title:

- 153 1. A level two site plan that shows the location of the communications tower.
- 154 2. A written narrative explaining why placing wireless communications  
155 equipment at the proposed location is necessary to the applicant's wireless  
156 communications services coverage, including confirmation that there is no available  
157 site for collocation of the wireless communications equipment within a radius of 1,000  
158 feet from the proposed location in consideration of the proposed technology, why an  
159 existing structure may not be used, an evaluation of alternate communications tower  
160 locations that the applicant considered, and an explanation why the proposed  
161 location is the best alternative.
- 162 3. A demonstration that the height of the communications tower is the  
163 minimum required for the effective operation of the wireless communications  
164 equipment plus the present and future collocations that it supports.
- 165 4. A map showing the locations of the applicant's existing communications  
166 towers that serve customers in the city and of all current and currently proposed  
167 communications towers that the applicant intends to construct to serve customers in  
168 the city.

169 5. A detailed list of major components of the wireless communications  
170 equipment that the communications tower will support, and accessory structures  
171 such as equipment cabinets and generators.

172 6. An analysis of the potential visual impacts of the communications tower at  
173 distances of 500 feet and 1,500 feet from the proposed location, through the use of  
174 photo simulations of the communications tower and the wireless communications  
175 equipment that it will support. The analysis shall include, to the extent practicable,  
176 the visual impact along two lines extending from the shore of Kachemak Bay through  
177 the communications tower site that are separated by an angle of at least 90 degrees,  
178 and show the relationship of the communications tower to structures, trees,  
179 topography, and other intervening visual barriers. The analysis will include  
180 recommendations to mitigate adverse visual impacts of the communications tower on  
181 other properties.

182 7. A certificate from an engineer licensed in Alaska that the communications  
183 tower, and all antennas and other wireless communications equipment located on it,  
184 meet industry standards for their construction, including ANSI 222 G or most recent  
185 version.

186 8. Evidence that all wireless communications equipment supported by the  
187 communications tower meets applicable Federal Communications Commission  
188 requirements.

189 9. A determination of no hazard to air navigation for the communications tower  
190 issued by the Federal Aviation Administration.

191 10. For a conditional use permit, minutes of each public meeting held under  
192 Section 21.58.060(a), and copies of all public comments received under Section  
193 21.58.060(b)(5).

194 *b. The applicant shall pay the cost of an independent technical review of the*  
195 *communications tower application by a consultant retained by the city. The applicant shall*  
196 *submit with the application a deposit according to the fee schedule established by resolution of*  
197 *the City Council toward the cost of the technical review. If at any time the city finds that the*  
198 *actual cost of the technical review will exceed the amount of the deposit, the city may require*  
199 *the applicant to increase the amount of the deposit to equal the city's current estimate of the*  
200 *cost of the technical review. Continued review of the application shall be conditioned upon the*  
201 *city's receipt of the increased deposit amount. After final city action on the application, the city*  
202 *shall determine the actual cost of the technical review. If the actual cost exceeds the total*  
203 *deposit received, the applicant shall pay the balance to the city prior to permit issuance; if the*  
204 *total deposit received exceeds the actual cost, the city shall refund the excess to the applicant.*  
205 *Deposits received under this subsection shall be disbursed only as authorized by this subsection*  
206 *and shall not bear interest.*

207  
208 21.58.050 Communications tower standards.

209 a. The distance from a communications tower to the closest property line of a lot that  
210 contains a dwelling unit, dormitory, hotel, motel, bar, restaurant, school, day care facility,

211 church, retail establishment or place of public assembly may not be less than 1.1 times its  
212 total height.

213 b. The height of the communications tower shall not be greater than the minimum  
214 height required for the effective operation of the wireless communications equipment and  
215 collocations that it will support upon its initial construction.

216 c. The communications tower and any related equipment compound are painted or  
217 coated in a color that blends with the surrounding environment, except to the extent that  
218 obstruction marking is required by the Federal Aviation Administration, and the fence or wall  
219 that surrounds the equipment compound at the base of the communications tower,  
220 combined with any landscaping adjacent to its exterior, shall obscure the equipment  
221 compound to view from its exterior.

222 d. All guy wires, cables and other accessory support structures for a communications  
223 tower shall be on the same lot as the tower, but may be located within required setback  
224 areas, and shall be properly jacketed to ensure visibility in accordance with applicable safety  
225 standards.

226 e. The equipment compound for a communications tower shall conform to the  
227 minimum setback requirements of the zoning district in which it is located.

228 f. Not less than two off-street parking spaces conforming to the requirements of this  
229 title shall be provided on the lot where a communications tower is located for use in the  
230 operation and maintenance of the communications tower and the wireless communications  
231 equipment that it supports.

232 h. The equipment compound at the base of a communications tower shall be  
233 surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest  
234 part of a climbing apparatus that provides access to equipment on a communications tower  
235 shall be at least 12 feet above the ground, and the tower shall have no handholds or  
236 footholds below the climbing apparatus.

237 h. Except for switch type lighting, no artificial lighting shall be mounted on a  
238 communications tower, and a communications tower shall not be illuminated with artificial  
239 lighting, except when required by the Federal Aviation Administration.

240 i. Signs. No sign, flag or pennant may be attached to a communications tower except  
241 that the following shall be posted in a location that is visible from the ground outside the  
242 equipment compound:

243 1. A sign identifying the party responsible for the operation and maintenance of  
244 the communications tower, with a 24-hour emergency contact telephone number.

245 2. Any antenna structure registration number required by the Federal  
246 Communications Commission.

247 3. Warnings of dangers associated with the communications tower or  
248 equipment that is located on the communications tower.

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253 21.58.060 Public notification of communications tower application.

254 a. The applicant for a conditional use permit for a communications tower shall hold at  
255 least one meeting informing the public of the application that conforms to the following  
256 requirements.

257 1. The meeting shall be held at city hall, or at a public facility that is nearer to  
258 the location of the proposed communications tower and capable of seating a minimum of 20  
259 people.

260 2. The meeting shall be held on a day that is not a city holiday at least 15 days  
261 before the applicant submits its application to the city.

262 3. The meeting shall be scheduled to last a minimum of two hours and shall not  
263 start before 5:00 p.m. or after 7:00 p.m.

264 b. The applicant shall notify each record owner of property within 1200 feet of the  
265 parcel that is the site of the proposed communications tower by first class mail at least 15  
266 days before the meeting of the following:

267 1. The legal description, street address and a map of the vicinity, of the parcel  
268 that is the site of the proposed communications tower;

269 2. A description of the proposed communications tower, including its height,  
270 design, and lighting, the proposed access to the site and the services proposed to be  
271 provided by the tower;

272 3. The date, time, and location of the meeting;

273 4. A contact name, telephone number, and address of the applicant; and

274 5. A form on which to submit written comments, with a comment submittal  
275 deadline and instructions.

276

277 21.58.070 Action on communications tower application.

278 a. The reviewing authority shall approve a communications tower only if the applicant  
279 demonstrates that it meets the following criteria:

280 1. The communications tower conforms to the requirements in Section  
281 21.58.050, and the other applicable standards in this title.

282 2. The coverage for the applicant's wireless communications services  
283 customers that the communications tower will provide cannot be provided by  
284 collocation on an existing wireless communications support structure.

285 3. Of the available alternate sites, the selected site provides necessary  
286 coverage for the applicant's wireless communications services customers with the  
287 least visual impact on other properties.

288 b. No action may be taken on a communications tower application on the basis of the  
289 environmental effects of radio frequency emissions to the extent that the wireless  
290 communications equipment that will be located on the tower complies with Federal  
291 Communications Commission regulations concerning such emissions.

292 c. The reviewing authority shall act on a communications tower application within a  
293 reasonable period of time after the application has been filed with the city taking into  
294 account the nature and scope of the application, but within no more than 150 days after the

295 application is filed. The 150-day period excludes (i) any time that begins when the reviewing  
296 authority gives written notice to the applicant within 30 days of receipt of the application that  
297 the application is incomplete, clearly and specifically delineating all missing documents or  
298 information, until the applicant makes a supplemental submission in response to the notice  
299 of incompleteness; and (ii) any time that begins when the reviewing authority has given  
300 written notice to the applicant within 10 days of receipt of such a supplemental submission  
301 that the supplemental submission did not provide the information identified in the original  
302 notice delineating missing information until the applicant makes another supplemental  
303 submission.

304 d. An action denying a communications tower application shall be in writing and  
305 supported by substantial evidence contained in a written record.  
306

307 21.58.080 Communications tower insurance requirements.

308 The issuance and continuation of a zoning permit or conditional use permit for a  
309 communications tower that is subject to regulation under this article shall be conditioned upon  
310 the permittee securing and at all times maintaining insurance meeting the requirements of this  
311 section.

312 a. The insurance policy shall provide commercial general liability coverage for personal  
313 injuries, death and property damage with limits not less than \$1,000,000 per occurrence and  
314 \$3,000,000 aggregate.

315 b. The insurance policy shall be issued by an agent or representative of an insurance  
316 company licensed to do business in the State of Alaska and with an AM Best's rating of at least A.

317 c. The insurance policy shall contain an endorsement obligating the insurance company  
318 to furnish the city with at least thirty (30) days prior written notice in advance of the cancellation  
319 of the insurance.

320 d. The permittee shall provide the city with an insurance policy or certificate of insurance  
321 demonstrating compliance with the requirements of this section before the permit is issued, and  
322 a renewal or replacement policy or certificate at least fifteen (15) days before the expiration of  
323 the insurance that is to be renewed or replaced.

324 21.58.090 Communications tower removal requirements.

325 a. The owner and the lessee of the property that is the site of a communications tower  
326 are jointly and severally responsible for its removal:  
327

328 1. If corrective action is not taken within six months after notice that the City  
329 Engineer has found the communications tower, or equipment on the communications  
330 tower, to be unsafe or not in compliance with applicable law.

331 2. Within 90 days after all wireless communications equipment on a  
332 communications tower has not been operational for a period of at least 12  
333 consecutive months

334 b. The issuance and continuation of a zoning permit or conditional use permit for a  
335 communications tower that is subject to regulation under this article shall be conditioned upon  
336 the permittee providing the city with a performance bond in an amount of at least \$150,000



337 issued by corporation licensed to act as a surety in Alaska and securing the obligations of the  
338 owner and the lessee of the property that is the site of the communications tower under  
339 subsection (a) of this section.

340

341

## Article II. Small Wind Energy Systems

342

343 21.58.110 Purpose and application. The purpose of this article is to establish  
344 minimum health and safety standards for small wind energy systems. It applies to small wind  
345 energy systems in all districts where they are allowed as permitted or conditional uses.

346

347 21.58.120 Installation requirements.

348 a. The wind turbine of a small wind energy system may be mounted on a building or a  
349 wind energy system tower.

350 b. The surfaces of all small wind energy system components that are visible when the  
351 small wind energy system is in operation shall be painted a nonreflective, neutral color.

352 c. A zoning permit application for a small wind energy system shall include the  
353 following information:

354 1. A level one site plan that shows the location of the small wind energy system.

355 2. Specifications for the small wind energy system including manufacturer  
356 make and model, an illustration or picture of the turbine unit, maximum rated power  
357 output, blade diameter, total height, tower color and, if proposed, the location of  
358 ladders and/or climbing pegs.

359 3. Tower foundation blueprints or drawings.

360 4. Noise decibel data prepared by the wind turbine manufacturer or qualified  
361 engineer indicating noise decibel level at the property line nearest to the location of  
362 the small wind energy system.

363 5. Evidence of compliance with, or exemption from, Federal Aviation  
364 Administration requirements.

365 6. Evidence that the small wind energy system complies with current  
366 Underwriters Laboratories standards for local utility connections.

367 d. Dimensional Requirements.

368 1. The distance from a small wind energy system to the closest property line  
369 may not be less than 1.1 times its total height.

370 2. All guy wires, cables and other accessory support structures for a small wind  
371 energy system must be on the same lot as the small wind energy system, but may be  
372 located within required setback areas, and shall be properly jacketed to ensure visible  
373 safety standards.

374

375 21.58.130 Operation standards.

376 a. Electrical Standards.

377 1. A small wind energy system shall comply with the National Electric Code.

378 2. All electric transmission wires connected to a small wind energy system  
379 must be underground, or within the building on which the small wind energy system is  
380 mounted.

381 3. A small wind energy system shall not interfere with television, microwave,  
382 navigational or radio reception.

383 b. Noise and vibration from a small wind energy system shall not exceed the levels  
384 permitted in HCC 21.59.010(b) and (c), except during short-term events such as utility outages  
385 and severe wind storms.

386 c. Tower Safety.

387 1. The lowest part of a climbing apparatus that provides access to a wind  
388 turbine shall be at least 12 feet above the ground, and the wind energy system tower  
389 or building on which the wind turbine is mounted shall have no handholds or  
390 footholds below the climbing apparatus.

391 2. The lowest point through which a wind turbine blade rotates must be at  
392 least 20 feet above the ground.

393 d. Lighting. Except for switch type lighting, no artificial lighting shall be mounted on a  
394 small wind energy system, and a small wind energy system shall not be illuminated with  
395 artificial lighting, except when required by the Federal Aviation Administration and approved  
396 by conditional use permit.

397 e. Signs. No sign, flag or pennant may be attached to a small wind energy system  
398 except for the following:

399 1. A sign identifying the manufacturer or installer of the small wind energy  
400 system.

401 2. Signs warning of dangers associated with the small wind energy system.

402 f. Removal. The owner and the lessee of the property that is the site of a small wind  
403 energy system are jointly and severally responsible for its removal:

404 1. If corrective action is not taken within six months after notice that the City  
405 Engineer has found the small wind energy system to be unsafe or not in compliance  
406 with applicable law.

407 2. Within 90 days after the small wind energy system has not been operational  
408 for a period of at least 12 consecutive months.

409  
410 Section 6. Subsection (c) of Homer City Code 21.70.010, Zoning permit required, is  
411 amended to read as follows:

412  
413 c. The following are exempt from the requirement to obtain a zoning permit, but not  
414 from compliance with applicable requirements of the Homer Zoning Code, such as, but not  
415 limited to, the development activity plan or stormwater protection plan:

416 1. Any change to an existing building that does not increase the height, or  
417 exterior dimension of any floor, of the building, and any change to an existing  
418 structure that does not increase the height, or footprint area, of the structure.

419                   2. Erection or construction of a one-story detached accessory building used as  
420 a tool and storage shed, playhouse, or other accessory use, provided the building area  
421 does not exceed 200 square feet; and further provided, that there is already a main  
422 building on the same lot.

423                   **3. Erection or construction of a communications tower with a height not**  
424 **exceeding 35 feet, or an amateur radio tower.**

425                   **43.** Fences or walls used as fences, unless otherwise regulated by the Homer  
426 City Code.

427                   **54.** Removal of any building or structure.

428                   **65.** Termination of any type of use.

429  
430                   Section 7. This Ordinance is of a permanent and general character and shall be  
431 included in the City Code.

432  
433                   ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_  
434 2016 .

435  
436                   CITY OF HOMER

437  
438  
439                   \_\_\_\_\_  
440 MARY E. WYTHE, MAYOR

441 ATTEST:  
442  
443  
444 \_\_\_\_\_  
445 JO JOHNSON, MMC, CITY CLERK

446  
447 AYES:  
448 NOES:  
449 ABSTAIN:  
450 ABSENT:

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452  
453 First Reading:  
454 Public Hearing:  
455 Second Reading:  
456 Effective Date:

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461 Reviewed and approved as to form:

462

463

464 \_\_\_\_\_

465 Mary K. Koester, City Manager

466

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

\_\_\_\_\_

Holly C. Wells, City Attorney

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



# City of Homer

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

Planning  
491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)  
(p) 907-235-3106  
(f) 907-235-3118

## Memorandum 16-127

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

THROUGH: KATIE KOESTER, CITY MANAGER

FROM: RICK ABOUD, CITY PLANNER

DATE: JULY 28, 2016

SUBJECT: DRAFT ORDINANCE AMENDING HOMER CITY CODE 21.03.040, DEFINITIONS USED IN ZONING CODE, HOMER CITY CODE 21.05.030, MEASURING HEIGHTS, AND HOMER CITY CODE 21.70.010, ZONING PERMIT REQUIRED; REPEALING HOMER CITY CODE CHAPTER 21.58, SMALL WIND ENERGY SYSTEMS; AND ENACTING HOMER CITY CODE CHAPTER 21.58, TOWERS AND RELATED STRUCTURES.

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### Introduction

After a requested second look, the Planning Commission is recommending an amended ordinance.

### Changes

In response to the concerns of the City Council, the Planning Commission has reviewed the ordinance and recommended three changes to the ordinance. These changes are presented in underlined italics for introduction. They constitute a change from the last ordinance the Council received, but the whole chapter, 21.58 is new to Homer City Code.

1. 21.58.040(b): This provides that the applicant shall pay the cost of an independent technical review.
  - The Planning Office routinely reviews site plans and addresses code regarding site design and requires evidence that the project complies with local, state, and federal regulations. In order to control the proliferation of towers, we ask the applicant to make the case that they are unable to collocate on an existing structure, the height is the minimum necessary, and the site selected is necessary for their service with the least visual impact on other properties when compared with alternative sites. These standards require a technical review for which there is no one qualified within the city to perform. The added costs of the review are proposed to be placed upon the applicant. Generally, the better that the applicant prepares the application, the less it will cost to review. Additional costs can accrue when an application is incomplete or the evidence is inconclusive and additional information must be gained.

2. 21.58.080 Communication tower insurance requirements.
  - This provides the city evidence that the structure is insured with appropriate liability coverage. We would expect that all such structures have insurance. It is required that the city be notified in the event that the coverage lapses.
3. 21.58.090(b): Performance Bonding.
  - This provides a bond amount to ensure that the structure is properly decommissioned. We did address the circumstances when a tower would be required to be removed in 21.58.090, but did not have any process other than a nuisance procedure in which to facilitate removal of the structure. The nuisance procedure would require the city to remove the structure and then we would have to go about recovering our costs.

### **Analysis of other concerns**

Concerns were expressed regarding view shed protection and limiting the amount of structures. The ordinance, as a whole, is meant to address these concerns. The view shed is addressed in the application procedure where the applicant is expected to consider alternative sites where the provision of coverage is proven necessary. We are hoping that the ordinance will limit the number of structures in requiring an examination of colocation opportunities. Placing an absolute limit on the number of structures can be problematic if it was to deny provision of services which are proven necessary and supported by federal policies. These ordinances usually encourage fewer taller structures or more shorter ones. I would say our ordinance generally encourages fewer tall structures.

The Commission did not address changing code regarding turbines/wind energy. This will require a more extensive process than addressing a few concerns about communication towers. So far, we have had no resent inquiries from those wishing to set up residential wind energy systems. This will be placed on the Commission work list.

This is quite a complex ordinance, taking us into places we have not really gone into before. If you see things you question or changes you would like to suggest please contact Administration, so that we might research any proposed amendments.

### **Recommendation:**

The Homer Advisory Planning Commission recommends that the Homer City Council adopt this Ordinance 14-18(A)(S-2).

### **Attachments**

Ordinance 14-18(A)(S-2) and backup material from Planning Commission.

**ORDINANCE REFERENCE SHEET**  
**2016 ORDINANCE**  
**ORDINANCE 16-38**

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations.

Sponsor: City Manager/Police Chief

1. Council Regular Meeting June 27, 2016 Introduction
  - a. Memorandum 16-111 from Deputy City Clerk as backup
  - b. Memorandum 16-114 from City Attorney as backup
  - c. Resolution 15-075
  
2. Council Regular Meeting July 25, 2016 Introduction Public Hearing and Second Reading
  - a. Memorandum 16-111 from Deputy City Clerk as backup
  - b. Memorandum 16-114 from City Attorney as backup
  - c. Resolution 15-075
  
3. Council Regular Meeting August 8, 2016 Public Hearing and Second Reading
  - a. Substitute Ordinance 16-38(S) as adopted by Council July 25, 2016
  - b. Memorandums 16-026 and 16-111 from Deputy City Clerk as backup
  - c. Memorandum 16-114 from City Attorney as backup
  - d. Resolution 15-075
  
3. Council Regular Meeting August 22, 2016 Public Hearing and Second Reading
  - a. Substitute Ordinance 16-38(S) as adopted by Council July 25, 2016
  - b. Memorandums 16-026 and 16-111 from Deputy City Clerk as backup
  - c. Memorandum 16-114 from City Attorney as backup
  - d. Resolution 15-075
  - e. Written public comments





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

3 City Manager/  
4 Police Chief

5 **ORDINANCE 16-38(S)**

6  
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
8 AMENDING HCC 7.04.030, TRAFFIC FINE SCHEDULES, AND  
9 ENACTING HOMER CITY CODE CHAPTER 7.15, ANIMALS IN  
10 VEHICLES, REGARDING ANIMALS IN VEHICLES; AND AMENDING  
11 HOMER CITY CODE TITLE 20, ANIMALS, REGARDING THE  
12 REGULATION AND IMPOUNDMENT OF ANIMALS, AND PENALTIES  
13 FOR ANIMAL VIOLATIONS.  
14

15 THE CITY OF HOMER ORDAINS:

16  
17 Section 1. The traffic offense fine schedule in Homer City Code Chapter 7.04.030,  
18 Traffic fine schedules, is amended by adding the following offenses and fines:  
19

Code Section	Code Section Title	Fine per Day
7.15.010	Transporting animal	\$75
7.15.020	Animal interfering with vehicle operation	\$75

20  
21 Section 2. Homer City Code Chapter 7.15, Animals in Vehicles, is enacted to read as  
22 follows:  
23

24 Chapter 7.15  
25 ANIMALS IN VEHICLES

26 Sections:

27 7.15.010 Transporting an animal.

28 7.15.020 Animal interfering with vehicle operation.  
29

30 7.15.010 Transporting an animal

31 No person may drive a motor vehicle when an animal is riding in or on the vehicle  
32 unless the animal is prevented from falling, jumping or being thrown from the vehicle by one  
33 of the following:

34 a. confinement in the enclosed passenger compartment of the vehicle;

35 b. confinement in an area within the vehicle that is fully enclosed or that is enclosed  
36 on all sides to a height of at least 46 inches above the floor;

37 c. cross-tethering within the vehicle; or

38 d. confinement in a secure container or cage.  
39

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

40 7.15.020 Animal interfering with vehicle operation.

41 No person may drive a vehicle while holding an animal or with an animal in the  
42 person's lap or immediate area so as to unreasonably obstruct the view of the driver to the  
43 front or sides of the vehicle or so as to interfere with the driver's control over the driving  
44 mechanism of the vehicle.

45

46 Section 3. Homer City Code 20.04.020, Definitions, is amended to read as follows:

47

48 20.04.020 Definitions.

49 ~~In~~ For the purposes of this title, the following words and phrases shall have the  
50 meanings respectively ascribed to them by this section:

51 "Animal" means ~~a~~ all-domestic or domesticated ~~member~~ members of the animal  
52 kingdom.

53 "At large" means ~~that~~ an animal is at large when it is off the ~~property~~ premises  
54 of ~~its~~ the owner or keeper and is not in the company of or under the ~~direct~~ control of ~~a~~ the  
55 owner or keeper, a member of his family or other person to which the animal has been  
56 entrusted, by leash, cord or chain; provided, however, that such animal shall be deemed to be  
57 under control when under competent ~~person~~ voice control while actively engaged in an  
58 organized activity which requires that the animal not be physically restrained.

59 "Dog" means ~~a member of the species *Canis familiaris*~~ any dog (*Canis sp.*), whether  
60 neutered or nonneutered male, spayed or unspayed female.

61 "Kennel" means ~~a commercial premises where four~~ any person, group of persons, or  
62 corporation breeding, buying, keeping, selling, or boarding three or more dogs over ~~four~~  
63 ~~months of~~ the age ~~are owned, kept, boarded, bred or offered~~ of four months, whether  
64 for ~~sale~~ profit or not.

65 "Large animal" means all cattle, horses, sheep, goats, swine or similar species  
66 commonly kept as livestock.

67 "License collector" means the license collector who shall be the City Clerk, and shall  
68 include a person designated by the Clerk to act in her behalf.

69 License Year. A "license year" shall commence on January 1st of each even numbered  
70 year.

71 "~~Prior~~ ~~conviction~~" means ~~a~~ ~~Conviction.~~ A "~~prior conviction~~" ~~of a person for a~~  
72 ~~violation of a provision of this title~~ involving any animal owned or controlled by the  
73 person cited within a 24-month period preceding the ~~date of the~~ offense ~~for which a citation~~  
74 ~~of the person currently is pending~~ date of the pending citation shall constitute a prior  
75 offense for penalty enhancement purposes.

76 "Quarantine" means the isolation of ~~an~~ a dog or other domestic animal in a  
77 substantial enclosure so that the ~~dog or other domestic~~ animal cannot be subject to contact  
78 with other animals or unauthorized persons.

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

79 **“Restraint” means any of the following: (i) physical confinement by leash, chain,**  
80 **fence, or building; (ii) under competent voice control when an animal is engaged in an**  
81 **activity or form of training requiring that it not be physically confined; or (iii) under**  
82 **competent voice control when an animal is on the property of its owner.**

83 **“Vicious animal” means an** ~~Animal. Any animal which when unprovoked has bitten or~~  
84 ~~attacked a human being~~ **or another animal at any time without provocation** ~~shall be~~  
85 ~~deemed vicious.~~

86  
87 Section 4. Homer City Code Chapter 20.08, General Animal Regulations, is repealed  
88 and reenacted to read as follows:

89  
90 Chapter 20.08  
91 GENERAL ANIMAL REGULATIONS

- 92 Sections:
- 93 20.08.010 Animals at large.
  - 94 20.08.020 Impoundment procedures.
  - 95 20.08.030 Animals on harbor floats.
  - 96 20.08.040 Nuisance animals.
  - 97 20.08.050 Cruelty or injury to animals.
  - 98 20.08.060 Boarding dogs at animal shelter.
  - 99 20.08.070 Female animals in heat – Confinement required.
  - 100 20.08.080 Abandonment of animals.
  - 101 20.08.090 Maintenance and sanitation.
  - 102 20.08.100 Adoption of shelter animals.
  - 103 20.08.110 Disposal of animal at request of owner.

- 104  
105 20.08.010 Animals at large.
- 106 a. No person may cause or permit an animal to be at large in a public street or alley, or
  - 107 on other public property, or on private property without the property owner’s consent.
  - 108 b. No person other than the animal control officer or a peace officer performing duties
  - 109 under this title may release an animal from restraint without its owner’s consent, except to
  - 110 preserve the animal’s life. A person who releases an animal from restraint to preserve its life
  - 111 shall promptly report having done so to the animal’s owner or the animal control officer.
  - 112 c. The animal control officer or a peace officer may capture or destroy by any means
  - 113 an animal at large that presents an immediate threat to public safety.
  - 114 d. The owner of an animal that is at large may be cited for a violation of this section
  - 115 without the impoundment of the animal.
  - 116 e. Except as provided in subsection (f) of this section, a violation of subsection (a) or
  - 117 (b) of this section with three or more prior convictions shall be punishable by a fine of not less
  - 118 than \$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be
  - 119 less than \$100.00.
  - 120 f. A violation of subsection (a) of this section where the animal is a large animal with
  - 121 one or more prior convictions shall be punishable by a fine of not less than \$300.00 nor more

122 than \$500.00, and the unsuspended portion of the fine shall not be less than \$100.00.

123

124 20.08.020 Impoundment procedures.

125 a. The animal control officer or a peace officer may capture and impound an animal  
126 that is at large in violation of HCC 2.08.010(a). The animal control officer or a peace officer  
127 may pursue an animal onto private property in the course of effecting its impoundment, and  
128 if necessary use a cage trap to capture an animal.

129 b. Immediately upon impounding an animal whose owner is known to the impounding  
130 animal control officer or peace officer, the officer shall make a reasonable effort to inform the  
131 owner of the impoundment and the conditions on which the owner may regain custody of the  
132 animal.

133 c. An animal that is impounded under the provisions of this chapter shall be held in  
134 the city animal shelter, and there confined in a humane manner for the applicable minimum  
135 period under subsection (d) of this section unless sooner claimed by the owner, and if not  
136 claimed by the owner thereafter may be, at the discretion of the animal control officer,  
137 offered to the public adoption or in the case of a large animal sold at public auction with  
138 public notice in the manner provided for the sale at execution of personal property in AS  
139 09.35.140, or destroyed in a humane manner.

140 d. The minimum period for which an impounded animal shall be held at the animal  
141 shelter shall be:

142 1. For a dog that is impounded while wearing a city license, five days.

143 2. For any other animal, three days.

144 e. No impounded animal may be released from the animal shelter into the custody of  
145 its owner unless the owner has:

146 1. Paid all impoundment and boarding fees, and the cost of any veterinary  
147 treatment provided to the animal while impounded;

148 2. For a dog owned by a city resident that was impounded while not wearing a  
149 city dog license, either produced evidence satisfactory to the animal control officer  
150 that a current city dog license has been issued for the dog, or if the dog is unlicensed  
151 paid the fee for a city dog license for the dog; and

152 3. For a dog, either produced evidence satisfactory to the animal control officer  
153 that the dog has a current rabies vaccination, or paid the fee for a 30-day rabies  
154 vaccination voucher under HCC 20.16.030.

155

156 20.08.030 Animals on harbor floats.

157 No person may bring, keep, or maintain an animal on the floats of the Homer small  
158 boat harbor, unless the animal is kept under physical confinement by leash or chain at all  
159 times. The person in control of the animal shall be responsible for cleaning and removing the  
160 animal's waste from the harbor floats. The City will charge the person in control of the animal  
161 for labor (minimum of one-half hour) required for cleaning and removing any animal waste  
162 that the person fails to clean and remove.

163

164 20.08.040 Nuisance animals.

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

- 165 a. No person may cause or permit an animal that the person owns or controls to:
- 166 1. Annoy another person by interfering with the latter's sleep, work or
- 167 reasonable right to peace and privacy by making repeated or continued noise;
- 168 2. Defecate, dig upon or injure private property owned by another person or a
- 169 public street or alley, or other public property;
- 170 3. Frequently or habitually growl, snap at, jump upon or otherwise menace,
- 171 injure or frighten another person who is not trespassing or otherwise violating the law;
- 172 or
- 173 4. Chase, harass, or otherwise disturb or injure wildlife.
- 174 b. The animal control officer or a peace officer may impound an animal that is
- 175 engaging in behavior described in subsection (a) of this section. A person may restrain an
- 176 animal from continuing to engage in behavior described in paragraph (a)(4) of this section,
- 177 and shall promptly surrender any animal so restrained to the animal control officer for
- 178 impoundment.
- 179 c. A violation of subsection (a) of this section with three or more prior convictions shall
- 180 be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the unsuspended
- 181 portion of the fine shall not be less than \$100.00.
- 182

183 20.08.050 Cruelty or injury to animals.

- 184 a. No person may intentionally injure, torment, poison, provoke, or otherwise abuse
- 185 an animal, including without limitation through a violation of HCC 7.15.010, Transporting an
- 186 animal.
- 187 b. No person may intentionally kill an animal by injury, torment, poison, suffocation,
- 188 decompression or other forms of abuse of the animal.
- 189 c. No person may maintain an animal without providing food, water, and shelter
- 190 adequate to preserve the animal's health, or abandon an animal where it will not be provided
- 191 proper food, water, shelter, and care.
- 192 d. No person may maintain an animal showing symptoms of infectious or contagious
- 193 disease without keeping the animal confined in a building or secure enclosure and under
- 194 proper care.
- 195 e. No person may cause an animal to fight another animal or human being, whether
- 196 for amusement or financial gain; or train, or keep for the purpose of training, an animal for
- 197 exhibition in combat with an animal or human being. No person may permit property that the
- 198 person owns or controls to be used for any of the purposes described in this subsection.
- 199 f. No person may use a trap or snare within the city limits that can kill or injure a
- 200 domestic animal except under the supervision of a state or federal wildlife agency addressing
- 201 a specific nuisance wildlife issue, and with prior notice to the animal control officer of the
- 202 name and contact information of each person who will be working the trap(s), and the type of
- 203 trap(s) and the location of trap(s) being used.
- 204 g. No person may cause or permit an animal that the person owns or controls to
- 205 molest or harass wild or domesticated animals.
- 206 h. The driver of a vehicle involved in an accident resulting in injury to an animal shall
- 207 stop the vehicle as close to the scene of the accident as safely possible and inform the owner

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

208 of the animal of the accident and injury to the animal, if the animal's ownership is readily  
209 ascertainable. If the owner of the animal is not readily ascertainable, the driver shall inform  
210 the animal control officer or police department as quickly as reasonably possible of the  
211 accident and injury to the animal.

212 i. Notwithstanding any other provision of this section, the animal control officer, a  
213 peace officer or a licensed veterinarian may humanely euthanize an animal that in that  
214 person's opinion is so seriously ill or injured that medical treatment would needlessly prolong  
215 the animal's suffering; provided that if the animal bears identification of ownership, the  
216 animal control officer, law enforcement officer or licensed veterinarian first shall make a  
217 reasonable effort to inform the owner of the animal's condition and obtain the owner's  
218 consent to euthanizing the animal.

219 j. This section does not apply to: Impounding, destruction, or other disposition of an  
220 animal in a humane manner as authorized by law; killing or injuring an animal where  
221 necessary to protect a human being or domesticated animal from death or bodily injury; or  
222 the humane destruction of an animal by its owner or the owner's authorized agent.

223 k. A violation of subsections (a) through (h) of this section shall be punishable by a fine  
224 of not less than \$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall  
225 not be less than \$300.00.

226

227 20.08.060 Boarding dogs at animal shelter.

228 The Homer Animal Shelter may accept a dog for boarding if the following  
229 requirements are met:

230 a. The owner and dog must reside inside the City.

231 b. The owner pays boarding fees in advance for a maximum of ten days. The owner  
232 shall pay double the standard boarding fees for any time from the end of the time for which  
233 boarding fees were paid in advance until the owner claims the dog from the animal shelter.

234 c. The owner provides proof from a veterinarian that the dog has current vaccinations  
235 for rabies, parvo, distemper and Bordetella (kennel cough).

236 d. The owner exhibits proof that the dog has a current City dog license.

237 e. The owner reserves boarding space 24 hours in advance of the desired boarding  
238 time, and at the time of reservation space to board the dog will be available. The animal  
239 shelter will not board more than four dogs at a time.

240 f. The animal shelter may deny boarding to a dog that it determines to be sick, injured,  
241 vicious, or in heat.

242 g. Before the boarding time begins, the owner of the dog executes a boarding  
243 agreement including all the requirements in this section and an agreement to hold the Homer  
244 Animal Shelter and the City harmless and waive liability claims against the Homer Animal  
245 Shelter and the City.

246 h. All boarding costs shall be paid in full before the dog is released to its owner or  
247 designee.

248 i. The Homer Animal Shelter will not board dogs if any licensed private commercial  
249 boarding kennel is operating within the City and that facility has space available for animal  
250 boarding.

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

251  
252 20.08.070 Female animals in heat – Confinement required.  
253 Every female dog or cat in season shall be kept confined in a building or secure  
254 enclosure, or in a veterinary hospital or boarding kennel, in such a manner that such female  
255 dog or cat cannot come in contact with another dog or cat except for planned breeding  
256 purposes.

257  
258 20.08.080 Abandonment of animals.  
259 No person may intentionally abandon an animal including without limitation leaving  
260 the animal unattended outside of the animal shelter.

261  
262 20.08.090 Maintenance and sanitation.  
263 A person who owns an animal shall maintain all structures, pens and yards where the  
264 animal is kept, and all areas adjacent thereto, in a clean and sanitary condition and free from  
265 objectionable odor.

266  
267 20.08.100 Adoption of shelter animals.  
268 To minimize the destruction of animals, the City shall make unclaimed animals and  
269 animals turned in to the animal shelter for disposal available for adoption by any adult  
270 person except as restricted herein. The City may collect a fee for the adoption of each animal.  
271 The animal control officer may deny adoption of an animal to any person with a documented  
272 record of frequent violations of this title or a history of animal abuse, neglect, or housing  
273 animals in inhumane or unsanitary conditions. Frequent violation for purposes of this section  
274 shall mean three or more convictions in the last 24 months.

275  
276 20.08.110 Disposal of animal at request of owner.  
277 The animal shelter will accept an animal from its owner for disposal upon the owner's  
278 execution of a written consent agreement holding the City harmless from liability for the  
279 destruction of the animal. Upon execution of the agreement, the animal becomes property of  
280 the City and at the City's option may be disposed of by adoption or destruction in a humane  
281 manner. The City reserves the right to refuse to dispose of any animal.

282  
283 Section 5. Homer City Code 20.12.010, License required – Issuance, is amended to read  
284 as follows:

285  
286 20.12.010 License required – Issuance.  
287 No **person may own, keep or harbor a dog over four months of age in the city that**  
288 **is not licensed** ~~owner or harbored of any dog shall fail or neglect or refuse to obtain a license~~  
289 ~~for such dog, as provided in this chapter. All dogs kept, harbored, or maintained in the City~~  
290 ~~shall be licensed and registered if over four months of age. Dog licenses shall be issued~~  
291 ~~by The the animal shelter~~ **shall issue a dog license upon receiving an application stating**  
292 **the owner's** ~~on payment of a license tax for each dog. The owner shall state, at the time~~  
293 ~~application is made for such license, his name and address and the name, breed, color and~~

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

294 sex of ~~the~~ each dog, **a certificate from a licensed veterinarian that the dog has a current**  
295 **rabies vaccination, and payment of the license fee** owned or kept by him. **A dog**  
296 **license** Dog licenses shall be issued for a period of two years **that begins on** and shall run  
297 from January 1st of ~~an~~ each even-numbered year **and ends on** ~~to~~ December 31st of ~~the~~  
298 **following odd** ~~each succeeding uneven~~-numbered year. **The full license fee shall be**  
299 **payable for a dog license that is issued at any time during an even-numbered year** For  
300 dogs requiring licensing later in the license year, the license fee shall be the same as for a full  
301 two years, **and the fee for a dog license that is issued at any time during an** prior to  
302 January 1st of the succeeding odd-numbered year; and thereafter for the remainder of the  
303 license period, the license tag shall be one-half of the full license fee.  
304

305 Section 6. Homer City Code 20.12.020, License tag to be worn and displayed, is  
306 amended to read as follows:  
307

308 20.12.020 License tag to be worn and displayed.

309 Upon payment of the license fee, ~~therefor, there shall be issued to~~ **the animal shelter**  
310 **shall issue to** the owner of a dog a receipt for payment of the license **fee** and ~~the a~~  
311 **license** tag for ~~the~~ each dog so licensed. The tag shall **bear** ~~have thereon~~ the years for which  
312 it was issued and a **number** corresponding **to the** number on the receipt. **The Every owner of**  
313 **a dog subject to licensing under this chapter** shall **cause the** ~~provide each dog to~~  
314 **wear** with a collar or harness to which the license tag shall be affixed **at all times** and shall  
315 see that the collar or harness and tag are constantly worn. In case a dog tag is lost or  
316 destroyed another will be issued upon payment of a replacement fee. Dog tags are not  
317 transferable from one dog to another.  
318

319 Section 7. Homer City Code 20.12.030, Counterfeit tags prohibited, is repealed.  
320

321 Section 8. Homer City Code 20.16.010, Rabies vaccination required, is amended to  
322 read as follows:  
323

324 20.16.010 Rabies vaccination required.

325 Every owner of a dog **over four months old** shall have ~~the~~ such dog vaccinated  
326 against rabies. Upon making an application for a license for any dog, the owner shall furnish a  
327 certificate from a licensed veterinarian as proof of this vaccination. Notwithstanding the  
328 above, if the City Clerk determines that vaccine and veterinary services are not reasonably  
329 available, the City Clerk may issue any dog license without the furnishing of such certificate;  
330 provided, however, that the owner of each dog so licensed shall furnish proof of the  
331 vaccination to the issuing authority, within 60 days from the issuance of the license, or the  
332 license shall be deemed void and the owner in violation of this chapter.  
333

334 Section 9. Homer City Code 20.16.020, Quarantine of rabid animals required, is  
335 amended to read as follows:  
336

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



337 20.16.020 Quarantine of rabid animals required.

338 a. If a dog or other animal is believed to have rabies or to be vicious, or has been bitten  
339 by ~~a~~ dogs or other animals suspected of having rabies, ~~the such~~ dog or other animal shall be  
340 confined by a leash or chain in a substantial enclosure on the owner's premises and shall be  
341 placed under the observation of a duly licensed physician or veterinarian for 10 days at the  
342 expense of the owner. The owner shall notify a peace officer or animal control officer ~~of the~~  
343 ~~fact that~~ ~~the this~~ dog has been exposed to rabies, and, ~~at his discretion,~~ the officer **may, at**  
344 **the officer's discretion, place** ~~is empowered to have the dog moved from the owner's~~  
345 ~~premises and placed under observation~~ **in a designated isolation ward** at the animal  
346 shelter ~~or in a veterinary hospital~~ for the quarantine period at the expense of the owner.  
347 (Note: also see 7 AAC 27.020.)

348 b. ~~The It is the duty of the~~ Chief of Police **shall** ~~to~~ promptly notify the State Health  
349 Department Officer of the location and description of the dog or other animal having rabies or  
350 suspected of having rabies, **and**; ~~also to~~ supply the State Health Officer with the names and  
351 addresses of the persons who have been bitten, scratched or had any contact with the  
352 suspected animal.

353 c. **A peace officer may** ~~The Chief of Police or his deputies are empowered to enter~~  
354 ~~upon any private property where a dog or other animal~~ **that is alleged to have bitten a**  
355 **person** ~~is kept, which dog or animal is alleged to have bitten any person,~~ to inspect, seize and  
356 impound ~~the such~~ dog **as provided** ~~under the provisions stated in this chapter.~~

357 Section 10. Homer City Code 20.16.030, Rabies vaccination voucher authorization, is  
358 amended to read as follows:

360 20.16.030 Rabies vaccination voucher authorization.

361 The animal control officer **may** ~~is authorized to~~ collect **the fee** ~~fees for,~~ and issue  
362 to ~~an any dog~~ owner claiming **a dog** ~~his animal~~ at the **animal** shelter who is unable to provide  
363 adequate proof of current rabies vaccination **for the dog**, a "rabies vaccination voucher."  
364 This voucher shall be valid for 30 days, and within that period shall entitle the bearer to rabies  
365 vaccination for the **dog identified** ~~thereon named animal,~~ at any licensed veterinarian  
366 agreeing to accept same. The City shall set fees for such voucher at the average rates  
367 currently being charged by all veterinarians licensed within the City. ~~In the event any person~~  
368 ~~is unable to locate a veterinarian willing to accept the City vaccination voucher, the voucher~~  
369 ~~fee shall be returned to that person after the voucher has expired and after that person~~  
370 ~~provides evidence that he/she has otherwise obtained a rabies vaccination for the affected~~  
371 ~~animal. The City is authorized to redeem all valid vouchers submitted by licensed~~  
372 ~~veterinarians on a monthly basis for the standard fee set thereon.~~

373 Section 11. Homer City Code 20.20.010, Permitting animals to bite prohibited, is  
374 amended to read as follows:

375 20.20.010 Permitting animals to bite prohibited.

376 a. **No person may** ~~It is unlawful for any person to permit any animal~~ **that the person**

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

380 **owns or controls** to bite a any person **or another animal**, unless the person bitten is  
381 engaged in the commission of a criminal act. It is an affirmative defense **to a charge of**  
382 **violating this section** that the victim of the bite provoked the animal into biting, ~~or~~ **was that**  
383 ~~the person~~ bitten **while** was trespassing on the premises totally enclosed by **chain**  
384 **link** chainlink fencing, or similar density fencing, ~~and the bite occurred on these premises by~~  
385 an animal housed therein. **A violation of this section shall be punishable by a fine of not**  
386 **less than \$300.00 and not more than \$500.00, and the unsuspended portion of the fine**  
387 **shall not be less than \$100.00.** Penalty: Class C infraction.

388 b. The City shall serve notice on the owner of **an** any animal which, ~~unprovoked,~~ has  
389 bitten a person **or another animal without provocation, advising**. Such notice shall advise  
390 the owner that the animal is now a vicious animal and is subject to destruction if at large.

391  
392 Section 12. Homer City Code 20.20.020, Destruction prohibited pending quarantine, is  
393 amended to read as follows:

394  
395 20.20.020 Destruction prohibited pending quarantine.  
396 No person ~~may~~ **shall** kill or maim **an** any animal which is known to have bitten  
397 **a** any person or animal **without the prior** unless consent **of** to do so has been granted by the  
398 Chief of Police. Nothing in **this section** the provisions of this chapter shall be construed to  
399 prohibit the killing of **an** a dog or other animal where such destruction is necessary for the  
400 protection of life and limb, or for the purpose of preventing a further attack. One of the  
401 purposes of the enactment of this chapter is to enable the Chief of Police to observe any dogs  
402 and other animals which have bitten any person or animal in order to determine whether the  
403 same are infected by rabies. **A violation of this section shall be punishable by a fine of not**  
404 **less than \$300.00 and not more than \$500.00, and the unsuspended portion of the fine**  
405 **shall not be less than \$100.00.** Penalty: Class E infraction.

406  
407 Section 13. Homer City Code 20.20.030, Vicious animal, is amended to read as follows:

408  
409 20.20.030 Vicious animal.  
410 **No person may** ~~It is unlawful for any person to permit any vicious animal to:~~  
411 a. **Permit a vicious animal to be** Be at large ~~within the limits of the City;~~  
412 b. Knowingly or negligently permit **a** any vicious animal to bite any person unless the  
413 person bitten is in the act of committing a criminal offense;  
414 c. **Permit a vicious animal to be** Be housed or transported in or on any motor  
415 vehicle ~~within the City limits~~ unless **the said** animal is muzzled to prevent the animal from  
416 biting any person. (Exception: vicious animals locked in the passenger compartment of a  
417 motor vehicle need not be muzzled if the windows are adequately closed to prevent the  
418 animal from exiting the vehicle);  
419 d. **Permit a vicious animal to leave** Leave premises owned or controlled by the  
420 animal's owner or his agent (except as authorized in subsection (c) of this section) unless the  
421 animal is securely muzzled.  
422 Any animal in violation of subsection (a) or (b) of this section shall, upon conviction of the

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

423 owner or the agent, for that offense, be immediately seized by the City and held for  
424 destruction. **A violation of this section shall be punishable by a fine of not less than**  
425 **\$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be less**  
426 **than \$100.00.** Penalty: Class D infraction.

427  
428 Section 14. Subsection (b) of Homer City Code 20.20.040, Administrative hearing  
429 procedures, is amended to read as follows:

430  
431 b. A notice of administrative hearing shall be served upon the animal's owner or his  
432 designee under the procedures set for service of summons in a civil action. The notice shall  
433 specify the date, time, and location of the hearing. The hearing may not be less than **three**  
434 **days** ~~72 hours~~ following the service of the hearing notice on the animal owner or his designee.

435  
436 Section 15. Homer City Code Chapter 20.24, Enforcement Authority--Interference, is  
437 amended to read as follows:

438  
439 Chapter 20.24  
440 ENFORCEMENT AUTHORITY -- INTERFERENCE

441  
442 Sections:

- 443 20.24.010 Enforcement.
- 444 20.24.020 Interference with enforcement officer prohibited.
- 445 20.24.030 Unauthorized removal of animals.
- 446 20.24.040 Tampering with City live traps prohibited.
- 447 20.24.050 Removal of quarantined animals prohibited.
- 448 20.24.060 Furnishing false information.

449  
450 20.24.010 Enforcement.  
451 This title may be enforced by any peace officer. Additionally, a private person may  
452 lawfully detain any animal in violation of **this title** ~~the City ordinances provided~~ **the person**  
453 **promptly notifies** ~~they immediately notify~~ the animal control officer; and ~~surrenders~~ the  
454 animal to the City animal control officer in compliance with **HCC 20.08.040(b)** ~~all provisions~~  
455 ~~of HCC 20.08.030(d).~~

456  
457 20.24.020 Interference with enforcement officer prohibited.  
458 No person shall interfere with, oppose or resist any peace officer **or animal control**  
459 **officer** in the performance of his duties as provided in this title. **A violation of this section**  
460 **shall be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the**  
461 **unsuspended portion of the fine shall not be less than \$100.00.** Penalty: Class D  
462 infraction.

463  
464 20.24.030 Unauthorized removal of animals.  
465 No person **may** ~~shall~~ remove or release any ~~dog or other~~ animal from the animal

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

466 shelter, animal control vehicles, municipal animal traps or from any other official custody  
467 without first obtaining permission to do so from the animal control officer or any peace  
468 officer of the City. **A violation of this section shall be punishable by a fine of not less than**  
469 **\$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be less**  
470 **than \$100.00.** ~~Penalty: Class D infraction.~~

471  
472 20.24.040 Tampering with City live traps prohibited.

473 No person may tamper with any City-owned or City-operated animal live trap.  
474 “Tampering” means removal or destruction of bait(s), tripping the door closure mechanism,  
475 obstructing the entryway so as to prevent animals from entering the trap, or the physical  
476 removal of the trap from its position. **A violation of this section shall be punishable by a**  
477 **fine of not less than \$300.00 nor more than \$500.00, and the unsuspended portion of the**  
478 **fine shall not be less than \$100.00.** ~~Penalty: Class D infraction.~~

479  
480 20.24.050 Removal of quarantined animals prohibited.

481 No person ~~may~~, either by himself or agent, shall remove from the area animal shelter  
482 or any veterinary hospital, or from any other place, any animal which has been quarantined  
483 without the consent of the chief of police or animal control officer. **A violation of this section**  
484 **shall be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the**  
485 **unsuspended portion of the fine shall not be less than \$100.00.** ~~Penalty: Class D~~  
486 ~~infraction.~~

487  
488 20.24.060 Furnishing false information.

489 ~~No~~ It is unlawful for any person ~~may~~ to knowingly provide false information on any  
490 license application, adoption or disposal agreement, boarding agreement, citation, or any  
491 other official document being executed pursuant to this title. ~~Penalty: Class C infraction.~~

492  
493 Section 16. Homer City Code Chapter 20.28, Kennels, is amended to read as follows:

494  
495 Chapter 20.28  
496 KENNELS

497 Sections:

- 498 20.28.010 Kennels – Generally.  
499 20.28.020 Kennel license – Required.  
500 20.28.030 Kennel license fee.

501  
502 20.28.010 Kennels – Generally.

503 a. No kennel shall be maintained or operated in such a manner as to constitute a  
504 nuisance to persons owning or occupying land in the vicinity of the land on which the kennel  
505 facility is operated or maintained.

506 b. Any complaint that a kennel is in violation of this chapter shall be referred to  
507 the **animal control officer** ~~Animal Control Officer~~. The **animal control officer** ~~Animal Control~~  
508 ~~Officer~~ may inspect the facilities to determine whether such kennel constitutes a health

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

509 hazard, nuisance or otherwise violates this chapter. Such inspection shall be completed  
510 within seven days of the complaint.

511 c. If the **animal control officer** ~~Animal Control Officer~~ determines that the kennel  
512 complained of is a health hazard, violates this chapter, or is a public nuisance, or that dogs  
513 may not be safely kept therein, the owner shall be notified and shall be granted a reasonable  
514 length of time within which to remedy any deficiencies found and to comply with  
515 requirements of this chapter.

516 d. If, upon a second inspection after the expiration of the time granted in the notice,  
517 the kennel is still in violation, the **animal control officer** ~~Animal Control Officer~~ may then  
518 revoke any license previously issued for such kennel.

519

520 20.28.020 Kennel license – Required.

521 a. No person **may** ~~shall~~ own or operate a kennel without first obtaining  
522 a **kennel** license. Application for such a **kennel** license shall be made to the **animal control**  
523 **officer** ~~Animal Control Officer~~.

524 b. Before a **kennel** license **is** ~~shall be~~ issued, the **animal control officer** ~~Animal~~  
525 ~~Control Officer~~ shall inspect the kennel **to confirm that the kennel:**

526

**1. Has adequate shelter for the dogs from the elements;**

527

**2. Has adequate provisions for keeping the dogs on the owner’s premises;**

528

**and**

529

**3. Has adequate provisions for keeping the premises in a sanitary**  
530 **condition.**

531 Upon finding that the kennel facility is in compliance with this chapter, the **animal**  
532 **control officer** ~~City Clerk~~ shall issue the license.

533

c. Such inspection of the kennel facility is to determine that the facility:

534

~~1. Has adequate shelter for the animals from the elements;~~

535

~~2. Has adequate provisions for keeping the animals on the owner’s premises;~~

536

~~and~~

537

~~3. Has adequate provision for keeping the premises in a sanitary condition.~~

538

539 20.28.030 Kennel license fee.

540 **A kennel license shall be issued for a period of two years that begins on January**  
541 **1st of an even-numbered year and ends on December 31st of the following odd-**

542 **numbered year.** The **full** license fee for a kennel shall be **payable for a kennel license that**  
543 **is issued at any time from January 1 of a even-numbered year through June 30 of the**

544 **following odd-numbered year, and** for a two-year period, to become due in the same year  
545 as the license fees provided for in HCC 20.12.010; however, the fee for **a kennel license that is**

546 **issued in an odd-numbered year on or** the remainder of the license year after the first of  
547 July **1** of odd-numbered years shall be one-half of the full **license** fee. The kennel **license** fee

548 shall be in lieu of a **dog** license fee for each individual **dog** animal **that is kept at the kennel;**  
549 however, **each dog that is kept at the kennel shall be subject to** all other requirements **for**

550 **the issuance of a dog license** that would normally apply to license an animal shall apply.  
551 Each animal kept at the kennel shall be considered licensed under the kennel license so long

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

552 as it remains at the kennel. **The owner of a dog that will remain in the city must obtain a**  
553 **dog license for the dog when it ceases to be kept at the kennel.** Penalty: Class B infraction.

554

555 Section 17. Homer City Code Chapter 20.30, Records, is enacted to read as follows:

556

557

#### Chapter 20.30

558

#### RECORDS

559 Sections:

560 20.30.010 Records.

561

562 20.30.010 Records.

563 a. The animal control officer shall maintain complete and detailed records of the  
564 following as required by city contract:

565 1. The issuance and revocation of licenses under this title;

566 2. All animals brought into the custody of the animal shelter by impoundment  
567 or otherwise;

568 3. The disposition of all animals in the custody of the animal shelter;

569 4. Rabies immunizations vouchers issued;

570 5. Reports required by or made pursuant to this title;

571 6. Investigations of violations of this title;

572 7. Monies received for fees and charges imposed by this title; and

573 8. Notices of violation, including the disposition thereof.

574 b. The animal control officer shall not disclose the identity of a person who surrenders  
575 an animal to the animal shelter or claims or adopts an animal from the animal shelter unless  
576 the animal control officer determines that protection of the public health, safety or welfare  
577 requires such disclosure.

578 c. At the request of the animal control officer, an animal owner shall authorize the  
579 owner's veterinarian to release animal medical records related to a specific animal control  
580 investigation.

581

582 Section 18. Subsection (c) of Homer City Code 20.32.010, Animal control fee schedule,  
583 is amended to read as follows:

584

585 c. Animals being adopted shall be **properly licensed and vaccinated** ~~spayed or~~  
586 ~~neutered, properly licensed and vaccinated.~~ Associated fees shall be the responsibility of the  
587 adopting party.

588

589 Section 19. Homer City Code 20.32.020, Penalty provisions, is repealed, and Homer  
590 City Code 20.32.020, Fine schedule, is enacted to read as follows:

591

592 20.32.020 Fine schedule.

593 Citations for offenses listed in this section may be disposed of as provided in AS  
594 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below

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

595 plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the  
 596 court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses  
 597 listed below. Citations charging these offenses must meet the requirements of Minor Offense  
 598 Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the  
 599 penalty imposed for the offense may not exceed the scheduled fine amount plus any  
 600 surcharge required to be imposed by AS 12.55.039 and AS 29.25.074.  
 601

Code Section	Code Section Title	Fine per Day
20.08.010(a)	Animal at large	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
20.08.010(b)	Unauthorized release of animal from restraint	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
20.08.030	Animals on harbor floats	\$25
20.08.040(a)	Nuisance animals	No prior conviction \$50; One prior conviction \$100; Two prior convictions \$200
20.08.070	Female animals in heat	\$100
20.08.080	Abandonment of animals	\$100
20.08.090	Maintenance and sanitation	\$100
20.12.010	License required--Issuance	\$50
20.12.020	License tag to be worn and displayed	\$50
20.20.010	Permitting animals to bite	\$200
20.24.060	Furnishing false information	\$200
20.28.020	Kennel license--Required	\$100

602  
 603 Section 20. This ordinance is of a permanent and general character and shall be  
 604 included in the City code.  
 605

606 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_  
 607 2016.

608  
 609 CITY OF HOMER

610  
 611 \_\_\_\_\_  
 612 MARY E. WYTHE, MAYOR  
 613

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

614 ATTEST:  
615  
616  
617 \_\_\_\_\_

618 JO JOHNSON, MMC, CITY CLERK

619 AYES:

620 NOES:

621 ABSTAIN:

622 ABSENT:

623

624

625

626 First Reading:

627 Public Reading:

628 Second Reading:

629 Effective Date:

630

631

632

633 Reviewed and approved as to form:

634

635

636

637 \_\_\_\_\_  
Mary K. Koester, City Manager

638

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

640 \_\_\_\_\_

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

Date:





# City of Homer

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

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## Memorandum 16-026

TO: MAYOR WYTHE AND THE HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

THROUGH: KATIE KOESTER, CITY MANAGER

DATE: FEBRUARY 1, 2016

SUBJECT: FINAL REPORT AND RECOMMENDATIONS FROM THE SUSTAINABLE ANIMAL CONTROL REVIEW COMMITTEE

---

The **Sustainable Animal Control Review Committee (SACRC)** met at least once monthly from October 2015 through January 2016. There was considerable public interest in this committee and members of the public attended the meeting on a regular basis. The purpose of the committee was to look at ways to operate the shelter more economically.

The SACRC recommended **fee changes** for the animal shelter to the Homer City Council, which were included and passed in the December 2015 budget process. The fees for the shelter had not been examined in many years and the committee felt these new fees will make the shelter more sustainable.

**City liability** was another issue the committee examined. The contract the City of Homer has with the contractor needs modification the next time an RFP is issued. The attorney recommends eliminating a specific paragraph in the contract (Page 16 Section V. Item C.) because the city cannot mandate contractor performance. It would be wise to review the content of the whole contract before issuing the RFP next December. Patrick Lawrence contacted AMLJIA and they suggested increasing the value of the insurance policy the contractor holds. The contractor has taken steps to increase the coverage in the new year.

The SACRC understands the city is in the process of changing the city **website**. While this activity is going on, the SACRC recommends that the city include links to the Animal Shelter contractor and Homer Animal Friends. Also the committee felt there would be more compliance with license purchase if an option to purchase the license were available online and all fees were clearly posted online.

**Maintenance** of the shelter was discussed. The city maintains the shelter and the contractor operates the shelter. Proper maintenance will sustain the building. The contractor and the Public Works department have discussed improved maintenance visits and communication. The HVAC system

maintenance was discussed in detail. The committee recommends cleaning the HVAC system once a year and perhaps twice a year.

Another way the committee felt the shelter could operate more economically was to have local **veterinarians** become involved. As a result of the SACRC process, the Homer Veterinary Clinic will be providing on-site support monthly to help the shelter contractor and volunteers meet the ASV (Association of Shelter Veterinarians) Standards of Care in Animal Shelters using ASPCA (American Society for the Prevention of Cruelty to Animals) checklists. This work will be provided pro-bono by staff veterinarians and licensed veterinary technicians.

**Safety issues** were considered. Limiting the city's liability was a topic of discussion. The committee looked at OSHA compliance and recommended an OSHA consultation in the future. The SACRC felt this voluntary visit by OSHA should be postponed for a few months, until the contractor feels they would benefit the most.

There are numerous **grants** available to nonprofit animal shelters that would provide considerable assistance to the operation of the shelter. The committee contemplated how the City of Homer could qualify for these grants, given the shelter is run by a contractor and the city does not operate the shelter. At this time, SACRC did not determine a way to qualify the shelter for these grants but the committee would encourage the new city grant writer to further examine possibilities for grants.

The committee examined other ways to **save funds** such as shelter specific software for financial tracking and records management. Improved tracking of income from the shelter will allow improved oversight of costs in running the shelter.

The SACRC felt that **education of the public** would also improve shelter operation. The committee understands the city intends to add informational brochures with bills in the future. To that end, a community volunteer from Homer Animal Friends has developed an informational brochure about the shelter and its fees to be included in the bills in the future.

**Volunteers** assist in smooth operation of the shelter. This topic was addressed in a myriad of ways. Most importantly, a Volunteer Release Form, per attorney advice, was developed to decrease city liability. The contractor reviewed their volunteer manual for both dog and cat care.

The committee looked at **Chapter 20** in the city code, which has not been updated since 1988. Time did not allow the committee to thoroughly review this chapter but there were several places in the code that members felt needed refining. For instance, there was nothing addressing safety of animals in open vehicles. The committee strongly encourages the City Council to update Chapter 20. City staff who participated on the committee is willing to assist with this and would solicit input from the contractor to provide recommended updates to the code in the future with Council's direction.

The SACRC did feel that the **most efficient operation** of the shelter would come from a city employee operating the shelter instead of a contractor.

Every member of the SACRC committee felt that it would be worthwhile for the city to continue an **Animal Shelter Review committee**. This committee would help the contractor with smooth

operation of the shelter and be a go between for the city and the contractor. The SACRC understands the council does not want to create new committees as a cost saving measure. The contractor has determined they will initiate a committee of their choosing to meet quarterly or as needed for shelter support.

As happens with committees, the scope of work seems to grow as members begin their work. There are numerous items that came up that could not be accomplished but we feel the process allowed us to work together raising awareness, soliciting input and establishing goals. Thank you so much for establishing this committee.





# City of Homer

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## Memorandum 16-111

TO: MAYOR WYTHE AND THE HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

THROUGH: KATIE KOESTER, CITY MANAGER

DATE: JUNE 21, 2016

SUBJECT: FINAL REPORT AND RECOMMENDATIONS FROM THE SUSTAINABLE ANIMAL CONTROL REVIEW COMMITTEE

---

In August 2015 City Council established the Sustainable Animal Control Review Committee via Resolution 15-075 in an effort to strengthen the sustainability of the shelter as the City worked on the 2016 budget.

The Committee held their last meeting in January 2016 and in February made their final report and recommendations in Memorandum 16-026. Several of the committee's recommendations have been completed including an update of the animal shelter fee schedule, the contractor increased their liability insurance, and Veterinarians from the Homer Veterinary Clinic have been visiting regularly.

With permission from City Manager Koester, Lt. Will Hutt, former committee member Casey Moss, and I took on another recommendation of the committee and reviewed HCC Title 20. We considered the committee's suggestions and looked at municipal code for the City of Soldotna, City of Kenai, and Municipality of Anchorage. As a result, Ordinance 16-38 was written.

While a good portion of the language didn't change, we simplified and clarified definitions including Animals, Kennel, License Period, Prior Conviction, and Restraint. We also changed the order of some of the sections for a better flow.

Significant changes within the chapter include:

- Added more specific language regarding animals at large;
- Clarified Impound Procedures;
- Added reference to birds under Nuisance animals;

- Added more specific language and added reference to the penalty for cruelty and penalty to animals;
- Added a section specific to records;
- Increased penalty fees.

We also drafted an amendment to Title 7 Animals in Vehicles, specific to tethering animals riding in the back of a vehicle that is not enclosed; and prohibiting animals in the lap of a person operating a vehicle.

Lastly we propose adding impoundment fees for livestock. Livestock impoundment is referenced in Title 20, but currently there are no associated fees in the fee schedule.



**Birch Horton Bittner & Cherot**

*a professional corporation*

## **MEMORANDUM 16-114**

**TO: JO JOHNSON  
CITY CLERK  
CITY OF HOMER**

**FROM: THOMAS F. KLINKNER**

**RE: REVISIONS TO HOMER CITY CODE TITLE 20**

**FILE NO.: 506,742.103**

**DATE: JUNE 16, 2016**

---

Accompanying this memorandum is an ordinance revising HCC Title 20 regarding animals. The ordinance is based on a draft that you provided to us on May 31. I also expanded the scope of the revision to address some additional items in the current code. This memorandum explains my additional modifications.

### 20.04.020 Definitions.

- I retained a modified definition of the term “dog” because that term continues to be used in Title 20—for example, in the requirement of dog licenses.
- The revised definition of the term “kennel” confines the term to commercial facilities. Do you intend that kennel regulations apply only to commercial kennels, and not to a kennel that someone might operate as a hobby?
- I omitted the definition of “license period” because the term is not used in Title 20.

### 20.08.010 Animals at large.

- I omitted subsection (c) regarding abandoned animals, because that subject is addressed in HCC 20.08.080.
- I moved subsection (d) regarding pursuing animals on private property to HCC 20.08.020(a) because it related to impoundment procedure.
- HCC 20.08.020(g) regarding large animals has been integrated into HCC 20.08.020, impoundment procedures, and HCC 20.08.010(f) regarding penalties for violations of HCC 20.08.010(a).

- Penalties for violations under HCC Title 20, up to the level of Class C infractions, have been restated in a fine schedule in a new HCC 20.32.030, as part of the effort to develop a fine schedule for City Code violations.

20.08.020 Impoundment procedures.

- Throughout the revision, I have retained the term “peace officer”, as this is the more inclusive term for officials who may enforce the code. See AS 01.10.060(7):

(7) “peace officer” means (A) an officer of the state troopers; (B) a member of the police force of a municipality; (C) a village public safety officer; (D) a regional public safety officer; (E) a United States marshal or deputy marshal; and (F) an officer whose duty it is to enforce and preserve the public peace.

- This section does not prohibit any conduct, so it is unnecessary to state penalties for violating the section.

20.08.040 Nuisance animals.

- The term “bird” is unnecessary, as it is included in the term “animal”. See HCC 20.04.020, defining “animal” as “all domestic or domesticated members of the animal kingdom.”
- Violations are categorized by number of prior convictions, as in the case of HCC 20.08.010.

20.12.010 License required—Issuance. I have simplified the wording.

20.12.020 License tag to be worn and displayed. I have simplified the wording.

20.16.010 Rabies vaccination required. I moved the requirement for a veterinarian’s certificate to HCC 20.12.010, as a requirement for the issuance of a dog license.

20.20.030 Vicious animal. I revised this section for clarification and grammatical consistency.

20.24.010 Enforcement. HCC 20.08.040(b) is the correct cross-reference in the revised Title 20.

20.28.030 Kennel license fee. I rewrote this section for clarity and simplicity. The section provides that the reduced kennel license fee goes into effect on July 1 of the second year, while under HCC 20.12.010 the reduced dog license fee goes into effect on January 1 of the second year. I assume that this difference is intentional.

20.32.020 Fine schedule. This section collects fines for violations of HCC Title 20 that can be disposed of by bail forfeiture, in the form required by the Alaska Court System.



Let me know if you have questions.

TFK/



August 16, 2016

Homer City Council

*Sent via email.*

Dear Council Members,

Please accept these comments to supplement my letter of August 4 on the same topic, proposed Ordinance 16-038(S). I appreciate the Clerk's recommendation, and the Council's action, that postponed the public hearing and final vote on this issue until August 22.

I remain opposed to the portion of the proposed ordinance that deals with animals riding in the back of vehicles, for the reasons I outlined in my August 4 letter and for the following additional reasons.

- 1) When the City Council set up the Sustainable Animal Control Review Committee (SACRC) in 2015 to strengthen sustainability of the shelter, it had a very specific scope of work, which included:
  - Review of animal control fine and fee schedule
  - Review of animal boarding policy
  - Review of energy use at the shelter
  - Review of opportunities for collaboration with Homer Animal Friends<sup>1</sup>

In reviewing the minutes of the committee (the ones available online), it is not clear that the vehicle tethering restriction and fine were strongly held views and recommendations of the committee as a whole. In fact, it appears to have only been actively championed by one person. This is a person who I respect very much in our community, and while I can understand that her unique perspective carries a lot of weight, I still don't think that the SACRC was the proper venue to develop animal care standards.

If the City feels that it is a priority to discuss animal care standards, including but not limited to tethering requirements, then Council members have the ability to form and fund another committee to address this topic.

- 2) Just this week, the State of Alaska's Office of the State Veterinarian released a public notice regarding proposed regulations that would address minimum care standards for all animals statewide. According to their website<sup>2</sup>, over a dozen stakeholder workshops specifically focused on proposing ideas and getting feedback before the proposed regulations were issued. Perhaps this would be a better way debate the merits of different types of restraints, standards of care, and what constitutes cruelty under state law?

---

<sup>1</sup> Homer City Council Resolution 15-075, Adopted 8/24/15

<sup>2</sup> <http://dec.alaska.gov/eh/vet/index.htm>

## Request to the Council

As in my August 4 letter, I strongly urge the Council to amend proposed Ordinance 16-038(S) to delete section 7.15.010. It is not my intention (at all!) to say that animals do not deserve proper care – I care very much for animals, including my own sidekick, Kodi, and abhor any person that chooses to neglect or abuse their pets. I just don't think the right balance was made between individuals' rights and the perceived benefit to pets, and that it deserves further discussion if the City wants to impose this new law.

Thank you, again, for considering my view.

Sincerely,

*Dorothy Melambianakis*

PO Box 2253, Homer, AK 99603

[Dorothy.Melambianakis@gmail.com](mailto:Dorothy.Melambianakis@gmail.com)

(907) 299-2265



TO: Homer City Council  
FROM: Diana Sedor  
RE: Ord 16-38 Animals  
DATE: August 17, 2016

I would like to suggest a simple one-word addition to this ordinance.

Chapter 20-30

20.30.010 Records.

- a. The animal control officer shall maintain *completed and detailed records* of the following.....:

I believe the word "computerized" should be added to read: *complete and detailed **computerized** records.*

It might seem implied that the shelter's recordkeeping would be computerized, but I believe the city needs to mandate that a computer and the proper software be utilized as the lack of computerized recordkeeping has been an issue in the past.

Information about the operation of the shelter needs to be available to city staff, and information about animals and their owners needs to be accessible to police officers at all hours, not just when the animal control officer is on duty.

Also, if the public is being told that dog licenses are mandatory, the assumption is that the information regarding their animal is maintained in a computerized database which would facilitate return of the animal to owner in the event its ID tag is lost or outdated.

Lastly, if the proper software is provided and there is a volunteer willing to help input data (which I believe Homer Animal Friends has offered), then other information could be cataloged such as the number of volunteer hours provided and the value of the many donations received by the shelter, both of which offset the shelter's operating costs. Being able to acknowledge and thank people for their volunteerism and donations is an important part of the shelter's community outreach.

Thank you for taking the time to update this very outdated section of city code and for acknowledging that even though there is a multitude of other important issues to deal with, the way we treat our animals is an integral part of this community and its spirit.



August 4, 2016

Homer City Council  
491 E. Pioneer Avenue  
Homer, AK 99603

*Sent via email.*

Dear Council Members,

It has come to my attention that the Council will meet on August 8, 2016 to hold a public hearing and vote on Ordinance 16-038(S). I have two issues to discuss, first, the deficiencies of a certain portion of the proposal, and second, the lack of notice given to the public.

Ordinance 16-038(S)

I have followed the progress of the Animal Shelter Review Committee, and appreciate the voluntary efforts of the members to try and improve this important function of our City. While I think there is still much to be improved at the shelter, which will hopefully be resolved when the new contract is issued this winter, I am limiting these comments to the proposal requiring that animals be restrained while in the back of a vehicle (7.15.010).

- 1) There is no justification for this, and the reasoning behind the proposal has not been discussed in front of the City Council.
  - Is this for the safety of the animal? How is being cross-tethered or in a cage more likely to protect the animal in case of a crash? Are there studies? Is this a problem in Homer on our 25, 35, and 45 mph roads? Have the implications of improper cross tethering or caging animals been discussed or considered?
  - Is this for the safety of drivers? How? A loose animal in the enclosed passenger compartment of the vehicle is OK, but your dog in the back of a pickup is dangerous? This lacks common sense.
  - Is this for the safety of people getting harassed by dogs jumping out of vehicles? Is there a problem in Homer of dogs jumping out in parking lots and roaming around when the owners are inside somewhere? If so, those situations are covered under Title 20 and this additional rule is unnecessary.
  
- 2) There are many unintended consequences of this proposal that do not appear to have been voiced or considered. What happens when a visitor to Homer crosses city-limit line with their dog, head looking out the side, feeling the breeze on their face, nose in the air sniffing, tongue out, as they come down Baycrest Hill? They get pulled over and ticketed? Welcome to Homer! This may also

infringe on the public's constitutional right preventing unreasonable searches since theoretically someone unaware of our tiny cosmic hamlet's law could be pulled over and searched based on having their dog in a pickup.

### Public Notice

Despite not usually being able to attend City Council meetings in person, I do try to keep up to date with the goings-on of the City of Homer. I saw the memos (16-111 and 16-114) that addressed the Animal Control revisions, and did see that one of them mentioned the restraint issue. However, it looking at the Ordinance 16-38, I was glad to see that that provision had not made it into the actual proposed ordinance, and must have been dropped.

However, this was not the case, as evidenced by the action at the July 25, 2016 meeting, when a substitute ordinance was adopted with no discussion or notice to the public. Even today, August 4, 2016, Ordinance 16-38(S) is not available online for public review. Screenshots attached to this letter demonstrate that as of this morning, just four days before the public hearing and potential vote on this issue, the public still cannot find this proposed ordinance online.

My concern is that the substitution was adopted without any mention of how it was different. It was not a case of amending the properly noticed version, tweaking, or making sausage, as governing bodies are known to do. On the contrary, this action brought a wholly new proposal to the table, unrelated to the Animal Control ordinances in Title 20 that the public was made aware of. In fact, 16-38(S) adds entirely new sections to a completely different Title of the Homer City Code (Title 7).

### Request to the Council

In conclusion, based on the comments I have provided above, I strongly urge the Council to amend proposed Ordinance 16-038(S) to delete section 7.15.010. At the very minimum, the Council should separate the proposed amendments to Title 7 into a new proposed ordinance, and follow the proper noticing procedure so that the public is informed had has the opportunity to provide additional comments for your consideration.

Thank you for considering my view.

Sincerely,

*Dorothy Melambianakis*

PO Box 2253, Homer, AK 99603

[Dorothy.Melambianakis@gmail.com](mailto:Dorothy.Melambianakis@gmail.com)

(907) 299-2265



June 27 Meeting – no reference or link to Ordinance 16-38(S)

Ordinance 16-38 does not mention any changes to Title 7.

Screenshot – 9:00am 8/4/16

The screenshot displays the City Council Regular Meeting page. On the left is a navigation sidebar with links for 'Meet the Council', 'Documents', 'Forms', 'Upcoming Events', and 'Contact Information'. The main content area is titled 'City Council Regular Meeting' and includes a calendar date for Monday, June 27, 2016, at 6:00pm. Below this are sections for 'Meeting Information' (listing agenda items like 'City Council Regular Meeting Agenda', 'City Council Supplemental Agenda', and 'Action Agenda'), 'Minutes' (listing 'City Council Meeting Minutes'), 'Packets' (listing 'City Council Packet 062716' and 'City Council Supplemental Packet 062716'), and 'Public Hearing' (listing 'PHN 062716'). Further down are sections for 'Supporting Documents' (listing 'City Manager's Report 062716') and 'Related Ordinances/Resolutions' (listing various ordinances such as 16-30, 16-31, 16-32, 16-33, 16-34, 16-35, 16-36, 16-37, 16-38, 16-063, 16-074, 16-075, and 16-076). The final section is 'Related Memorandums' (listing memorandums 16-091, 16-092, 16-093, 16-096, and 16-102).

**City Council**

- + Meet the Council
- + Documents
- Forms

**Upcoming Events**

- City Council Worksession - Cancelled  
08/08/2016 - 4:00pm
- City Council Committee of the Whole  
08/08/2016 - 5:00pm
- City Council Regular Meeting  
08/08/2016 - 6:00pm

[View the City Council Calendar](#)

**Contact Information**

**Mayor's Office**  
Located on the main entrance of Homer City Hall  
491 E. Pioneer Avenue  
Homer, Alaska 99603

**Phone :**  
(907) 235-3130

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

**Office Hours:**  
By appointment  
Please call or email to schedule an appointment or request a speaking engagement

[View Full Contact Details](#)

**City Council Regular Meeting**

**Calendar Date:**  
Monday, June 27, 2016 - 6:00pm  
Add to your calendar: Outlook (iCal) - Google  
[Back to calendar](#)

**Meeting Information**

**Agenda:**

- [City Council Regular Meeting Agenda \(222 KB\)](#)
- [City Council Supplemental Agenda \(128 KB\)](#)
- [Action Agenda \(72 KB\)](#)

**Minutes:**

- [City Council Meeting Minutes \(92 KB\)](#)

**Packets:**

- [City Council Packet 062716 \(10 MB\)](#)
- [City Council Supplemental Packet 062716 \(640 KB\)](#)

**Public Hearing:**

- [PHN 062716 \(75 KB\)](#)

**Supporting Documents**

- [City Manager's Report 062716 \(720 KB\)](#)

**Related Ordinances/Resolutions**

Ordinance 16-30(S-2)(A-2) Use Bonds to Finance Police and Fire Stations With Voter Approval of Sales Tax  
Ordinance 16-31(A) Accepting a Commercial Vessel Passenger Tax from the Kenai Peninsula Borough  
Ordinance 16-32 Appropriating Funds from Fire Donations to Purchase an Advanced Patient Care Simulator  
Ordinance 16-33 Amend HCC 21.41.040 Establishing Flood Hazard Areas and Adopting the Flood Insurance Study  
Ordinance 16-34 Amending the City Zoning Map to Rezone Portions to Central Business (CB) Zoning District  
Ordinance 16-35 Budget Amendment to Purchase of Two Used Police Vehicles From the Police Fleet Reserves  
Ordinance 16-36 Removal of an Underground Fuel Storage Tank at the Sewer Treatment Plant  
Ordinance 16-37 Donation From Paul M. Hertzmann, Inc., Vintage Photography for the Homer Public Library  
Ordinance 16-38 Amending HCC Title 20 Animals Regulation and Impoundment and Penalties for Animal Violations  
Resolution 16-063(S-2) Maintaining the Water and Sewer Fees at the 2016 Rate  
Resolution 16-074 Moratorium on All New Water or Sewer Special Assessment Districts for HAWSP Funds  
Resolution 16-075 Updating the Library Mission Statement  
Resolution 16-076 Contract for General Counsel Legal Services to Birch Horton Bittner and Cherot

**Related Memorandums**

- Memorandum 16-091 General Obligation Bonds for Police and Fire Station
- Memorandum 16-092 Data to Accompany Ordinance 16-30
- Memorandum 16-093 Water and Sewer Rates
- Memorandum 16-096 Replacement of Patient Simulator
- Memorandum 16-102 Flood Maps

July 25 Meeting – no reference or link to Ordinance 16-38(S)

Ordinance 16-38 does not mention any changes to Title 7.

Screenshot – 9:00am 8/4/16

The screenshot shows the website for the City of Homer, Alaska. The header includes the city logo and navigation links: About Homer, Departments, Government, and How Do I?. The main content area is divided into a left sidebar and a main right section. The sidebar contains links for 'City Council' (Meet the Council, Documents, Forms), 'Upcoming Events' (City Council Worksession - Cancelled, City Council Committee of the Whole, City Council Regular Meeting), and 'Contact Information' (Mayor's Office, Phone, Email, Office Hours, View Full Contact Details). The main section is titled 'City Council Regular Meeting' and includes a 'Calendar Date' (Monday, July 25, 2016 - 6:00pm) with links to add to a calendar. Below this are sections for 'Meeting Information' (Agenda, Minutes, Packets, Public Hearing) and 'Supporting Documents' (City Manager's Report). A 'Related Ordinances/Resolutions' section lists several items, including Ordinance 16-38. At the bottom, there is a 'Related Memorandums' section.

**HOMER**  
ALASKA

About Homer | Departments | Government | How Do I?

### City Council

- + Meet the Council
- + Documents
- Forms

### Upcoming Events

- City Council Worksession - Cancelled  
08/08/2016 - 4:00pm
- City Council Committee of the Whole  
08/08/2016 - 5:00pm
- City Council Regular Meeting  
08/08/2016 - 6:00pm

[View the City Council Calendar](#)

### Contact Information

**Mayor's Office**  
*Located on the main entrance of Homer City Hall*  
491 E. Pioneer Avenue  
Homer, Alaska 99603

**Phone :**  
(907) 235-3130

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

**Office Hours:**  
By appointment  
Please call or email to schedule an appointment  
or request a speaking engagement

[View Full Contact Details](#)

## City Council Regular Meeting

**Calendar Date:**  
Monday, July 25, 2016 - 6:00pm  
Add to your calendar: [Outlook \(iCal\)](#) - [Google](#)  
[Back to calendar](#)

### Meeting Information

**Agenda:**

- [City Council Regular Meeting Agenda \(113 KB\)](#)
- [City Council Supplemental Agenda \(125 KB\)](#)
- [City Council Action Agenda \(90 KB\)](#)

**Minutes:**

- [City Council Meeting Minutes \(116 KB\)](#)

**Packets:**

- [City Council Meeting Packet \(23 MB\)](#)
- [City Council Supplemental Packet \(853 KB\)](#)

**Public Hearing:**

- [Public Hearing Notice \(24 KB\)](#)

### Supporting Documents

- [City Manager's Report \(182 KB\)](#)

### Related Ordinances/Resolutions

- Ordinance 16-36 Removal of an Underground Fuel Storage Tank at the Sewer Treatment Plant
- Ordinance 16-37 Donation From Paul M. Hertzmann, Inc., Vintage Photography for the Homer Public Library
- Ordinance 16-38 Amending HCC Title 20 Animals Regulation and Impoundment and Penalties for Animal Violations
- Ordinance 16-39 Funding a Public Information Campaign Supporting a Proposition for the Public Safety Building
- Ordinance 16-40 Transferring Limited Recreational Powers to KPBB for Indoor Athletic Field Lease
- Ordinance 16-41 2016 Mid-Year Budget Amendments
- Ordinance 16-42 Enacting Appeal Process for Port and Harbor Citations Issued
- Resolution 16-077 Deferred Water and Sewer Assessment on Govt Lot 2 Split by Kachemak Drive
- Resolution 16-078 Connections to Shellfish Ave/South Slope Drive Water Main
- Resolution 16-079(S)(A) Policy for Waiving Penalties on Delinquent Special Assessment Payments

### Related Memorandums

Public Hearing Notice

Screenshot – 9:00am 8/4/16

The link to the ordinances works, but it does not contain a copy of 16-38(S) as shown on next page.

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

**2017 Budget Priorities and  
Ordinances 16-38(S), 16-39, 16-40, 16-41, and 16-42**

A **public hearing** is scheduled for **Monday, August 8, 2016** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**Ordinances 16-38(S), 16-39, 16-40, 16-41, and 16-42 internet address:**  
<http://www.cityofhomer-ak.gov/ordinances>

**2017 BUDGET PRIORITIES**

**Ordinance 16-38(S)**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 7.04.030, Traffic Fine Schedules, and Enacting Homer City Code Chapter 7.15, Animals in Vehicles, Regarding Animals in Vehicles; and Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief.

Ordinance Website

Screenshot – 9:00am 8/4/16

No mention or link of Ordinance 16-038(S)

HOMER
ALASKA

[About Homer](#)
[Departments](#)
[Government](#)
[How Do I?](#)

## Ordinances

View Resolutions

[Click here for ordinances from 1979 to 2009.](#)

Search below for Ordinances from 2010 to present.

**Search**

**Adopted Year**

Format: 2016

Effective Date	Ordinance ID	Summary	Details
	16-42	An Ordinance of the City Council of Homer, Alaska Enacting Homer City Code 10.04.115, Appeal from Port and Harbor Citation Issued Pursuant to Homer City Code Title 7 and Homer City Code Title 10. City Manager/Port and Harbor Director	<a href="#">View Details</a>
	16-41	An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget to Provide for Necessary Mid-Year Adjustments by Appropriating and Transferring Funds from the General, Water and Sewer and Port and Harbor Funds. City Manager/Finance Director.	<a href="#">View Details</a>
	16-40	An Ordinance of the City Council of Homer, Alaska, Transferring Recreational Powers to the Kenai Peninsula Borough for the Leasing of Borough Property as a Site for an Indoor Athletic Field. City Manager.	<a href="#">View Details</a>
	16-39	An Ordinance of the City Council of Homer, Alaska, Appropriating Funds in the Amount Of \$5,000 from the Public Safety Building Fund for Public Information Campaign in Support of the Ballot Proposition to Issue General Obligation Bonds not to Exceed \$12 Million Dollars to Finance the Acquisition and Construction of a Police Station and Provide for an Increase in the Rate of City Sales Tax from 4.5% to 5.15% from April 1 through September 30 with the Increase Providing Funds to Pay Debt Service on the General Obligation Bonds and Expiring on September 30 the Year when the City has Received Sufficient Funds from the Increase to Pay all of that Debt Service, Including Information that may Influence the Outcome of the Election on the Proposition. Mayor.	<a href="#">View Details</a>
	16-38	An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 20, Animals, Regarding the Regulation and Impoundment of Animals, and Penalties for Animal Violations. City Manager/Police Chief.	<a href="#">View Details</a>
Tue 7/26/16	16-37	An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Donation From Paul M. Hertzmann, Inc., Vintage Photography of San Francisco, California, in the Amount of \$1,000.00 for the Homer Public Library and Stipulating That the Funds be Segregated and Used by the Library in Support of Its Mission to Provide Library Services. City Manager/Library Director.	<a href="#">View Details</a>
Tue 7/26/16	16-36	An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget by Appropriating \$9,970.00 From Sewer Reserves for the Removal of an Underground Fuel Storage Tank at the Sewer Treatment Plant. City Manager/Public Works Director.	<a href="#">View Details</a>
Tue 6/28/16	16-35	An Ordinance of the City Council of Homer, Alaska, Amending the FY 2016 Operating Budget by Authorizing the Expenditure of \$65,000 for the Purchase of Two Used Police Vehicles From the Police Fleet Reserves and Authorizing the City Manager to Execute the Appropriate Documents. City Manager.	<a href="#">View Details</a>

**From:** [Melissa Jacobsen](#)  
**To:** [Jo Johnson](#)  
**Subject:** FW: City Code revisions  
**Date:** Monday, August 08, 2016 8:14:45 AM

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**From:** Dots Sherwood [mailto:dotsvet@gmail.com]  
**Sent:** Sunday, August 07, 2016 8:56 PM  
**To:** Melissa Jacobsen  
**Subject:** City Code revisions

Hi Melissa

Just returning your email regarding ongoing revisions of the City of Homer Animal Code and you had specific interest in my concerns regarding lack of tethering in back of trucks/other vehicles within Homer City limits. I apologize for the delayed response but just returning to work this coming week from vacation.

I read through the Municipality of Anchorage Animal Code Title 17 and can see where so much of our local code is lacking in definition and details in many areas.

However, specific to animals allowed to ride loose in the back of stationary/moving vehicles, I totally support a revision to include tethering in motor vehicles including ATVs/other on/off road vehicles. The health and safety risks posed to dogs in these situations is well documented and we unfortunately see the grave consequences of dogs falling out of trucks, been dragged behind trucks, creating additional danger to other traffic users and general public.

Clearly for an individual animal been transported in the back of an open truck may also be both very stressful, uncomfortable and physically harmful under various conditions such as speed of vehicle, ambient temperature and precipitation and basic condition of the individual dog,

I think that the council should look to the Anchorage Municipality Title 17.10.010 - Section 4 as a guide for wording our own local code in relation to Animals in Public Places and have attached a link below for reference.

[https://www.muni.org/Departments/health/Admin/animal\\_control/Documents/Codified Title 17 \(54 page PDF\).pdf](https://www.muni.org/Departments/health/Admin/animal_control/Documents/Codified%20Title%2017%20(54%20page%20PDF).pdf)

Many thanks for including me in this very important ongoing project and would like my comments to be included for the meeting on August 8th but I will be unable to attend the actual meeting myself this time.

Kindest regards always

Dots

Dr. Dots Sherwood MVB MSc MRCVS  
Homer Veterinary Clinic PC  
326 Woodside Avenue  
Homer  
AK 99603

907-235-8960  
[dotsvet@gmail.com](mailto:dotsvet@gmail.com)

## TITLE 17 ANIMALS\*

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**\*Cross references:** General penalties and enforcement, Ch. 1.45; animal control advisory board, § 4.60.180; carrying animals on outside of vehicles, § 9.36.150; public nuisances, Ch. 15.20; prohibited noise practices, § 15.70.060; ownership or breeding of rats prohibited, § 16.90.030.

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- 17.05 General Provisions
- 17.10 Standards for the Care and Control of Animals
- 17.15 Rabies Control and Municipal Licensing
- 17.25 Impoundment, Adoption, Redemption, and Euthanasia of Animals
- 17.30 Rabies Control, Immunization, and Quarantine Procedures.
- 17.35 Cruelty to Animals (Renumbered to 8.55).
- 17.40 Regulation of Animal Behavior.
- 17.60 Wolf Hybrids.
- 17.70 Animal Care and Control Fees, Fines, and Penalties.
- Appendix Chapter 8.55. Cruelty to Animals

### Chapter 17.05 GENERAL PROVISIONS\*

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.05 and enacted provisions designated as a new Ch. 17.05 to read as herein set out. Former AMC Ch. 17.05 pertained to similar subject matter. History of former AMC Ch. 17.05 is as set out below. The user is also directed to the Code Comparative Table.

17.05.010 Definitions.

(GAAB 17.05.010; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39, 7-15-86; AO No. 89-25(S); AO No. 90-27(S-1); AO No. 91-85(S-1); AO No. 92-75(S); AO No. 96-134(S-2), § 1, 7-1-97)

17.05.020 Animal control office.

(GAAB 17.05.010, 17.25.010; AO No. 78-65A; AO No. 96-134(S-2), § 2, 7-1-97)

17.05.030 Animal control officers; powers and duties.

(GAAB 17.25.010; AO No. 78-65A; AO No. 86-39; AO No. 96-134(S-2), § 3, 7-1-97)

17.05.040 Records.

(GAAB 17.25.030; AO No. 78-65A; AO No. 96-134(S-2), § 6, 7-1-97)

17.05.050 Authority to prescribe additional regulations and to issue orders.

(AO No. 78-65A; AO No. 83-2; AO No. 96-134(S-2), § 8, 7-1-97)

17.05.060 Inspections.

(GAAB 17.10.030; AO No. 78-65A; AO No. 96-134(S-2), § 9, 7-1-97)

17.05.070 Enforcement generally; service and civil actions.

(AO No. 92-75(S); AO No. 96-134(S-2), § 5, 7-1-97)

17.05.080 Civil notices of violation ("NOV").

(AO No. 41-75; GAAB 17.10.070; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 90-27(S-1); AO No. 92-75(S); AO No. 96-134(S-2), § 10, 7-1-97)

17.05.090 Citation procedure for criminal violations. (Repealed)

(AO No. 41-75; GAAB 17.25.040; AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 7, 7-1-97)

17.05.100 Hearings on NOVs and administrative decisions.

(AO No. 96-134(S-2), § 12, 7-1-97)

17.05.105 Appeals of NOVs and administrative decisions.

(AO No. 96-134(S-2), § 12A, 7-1-97)

17.05.110 Law enforcement animals. (Repealed)

(AO No. 86-39, 7-15-86; AO No. 91-26; AO No. 96-134(S-2), § 13, 7-1-97)

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17.05.005 Purpose.

17.05.010 Definitions, generally.

17.05.020 Animal care and control center.

17.05.030 Animal control officers; powers and duties.

17.05.040 Records.

17.05.050 Authority to prescribe additional regulations and to issue orders.

17.05.060 Inspections.

17.05.070 Enforcement generally.

17.05.080 Notices of violation ("NOV").

17.05.090 Citation procedure for criminal violations. (Repealed)

17.05.100 Hearings on NOVs and administrative decisions.

17.05.105 Appeals of NOVs and administrative decisions.

17.05.110 Law enforcement animals. (Repealed)

### **17.05.005 Purpose.**

The purpose of this title is to promote public health and safety and to encourage responsible pet ownership and the humane care of animals.

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **17.05.010 Definitions, generally.**

The following words, terms and phrases and their other verb forms and tenses, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative decision* is a decision of the chief animal control officer under chapters 17.10 (care and control of animals), 17.15 (rabies control and municipal licensing), 17.25 (redemption, disposition, protective custody or impoundment decisions or conditions), and 17.40 (classified animals).

*Agent*, see Custodian.

*Aggressive bite* means a bite that is accompanied by an attack in which the animal exhibits overt behavior that includes any of the following: snarling, baring teeth,



chasing, growling, snapping, pouncing, lunging or similar aggressive behavior.

*Animal* means all members of the Phylum Cordata, Subphylum Vertebrata, excluding nondomestic animals and humans, unless otherwise specifically stated.

*At large* means not controlled.

*Bite* means an animal bite that breaks the skin or results in significant evidence of biting.

*Business day* means any one of the days between Monday and Friday, 8:00 a.m.--5:00 p.m. which is a normal business day for the Municipality of Anchorage.

*Breeder* means any person who intentionally breeds an animal.

*Cat* means a member of the genus and species *Felis domestica*.

*Chief animal control officer* means the municipal department head responsible for animal control and administration of the municipal animal control contract or his or her designee.

*Chronic animal noise* means repeated vocalization by an animal or animals in a 60-minute period from the time the noise begins for more than seven consecutive minutes during the daytime noise period from 7:00 a.m. to 10:00 p.m. and more than five consecutive minutes during the nighttime noise period from 10:00 p.m. to 7:00 a.m. A licensed commercial or multi animal facility, as defined below, shall be excused from the seven consecutive minutes limit for daytime noise only, up to four times per day, for a maximum of 20 consecutive minutes each time provided that no 20-minute period shall occur within one hour of any other 20-minute period.

*Commercial facility*: means a person or facility that boards or grooms dogs, cats, rabbits, ferrets, and/or horses for fees or services, or any person or facility that reconveys four or more dogs or cats in a calendar year, or any person or facility that breeds more than three litters of dogs and/or cats in a calendar year.

**Editor's note:** In connection with adoption of AO 2001-158 (S-4) as amended, approved on June 25, 2002 and effective January 1, 2003, assembly expression of legislative intent on June 11, 2002, was that any reference to "business" or "commercial" in Title 17 does not mean conducting a business for the purposes of other titles.

*Confine*, see "control by confinement" below.

*Control*, in relation to an animal, means to simultaneously monitor, direct, and restrict an animal's movements and activities, in a humane manner, so as to prevent violations of this title. Specific types of control are defined as follows:

1. *Control by command* means to control an animal by visual or audible commands, or a combination thereof, to which the animal responds promptly and accurately; or
2. *Control by confinement* means to control an animal in a humane manner within any fully fenced pen, kennel, yard, or structure, which prevents the exit of any animal confined therein solely on its own volition and the protrusion through the outer perimeter of the enclosure of the animal's paws and/or teeth to an extent which would enable the animal to physically injure a person or another animal; or

3. *Control by leash* means to control an animal by securely attaching a leash, chain or an item which is physically capable of restraining the animal, including electronic collar, to the animal which is in the secure possession of a person physically and mentally capable of monitoring, directing and restricting the animals movements and activities; or
4. *Control by attachment* means to control an animal by a harness or other similar device attached directly or indirectly to a person or immovable object by means of a chain, leash or similar device in such a manner that:
  - a. When the animal is on private property, it cannot travel off the private property on which the immovable object is located, or into any public vehicular or pedestrian way, or other public easement; or
  - b. When the animal is on public property, the animal is temporarily attached in such a manner that it cannot travel more than three feet from the immovable object and is not unattended by the owner; or
5. *Control by harness* means to control an animal by a harness or other similar device attached directly or indirectly to a person or object during an event of competition, training, demonstration, or show.

*Current rabies vaccination* means a vaccination:

1. As specified in the current Compendium of Animal Rabies Vaccines prepared by the Rabies Subcommittee of the National Academy of Sciences and by the National Association of State Public Health Veterinarians, Inc.;
2. Administered in accordance with state law; and
3. Evidenced by a current rabies vaccination certificate in a form approved by the stat, division of public health and signed by a currently licensed veterinarian.

*Custodian* means a person entrusted by the owner with the full responsibility for an animal under this title.

*Dog* means a member of the genus and species *Canis familiaris*.

*Euthanasia* means a painless death or a method of causing death painlessly.

*Ferret* means a member of the genus and species *Mustela putorius furo*.

*Humane care or treatment or humane manner* means the care and treatment of an animal, including but not limited to providing the animal with:

1. Safe and necessary control, confinement and appropriate space;
2. Adequate veterinary treatment, wholesome food and water; and
3. Heat, ventilation, and sanitary shelter from wind, temperatures, precipitation and sun conditions detrimental to its health;

all of which are consistent with or dictated by the animal's normal requirements, veterinary needs, feeding habits, and its condition, size, species, age, and breed.

*Municipality or municipal* shall mean the Municipality of Anchorage.

*Multi-animal facility*: means a person or facility, including a dwelling unit, residence, or business premise that owns, houses, possesses, or is the custodian of four or more dogs, four or more cats, four or more rabbits, four or more ferrets, four or more horses, or any combination of seven or more of the above animals.

*Notice of violation* (herein "NOV") means a citation issued by the chief animal control officer or designee for civil violations of this title.

*Notice to comply* means a notice issued by the chief animal control officer or designee requiring compliance with this title.

*Officer* means a person charged by law with the duty to enforce provisions of this title.

*Owner* means any person or custodian, who owns, restrains, possesses or holds title to an animal or knowingly permits an animal to remain on premises occupied by such person.

*Physical injury* means an impairment of physical condition or pain either of which is accompanied by visible scrapes, cuts, punctures, bruising, or other evidence of similar injuries.

*Protective custody* means to protect and preserve the health, safety, humane care, or treatment of an animal.

*Reconvey* means to acquire and/or arrange for sale or transfer of an animal by a person acting as a broker or representative for another, with or without remuneration, whether or not such person has title to or possession of the animal.

*Restrain or restraint* means to confine or control an animal.

*Secure enclosure* means any fully enclosed fenced pen, kennel, yard, or structure, which must include a roof, walls and floor, subject to approval by the chief animal control officer. The secure enclosure shall:

1. Be located so as not to interfere with the public's access to the owner's or custodian's property;
2. Reasonably prevent:
  - a. The accidental release by any person of any animal confined in such enclosure;
  - b. The exit from such enclosure of any animal confined therein solely on its own volition;
  - c. The entry into such enclosure by any person except the owner and other persons authorized by this title or explicitly authorized by the owner, and who are also physically and mentally capable of monitoring, directing and restricting the confined animal's movements and activities;
  - d. The entry into such enclosure by any animal other than the animal confined therein; and
  - e. The protrusion through the outer perimeter of the enclosure of the

confined animal's paws and/or teeth to an extent which would enable it to physically injure a person or another animal.

*Serious physical injury* means any physical injury which creates a risk of death or causes protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or requires plastic surgery.

*Sterile* means rendered incapable of reproduction by surgical operation by a licensed veterinarian.

*Unweaned animal* means an animal too young to be weaned from the care of its parent(s).

*Wolf dog* means the offspring of a wolf or wolf hybrid. For the purposes of this title, wolf dogs and wolf hybrids shall be synonymous.

*Wolf hybrid* means a member of the genus and species *Canis lupis x Canis familiaris*.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 1, 5-18-04; AO No. 2009-88, § 1, 9-10-09)

#### **17.05.020 Animal care and control center.**

- A. Except as otherwise provided in this Code, the animal care and control center shall administer and enforce this title.
- B. The animal care and control center shall be responsible for keeping animals which the animal care and control center impounds or assumes custody of under this title.
- C. The municipality may contract with a private person or entity to perform the functions of the animal care and control center.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.030 Animal control officers; powers and duties.**

- A. The chief animal control officer shall be appointed by the mayor. If the municipality contracts with a private person or entity to perform the functions of the animal care and control center, the chief animal control officer shall be the head of the department charged with administration of the contract.
- B. The chief animal control officer may appoint one or more deputy animal control officers.
- C. The chief animal control officer or designee and all deputy animal control officers shall be peace officers as defined in Anchorage Municipal Code 1.45.030.
- D. The chief animal control officer shall administer the animal care and control center. If the municipality contracts with a private person or entity to perform the functions of the animal care and control center, the chief animal control officer may delegate to the contractor those powers of the chief animal control officer which are necessary to the performance of the contract and which lawfully may be delegated to a private person or entity.

1. The chief animal control officer or designee shall take all actions reasonable and necessary to abate, prevent violations of, and enforce this title, to promote the humane care and treatment of animals, and protect the public health, safety and welfare.
- E. Interfering with, hindering, resisting, molesting, or providing false information, either written or oral, to an animal control officer or representative of the animal care and control center in the lawful enforcement or performance of a duty under this title, and/or releasing, or attempting to release, an animal from the custody of an animal control officer, are declared crimes by and punishable in accordance with Title 8 of this Code.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.040 Records.**

- A. The chief animal control officer shall maintain complete and detailed records of the following in accordance with Chapter 3.90 and as required by municipal contract:
1. The issuance and revocation of licenses under this title;
  2. All animals brought into the custody of the animal care and control center by impoundment or otherwise;
  3. The disposition of all animals in the custody of the animal care and control center;
  4. Rabies immunizations reported to, ordered and administered under the direction of the animal care and control center;
  5. Reports required by or made pursuant to this title;
  6. Investigations of violations of this title;
  7. Monies received for fees and charges imposed by this title; and
  8. Notices of violation, including the disposition thereof.
- B. The animal control office shall not disclose the identity of a person who surrenders an animal, claims or adopts an animal from the animal care and control center unless the chief animal control officer determines that protection of the public health, safety or welfare requires such disclosure, or unless required under Chapter 3.90.
- C. At the request of the chief animal control officer, an animal owner shall authorize their veterinarian to release animal medical records related to a specific animal control investigation.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 2, 9-10-09)

#### **17.05.050 Authority to prescribe additional regulations and to issue orders.**

- A. The chief animal control officer may issue regulations in accordance with Chapter 3.40 necessary to the administration of this title, including, but not limited to:
1. Providing the forms and other documents used in the administration of

this title.

2. Providing citation books to be used under this title.
  3. Establishing fees, charges, and procedures for:
    - a. Licensing animals and facilities;
    - b. Adopting, boarding, and redeeming animals from the animal care and control center; and
    - c. Vaccination and other services rendered by the animal care and control center.
  4. Interpreting the provisions of this title.
- B. The chief animal control officer may issue orders to implement and carry out the intent, purpose and requirements of this title with respect to any specific event, condition or decision.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.060 Inspections.**

- A. Except as to those inspections under Section 17.15.090B.2, during normal business hours, a peace officer or animal control officer, upon presentation of proper identification, is authorized to inspect premises where animals are or are intended to be confined to determine whether the animals are being or shall be confined in compliance with this title.
- B. If the premises where animals are kept have been vacated by such animals' owner or if a person lawfully entitled to possession of the premises refuses entry to a peace officer or animal control officer lawfully entitled to inspect such premises under this title, the officer shall obtain and serve an administrative search warrant to inspect the premises. The application to the trial courts of the state to obtain an administrative search warrant shall state the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within ten days.
- C. The chief animal control officer is authorized to conduct an animal census of the municipality. The chief animal control officer may authorize those who take the census to accept applications for and issue dog licenses in the field.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.070 Enforcement generally.**

- A. Anchorage police officers and animal control and other authorized peace officers shall have the authority to enforce and issue civil or criminal citations or complaints for violations of this title and Penal Code Chapter 8.55, Animal cruelty.
- B. In addition to all other enforcement provisions of this title, the chief animal control officer shall have the authority to commence civil actions to enjoin violations of

this title or to obtain other equitable or legal relief for violations of this title.

- C. Service in civil actions under this title shall be by personal delivery whenever reasonably possible or by posting at the owners address, if known. If the owner's address is unknown, notice shall be made by posting at the premises from which an animal is seized. Service may also be made by certified mail, return receipt requested, or by other method prescribed by the Alaska Court Rules of Civil Procedure.
- D. A violation of a provision of this title or of Penal Code Chapter 8.55 is hereby declared to create a public nuisance.
- E. Each day a violation of any provision of this title or Chapter 8.55 of the Penal Code continues shall constitute a separate offense.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.080 Notices of violation ("NOV").**

- A. Upon verifying a violation of this title has occurred, an officer may issue a notice to comply or a notice of violation ("NOV") and serve it on the owner or custodian of the animal if that person can be identified at the time of the violation. If the owner cannot then be identified, the officer may impound the animal and serve the notice to comply or NOV at such time as the owner of the animal can be identified.
  - 1. A NOV shall have printed prominently on its face the following notice:

YOU MAY EITHER PAY THE CIVIL FINE NOTED HEREON OR DEMAND A HEARING ON THE CHARGES OF THIS NOTICE OF VIOLATION ("NOV") WITHIN 15 BUSINESS DAYS OF RECEIVING THIS NOV. DEMAND FOR HEARING OF THIS NOV MUST BE MADE BY FILING A WRITTEN REQUEST FOR HEARING TO THE ADDRESS ON THE FORMS PROVIDED BY THE ANIMAL CARE AND CONTROL CENTER.
  - 2. A notice to comply shall have written prominently on its face the following:
    - a. The nature, time, place, title section and penalties for the violation and/or continuance of the violation;
    - b. The specific number of days allowed for the abatement of the violation to ensure compliance with this title;
    - c. The action necessary to correct violation; and
    - d. The consequences of non-compliance.
- B. A person who violates a provision of this title shall be subject to a civil penalty as set forth in Chapter 17.70.
  - 1. If the civil penalty is not paid within 15 business days of service, and a written request for hearing has not been received, the chief animal control officer shall issue and serve a second notice with a late penalty.
  - 2. Each day during which a violation described in this title occurs shall constitute a separate offense.

- C. If the chief animal control officer determines that a NOV has been improperly issued, the officer may rescind it by writing the word "void" on its face. A record shall be maintained for all actions taken pursuant to this subsection. The chief animal control officer shall invoke this section upon a finding that one of the following conditions existed at the time the NOV was issued:
1. A mistake of fact occurred and no violation took place;
  2. The conduct complained of is not a violation;
  3. The NOV was improperly executed by the issuing officer; or
  4. Other good cause which may:
    - a. Constitute a defense to the violation; or
    - b. Reasonably serve the purpose and intent of this title, the protection of the public health, safety and welfare, the humane care and treatment of animals, and promotes fairness and justice to the alleged violator.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.090 Citation procedure for criminal violations. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.100 Hearings on NOV's and administrative decisions.**

- A. *Hearings.* A person served with a NOV or administrative decision has a right to a hearing on the NOV or administrative decision by filing a written demand for hearing on forms provided by the animal care and control center no later than 15 business days after service of the NOV or administrative decision.
- B. A person may waive the right to a hearing prior to the hearing date.
- C. *Procedure.* Hearings on NOV's and administrative decisions under this section shall be subject to and conducted in accordance with Sections 3.60.045 and 3.60.055 through 3.60.070.
1. The Municipality shall designate an administrative hearing officer who shall conduct a hearing on the NOV or administrative decision within 20 business days after the date on which the request for hearing was filed. A party may request an extension or continuance of the hearing date from the administrative hearing officer, which may be approved upon good cause shown.
  2. The hearing officer shall fully develop the record of the hearing by:
    - a. Requiring the animal care and control center to present relevant evidence; and
    - b. Requiring the alleged violator or person aggrieved by the administrative decision to present relevant evidence.
  3. Hearings relating to the impoundment of animals not redeemed or not conditionally released pending hearing shall be scheduled in the



chronological order in which impoundment occurs, but shall be heard within 10 business days. A party may request an extension or continuance of the hearing date from the administrative hearing officer, which may be approved upon good cause shown.

4. Upon request, the animal care and control center shall provide to the alleged violator or person aggrieved all information related to the incident within seven business days, upon payment of a minimum \$5.00 fee to obtain information in accordance with Title 3.90.
- D. *Decision and order of the hearing officer.* Within 20 business days after the conclusion of the hearing, the hearing officer shall prepare a statement of the case, a summary of the proceedings, findings of fact, conclusions of law, and decision and order.
1. The decision and order of the hearing officer on impoundments shall be prepared as soon as possible and prior to all other decisions under this title.
  2. A final decision, which is not appealed, is deemed permanent and binding. A subsequent complaint or violation may not be brought on the same facts.
- E. *Fees, charges and compensation.* Unless the animal is released to its owner, fees and charges levied in connection with or related to a NOV or administrative decision shall not be collectible or subject to penalties for non-payment pending a hearing officer's final decision and order or an appeal of a final administrative decision to the animal control appeals board.
1. If the initial administrative decision that an animal may not be redeemed is reversed by the final decision of the hearing officer, the hearing officer shall order that:
    - a. The animal be returned to the owner or, if it has been euthanized, the owner shall receive compensation in an amount equal to the fair market value of the animal at the time of impoundment; and/or
    - b. The owner shall receive reimbursement for or waiver of all boarding fees and charges and all applicable fines and penalties paid or charged respectively for the redeemed animal after the date of the initial decision of non-redemption.
- F. *Appeals.* Records and all relevant materials pertaining to appeals under this section shall be kept by the administrative hearing office in accordance with Title 3.95.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.105 Appeals of NOVs and administrative decisions.**

- A. *Generally.* Appeals may be taken from the hearing officer's decision and order:
1. On a NOV directly to the Superior Court of the Third Judicial District by the person to whom the NOV was issued; and
  2. On a final administrative decision either:

- a. To the animal control appeals board by the person aggrieved by the final administrative decision; or
  - b. At the sole option of and by the person aggrieved, directly to the Superior Court of the Third Judicial District.
- B. *Procedures on appeal generally.* Procedures on appeals to the Superior Court under subsections A.1 and A.2.b of this section shall be governed by Alaska Statutes 22.10 and the Alaska Rules of Court, Rules of Appellate Procedure. Procedures on appeals to the animal control appeal board under subsection A.2.a of this section shall be governed by the procedures set forth in subsections C, D and E of this section.
- C. *Procedures on appeals to the animal control appeals board.* An appeal to the animal control appeals board may be taken by filing a written notice of appeal on forms provided by the animal care and control center within 15 business days after the date on which the final decision of the hearing officer is served on the person aggrieved.
  1. The municipal administrative hearing office shall make the record of all documents, evidence, and arguments presented to the hearing officer, together with the hearing officer's final decision and order, available to all parties to the appeal. The record shall be certified by the hearing officer as true, complete and correct.
  2. The parties to an appeal may each submit a memorandum arguing the hearing officer's decision.
    - a. The losing party shall file its memorandum at the time of filing the notice of appeal or within ten business days thereafter.
    - b. The prevailing party shall file and serve its memorandum within five business days after service of the losing party's memorandum.
- D. *Hearings on appeals to the animal control appeals board.* The animal control appeals board shall examine appeals under this section solely on the record of documents, evidence, and argument presented to the hearing officer, and the final decision of the officer, together with such appeal memoranda as the parties timely submit. There shall be no oral argument before the animal control appeals board.
  1. The animal control appeals board shall consider and render a decision within 60 business days from the date the appeal is filed.
  2. Appeals relating to the impoundment of animals not redeemed shall be scheduled in the chronological order in which impoundment occurs, but shall be heard within 15 business days. A party may request an extension or continuance from the animal control appeals board which may be approved upon good cause shown.
- E. *Decision of the animal control appeals board.* The animal control appeals board may either:
  1. Affirm the decision of the administrative hearing officer; or

2. Reverse the decision of the administrative hearing officer upon a written finding that:
    - a. The administrative decision is not supported by substantial evidence; and/or
    - b. The administrative decision is not in accord with the provisions of this title; or
  3. Vacate the administrative hearing officer's final decision or any portion thereof, and remand such decision to the hearing officer for an additional hearing and further consideration upon a written finding that:
    - a. The administrative hearing officer failed to conduct the hearing in accordance with Sections 3.60.045 and 3.60.055 through 3.60.070; or
    - b. The administrative hearing officer failed to comply with Section 17.05.100; or
  4. Vacate and set aside the decision of the administrative hearing officer or any portion thereof when the board reasonably determines in writing that, based on all the evidence in the record, vacating the decision of the hearing officer reasonably serves and promotes the purpose and intent of this title, the protection of the public health, safety and welfare, the humane care and treatment of animals, and promotes fairness and justice to the person aggrieved by the administrative decision.
- F. *Records pertaining to appeals.* All records and materials pertaining to appeals under this section shall be kept in accordance with Title 3.95 by the administrative hearing office.
- G. *Appeals to Superior Court.* Decisions of the animal control appeals board may be appealed to the Superior Court for the Third Judicial District in accordance with state statutes and the Alaska Rules of Appellate Procedure.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.05.110 Law enforcement animals. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **Chapter 17.10 STANDARDS FOR THE CARE AND CONTROL OF ANIMALS\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.10 and enacted provisions designated as a new Ch. 17.10 to read as herein set out. Former AMC Ch. 17.05 pertained to standards for the care, control and sale of animals. History of former AMC Ch. 17.10 is as set out below. The user is also directed to the Code Comparative Table.

17.10.010 Animal creating disturbance or public nuisance.

(AO No. 50-76; AO No. 78-65A; AO No. 96-134(S-2), § 14, 7-1-97)

17.10.020 Control and confinement of animals.

(AO No. 50-76; GAAB 17.05.070, 17.15.040; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 96-134(S-2), § 15, 7-1-97)

17.10.030 Care and sanitation.

(AO No. 50-76; AO No. 78-65A; AO No. 96-134(S-2), § 16, 7-1-97)

17.10.040 Sale of diseased and immature animals.

(AO No. 50-76; AO No. 78-65A; AO No. 96-134(S-2), § 17, 7-1-97)

17.10.050 Animals in public places.

(AO No. 50-76; AO No. 78-65A; AO No. 86-39; AO No. 96-134(S-2), § 18, 7-1-97)

17.10.060 Cruelty to animals.

17.10.070 Standards for operating animal facilities.

(GAAB 17.10.010, 17.10.020; AO No. 78-65A; AO No. 83-97; AO No. 86-39; AO No. 96-134(S-2), § 20, 7-1-97)

17.10.080 Temporary quartering of dogs in competition.

(AO No. 84-35; AO No. 86-39; AO No. 96-134(S-2), § 21, 7-1-97)

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- 17.10.010 Animals in public places.
  - 17.10.012 Cat identification required.
  - 17.10.015 Animal creating disturbance or nuisance.
  - 17.10.020 Control and confinement of animals.
  - 17.10.030 Care and sanitation.
  - 17.10.040 Sale of diseased and unweaned animals.
  - 17.10.050 Standards for operating animal facilities.
  - 17.10.060 Cruelty to animals. (Renumbered to 17.35)
  - 17.10.070 Standards for operating animal facilities. (Repealed)
  - 17.10.080 Temporary quartering of dogs used in competition.
  - 17.10.090 Off-leash dog park spaces.

### **17.10.010 Animals in public places.**

- A. It is unlawful for any animal to be in a public place unless it is controlled by a leash, and in the control of a person competent to restrain the animal except:
  - 1. Control of an animal by command is allowed if the animal is engaged in an activity that precludes it from accomplishing that activity if restrained, and the animal is in an area normally associated with that activity, and the activity is conducted in a manner that minimizes impact with the general public;
  - 2. A dog may be unconfined in areas sanctioned by the municipality as off leash dog areas. The owner or custodian of a dog, unconfined in an off leash dog area, must have a leash restraint immediately available for the physical control of the dog and be physically capable of controlling the dog;
  - 3. An animal, at shows and events, may be unconfined during the time of the demonstration in a manner which does not pose a threat to public health and safety or the safety of other animals;

4. An animal may be humanely attached in or to a vehicle in a public place, provided the animal may not:
  - a. Be capable of removing or detaching itself from the vehicle;
  - b. Be attached so as to fall, jump, be thrown from or dragged by the vehicle;
  - c. Be exposed to prolonged inclement weather; or
  - d. Pose a threat to public health and safety or the safety of other animals.
5. An animal may be humanely contained inside an attended or locked, fully enclosed container.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.012 Cat identification required.**

- A. The owner or custodian of a cat over the age of four months shall maintain an identification worn by the cat at all times except:
  1. When the cat is on the private property of the owner or custodian; or
  2. When the cat, under control by leash or control by confinement, is either in a public place or on the private property of another.
- B. Identification must be either a collar or tag which includes the current name, address and telephone number of the owner, or a microchip registering the owner.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.015 Animals creating disturbance or nuisance.**

- A. It shall be unlawful for any owner or custodian of an animal to permit it to make chronic animal noise.
  1. The animal care and control center may, upon receiving a complaint alleging chronic animal noise, issue a written notice to comply to the animal owner or custodian. The notice shall contain:
    - a. The definition of chronic animal noise.
    - b. The nature and times of the complaint.
    - c. Penalties for violation.
    - d. Means and methods of curtailing chronic animal noise.
    - e. Time permitted to comply with the notice.
  2. If the violation continues after the time permitted by the notice to comply, a NOV may be issued in accordance with section 4 below.
  3. An animal owner issued three or more NOV's within one year period may be required to forfeit an animal to the municipality, except as provided

below. The chief animal control officer may elect to make the animal available for adoption to a person other than the owner, custodian, or person residing on the owner or custodian's premises.

- a. A forfeiture order shall not be sought against an owner who has taken verifiable steps to correct the problem prior to receipt of a third NOV within the one year period. Verifiable steps include, but are not limited to, debarking of the cited animal, acquisition and use of a barking control device, or structural modification of the property where the animal is kept so as to reduce noise. To the extent that such efforts are not successful, the owner may be subject to additional citations and fines as provided in Chapter 17.70.
4. NOV's for chronic animal noise shall only be issued after receipt of a. or b. below, and completion of an investigation by animal control:
    - a. A written statement to the animal care and control center, signed by two or more persons living at different addresses, both in the immediate neighborhood of the animal making the chronic animal noise, one of whom must be both the statement preparer and the original complainant; or
    - b. A written statement to the animal care and control center, signed by one person living in the immediate neighborhood of the chronic animal noise, where additional date and time specific evidence is provided.
  - B. No owner or custodian of an animal shall permit the animal's feces to be left on public or other person's private property.
  - C. No owner or custodian of an animal shall permit it to upset garbage on public or private property.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 2, 5-18-04; AO No. 2008-96, § 1, 9-16-08)

#### **17.10.020 Control and confinement of animals.**

- A. Except as otherwise required or permitted by this title, an owner of an unclassified animal, including a wolf hybrid, shall restrain it at all times. An owner of a classified animal shall confine and control such animal as required by Chapter 17.40.
- B. It is unlawful for the owner or custodian of a female animal in estrus to allow it to come in contact with an unsterilized male of its species, except for planned breeding purposes.
- C. It is unlawful to maintain an animal with a known infectious or contagious disease without proper and adequate veterinary care and confinement.
- D. It is unlawful for any person, other than a peace officer in the performance of duties, to release an animal from restraint without the consent of the animal's owner or custodian, except to preserve the animal's life or prevent injury.

- E. The municipality may establish designated areas, known as dog parks, for dogs off leash in areas which minimize impact with other uses.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 3, 5-18-04)

#### **17.10.030 Care and sanitation.**

- A. An animal owner or custodian shall provide an animal with adequate fresh food, water, shelter from inclement weather, and proper veterinary care, as required.
- B. An animal owner or custodian shall maintain all areas, where an animal is kept and to which it has access, in a clean and sanitary condition and free from objectionable odor.
- C. An animal owner or custodian shall maintain an animal in a manner that allows the animal freedom of movement to obtain adequate fresh food, water, and shelter from inclement weather. Shelter must include appropriate space, heat, ventilation, sanitary conditions, and shelter from wind, temperatures, precipitation and sun conditions, consistent with the animal's breed, size, age, and species.
- D. A notice to vacate the premises may be issued if the chief animal control officer determines any premises where animals are kept do not meet the criteria set forth in this section, or the owner or custodian has failed to comply with the lawful orders of the chief animal control officer.
  - 1. A notice to vacate shall specify the effective date, which shall be not less than 24 hours after it is issued.
  - 2. It shall be unlawful to maintain any animals required to be removed on the premises following the effective date of a notice to vacate.
  - 3. Any animal remaining on the premises is subject to impound and may become property of the Municipality of Anchorage.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.040 Sale of diseased and unweaned animals.**

- A. It is unlawful to sell an animal that the seller knows, or has reason to know, is diseased, injured or otherwise physically defective without first disclosing to the buyer the nature of the disease, injury or defect.
- B. It is unlawful to sell an unweaned horse, dog, cat, ferret or bird.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.050 Standards for operating animal facilities.**

- A. An owner or operator of a multi-animal facility, commercial facility, or any other facility associated with keeping of domestic animals for which a permit is required, as specified under Chapter 17.15 and any other municipal regulations, shall:
  - 1. Provide adequate and appropriate shelter to ensure animal health, safety, and welfare.

2. Maintain the facility in a sanitary condition.
3. Provide veterinary care as necessary.
4. Provide for adequate and appropriate care and feeding of animals and ensure the availability of adequate food and fresh water.
5. Ensure no animals prohibited by federal, state and municipal laws are kept.
6. Ensure all animals are confined or in control on any premises where the animals are kept.
7. Keep only the number of animals in the facility or on premises which allows for appropriate space, safe keeping, humane care and sanitary environment consistent with the animal's breed, size, age, and species for all animals kept.
8. Comply with the provisions of this title, municipal regulations, and the terms, conditions and limitations of any license issued under Chapter 17.15.
9. Comply with the provisions of Title 21 (Land Use Planning) of this Code.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.060 Cruelty to animals. (Renumbered to 17.35)**

Editor's note: AO No. 96-134(S-2), § 19, effective July 1, 1997, renumbered subsections A.--G. of § 17.10.060 to a new Chapter 17.35.

#### **17.10.070 Standards for operating animal facilities. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.080 Temporary quartering of dogs used in competition.**

- A. In order to quarter four or more dogs for a period of between 14 to 31 days for use in competition, both the dog owner or custodian and owner of the property upon which the dogs are quartered shall be responsible to:
  1. Comply with standards 1 through 7 in Section 17.10.050, except all dogs kept for competition must be confined;
  2. Maintain security measures to ensure the safety of the dogs, as well as other animals and persons that may come in contact with the dogs, including posting the premises to warn persons of the presence of dogs; and
  3. Comply with any other reasonable terms and conditions of the chief animal control officer or designee, to ensure the health, safety, and welfare of animals and the public.
  4. Provide written notice in advance to all neighbors within a 300 foot radius if the dogs are to be quartered outside (which does not include quartering within a dog truck).



5. The owner or custodian shall occupy the premises where the dogs are quartered.
- B. Wolf hybrids shall not be quartered under this section.
- (AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.10.090 Off-leash dog park spaces**

- A. Notwithstanding any other provision of this Code, legally licensed dogs with current rabies vaccinations may be allowed, unleashed, in areas recommended by the animal control advisory board with concurrence of the parks and recreation commission and the mayor, subject to approval by the assembly. Such areas shall include but are not limited to designated areas within the following locations:
- University Lake Park;
- Far North Bicentennial Park (North Gasoline Trail);
- Russian Jack Park;
- Connors Bog;
- South Anchorage Sports Park (Future American Legion Trails).
- See attached map of off-leash dog park spaces (following this section).
- B. Rules and regulations promulgated for the use of off-leash dog park spaces shall be posted and shall include the following:
1. Dogs must be leashed upon entering and leaving the off-leash dog park space.
  2. Classified dogs and female dogs in heat are prohibited.
  3. The owner or custodian of the dog must remain in the dog park space with the dog.
  4. Dogs must be under control as defined in this chapter.
  5. Dog feces must be cleaned up by the dog owner or custodian.
  6. Holes dug by dogs must be filled by the dog owner or custodian.
  7. Owners or custodians are responsible for all actions of their dogs.
- C. Additional rules and regulations for each off-leash dog park space may be needed and will be recommended by the animal control advisory board with concurrence of the parks and recreation commission and approval by the director of the parks and recreation department and the chief animal control officer. Additional approved rules and regulations shall be posted.
- D. It shall be unlawful for any owner or custodian of a dog to permit the dog to violate rules and regulations under Section 17.10.090.

(AO No. 2003-108(S), § 1, 7-22-03; AO No. 2003-127, § 1, 9-30-03; AO No. 2004-86, § 4, 5-18-04)

**Editor's note:** This section is automatically repealed on December 31, 2004 unless conditions in AO No. 2004-121 are met, whereby the section remains in the Code.

**GRAPHIC LINK:** [Click here](#)

## **Chapter 17.15 RABIES CONTROL AND MUNICIPAL LICENSING\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.15 and enacted provisions designated as a new Ch. 17.15 to read as herein set out. Former AMC Ch. 17.15 pertained to animal, facility, and breeder licensing. History of former AMC Ch. 17.15 is as set out below. The user is also directed to the Code Comparative Table.

17.15.010 Dog licenses required.

(GAAB 17.10.010; AO No. 78-65A; AO No. 89-25(S); AO No. 92-75(S); AO No. 96-134(S-2), § 22, 7-1-97)

17.15.020 Nonresident dog license required.

(GAAB 17.10.040; AO No. 78-65A; AO No. 86-39; AO No. 92-75(S); AO No. 96-134(S-2), § 23, 7-1-97)

17.15.030 Dog license procedure.

(GAAB 17.10.030; AO No. 78-65A; AO No. 83-2; AO No. 89-25(S); AO No. 92-75(S); AO No. 93-66; AO No. 95-125, § 1, 6-6-95; AO No. 96-134(S-2), § 24, 7-1-97)

17.15.040 Authorized vendors of dog licenses.

(AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 25, 7-1-97)

17.15.050 Dog license tags and receipts.

(GAAB 17.10.030, 17.10.050; AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 26, 7-1-97)

17.15.060 Facility and breeder license required.

(GAAB 17.10.010; AO No. 78-65A; AO No. 83-97; AO No. 84-35; AO No. 86-39; AO No. 92-75(S); AO No. 96-134(S-2), § 27, 7-1-97)

17.15.070 Facility licensing procedure.

(GAAB 17.10.010, 17.10.030; AO No. 78-65A; AO No. 83-2; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 89-25(S); AO No. 92-75(S); AO No. 96-134(S-2), § 28, 7-1-97)

17.15.080 Facility license revocation.

(GAAB 17.10.020; AO No. 78-65A; AO No. 85-8; AO No. 96-134(S-2), § 29, 7-1-97)

17.15.090 Breeder licensing procedure.

(AO No. 96-134(S-2), § 30, 7-1-97)

17.15.100 Breeder license revocation.

(AO No. 96-134(S-2), § 31, 7-1-97)

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- 17.15.010 Municipality of Anchorage dog license required.
  - 17.15.020 Municipality of Anchorage non-resident dog license required.
  - 17.15.030 Municipality of Anchorage dog license procedure.
  - 17.15.040 Authorized vendors of municipal dog licenses.
  - 17.15.050 Municipal dog license tags and receipts.
  - 17.15.060 Special purpose license.
  - 17.15.070 Special purpose licensing procedures for multi-animal and commercial facility licenses.
  - 17.15.080 Revocation or denial of application for license.
  - 17.15.090 Inspections.
  - 17.15.100 Breeder license revocation. (Repealed)

**17.15.010 Municipality of Anchorage dog license required.**

- A. Any person who owns or has custody of a dog or wolf hybrid over the age of four months shall obtain a Municipality of Anchorage dog license for the dog or wolf hybrid except a dog brought into the municipality for less than 30 days.
- B. Any dog over the age of four months which is transferred, sold, or given away within the municipality shall be licensed by the new owner or custodian within fifteen days of the sale or acquisition.
- C. The following licenses, issued only by the animal care and control center, shall be at no cost:
  - 1. Dogs used for municipal police work;
  - 2. Dogs used for search and rescue or law enforcement by either the Anchorage police department or the Alaska State Troopers; and
  - 3. The first four dogs in a licensed multi-animal facility.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.15.020 Municipality of Anchorage nonresident dog license required.**

Any person who is not a resident of the municipality but brings dogs into the municipality, for the purpose of competition for more than 30 but less than 90 days, shall obtain a nonresident Municipality of Anchorage dog license. This license shall be issued only by the animal care and control center, at no charge, upon proof that all dogs possess current rabies vaccinations. Persons who bring dogs into the municipality for more than 90 days shall obtain individual Municipality of Anchorage dog licenses for each dog and shall apply for a special purpose license, if applicable, in accordance with Section 17.15.060 below.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.15.030 Municipality of Anchorage dog license procedure.**

- A. Application for a dog license shall be to the chief animal control officer or an authorized vendor. The application shall include:
  - 1. The name and residence address of the owner of the dog or wolf hybrid;

2. The name, breed, color, age, sex, and reproductive status of the dog or wolf hybrid;
  3. Proof that the dog or wolf hybrid has a current rabies vaccination and tag; and
  4. The license fee required by regulation.
- B. Dog licenses shall be valid for up to one, two, or three years from the date of issuance, at the option of the pet owner or custodian, and shall expire in conjunction with the expiration date of the rabies vaccination. Proof of a current rabies vaccination for the entire licensing period selected is required.
  - C. An application to renew a dog license shall be made in the same manner as an application for a new license.
  - D. The chief animal control officer may permit the application, purchase, and issuance of dog licenses by mail.
  - E. The chief animal control officer may authorize veterinarians or other persons as vendors to issue licenses.
  - F. Dog licenses issued under prior municipal ordinances shall remain valid until their expiration.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.15.040 Authorized vendors of municipal dog licenses.**

The chief animal control officer may authorize veterinarians or other persons as vendors to issue Municipality of Anchorage dog licenses. If issued in this manner, the vendor may retain a portion of the license fee for new or renewed licenses issued as set by regulation. Vendors may use a computer generated application, approved by the chief animal control officer, if the form contains the same information set forth in Section 17.15.030A.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.15.050 Municipal dog license tags and receipts.**

- A. A dog or wolf-hybrid shall bear a current Municipality of Anchorage dog license tag securely fastened to its collar, chain collar, or harness at all times except:
  1. Any licensed dog or wolf hybrid while confined on the owner's or custodian's premises; or
  2. While in competition, in training or while hunting.
- B. The animal care and control center or authorized vendor shall issue the dog or wolf hybrid owner a numbered receipt and a tag stamped with a number, authorized by the chief animal control officer, for each license purchased under Section 17.15.010.
- C. No person shall use a municipal dog license tag, microchip, or receipt for a dog or wolf hybrid other than the one for which it was issued.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 5, 5-18-04)

### 17.15.060 Special purpose license.

- A. The following special purpose licenses shall be required for persons or facilities keeping animals in the municipality:
1. *Animal litter license.*: A person who sells or reconveys not more than three litters of dogs and/or cats in a calendar year shall be required to obtain an animal litter license:
    - a. Each litter shall be registered with the animal care and control center within seven weeks of birth for a fee set in accordance with Chapter 17.70. Advertisements of any kind must show the litter license number in the ad. Any person who sells more than three litters in a calendar year must apply for a commercial facility license.
    - b. This section does not apply to rescue groups approved by and registered with the animal care and control center.
  2. *Multi-animal facility license.*: A person or facility, including a dwelling unit, residence, or business premise, that owns, possesses or is the custodian of four or more dogs, four or more cats, four or more rabbits, four or more ferrets, four or more horses or any combination of seven or more of the above animals, shall be required to obtain a multi-animal facility license:
    - a. This section shall not apply to a person who has a single litter of dogs and/or cats that are not for sale and under the age of four months.
    - b. This license shall be valid for two years from date of issuance.
  3. *Commercial facility license.*: A person or facility that boards or grooms dogs, cats, rabbits, ferrets, and/or horses for fees or services, or any person or facility that reconveys four or more dogs or cats in a calendar year, or any person or facility that breeds more than three litters of dogs and/or cats in a calendar year shall be required to obtain a commercial facility license.
    - a. This license shall be valid for one year from date of issuance.
    - b. A pet store is a commercial facility for purposes of this section.
    - c. A veterinary clinic is not a commercial facility for purposes of this section.
    - d. This section does not apply to rescue groups approved by and registered with the animal care and control center.
- B. Each animal in the facility, in addition to those covered under Section 17.15.010C.3, that is required to have a MOA dog license shall be provided that license at no additional cost to the holder of the multiple animal facility license.
- C. Veterinary facilities are excluded from the requirements of Section 17.15.060.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**Editor's note:** In connection with adoption of AO 2001-158 (S-4) As Amended, approved on June 25, 2002 and effective January 1, 2003, Assembly expression of

legislative intent on June 11, 2002, was that any reference to "business" or "commercial" in Title 17 does not mean conducting a business for the purposes of other Titles.

**17.15.070 Special purpose licensing procedures for multi-animal and commercial facility licenses.**

- A. Application for a special purpose license is made to the animal care and control center. The application shall include:
  - 1. The type of special purpose license;
  - 2. The name, address and telephone number of applicant, and the physical address and telephone number where animals are to be kept;
  - 3. The number, species and breeds of dogs, cats, rabbits, ferrets, or horses to be kept on the premises;
  - 4. A commercial facility license application shall include a copy of a current municipal and/or Alaska business license, if applicable;
  - 5. *Reserved.*
  - 6. The amount of the licensing fee;
  - 7. Proof of current rabies vaccination for each animal over the age of four months, where the species is required to have a rabies vaccination;
  - 8. A current diagram, to scale, of the premises, showing the peripheral boundaries, the location and dimensions of the premises where animals will be kept, and the location and use of any structures on adjacent lots; and
  - 9. A statement from the applicant verifying that they have read the existing subdivision covenants, if any, for the premises where the animals are to be kept and that, to the best of their knowledge, the facility is in compliance with the covenants.
- B. Renewal applications shall be made at least thirty days prior to the expiration of the current license and may rely upon materials submitted with a prior application provided it portrays the current condition of the facility or location, except current rabies vaccinations proof for each animal over the age of four months where the species is required to have a rabies vaccination by law; and upon certification that there have been no significant changes in the numbers, types and species of animals since the prior application.
- C. A special purpose license shall not be issued to or renewed where the applicant has been convicted of an offense under Title 8.55 or inhumane treatment of animals in another jurisdiction.
- D. Upon receipt of a complete and timely application for renewal of a special purpose license, such license shall be issued within 30 days unless the applicant has received notice the special purpose license has been revoked or there has been a structural change to the property. No new or previously revoked multi-animal or commercial facility license shall be issued until an inspection of the premises where the animals will be kept is made.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2007-79, § 2, 6-26-07)

**17.15.080 Revocation or denial of application for license.**

- A. The chief animal control officer may deny or revoke a special purpose license on the following grounds:
  - 1. The manner or method of keeping animals constitutes a health hazard to humans or animals;
  - 2. The manner or method of keeping the animals violates any ordinance or regulation under this title; or
  - 3. A present or prior violation of a term, condition or limitation of the license issued under this title.
- B. An animal control officer shall issue a notice to comply, as defined in Section 17.05.080, for any violation of this title or conditions for the issuance of a special purpose license. The notice shall state in writing the steps the applicant may take, with a set reasonable time period, to correct any violations stipulated. If the officer observes conditions that immediately threaten an animal's or the public's health, safety or welfare, an order to cease and desist operation may be issued in lieu of a notice to comply. Following the time period stipulated in the notice to comply, an inspection shall be made by the animal care and control center to determine if the violation is abated or corrected. If the violation remains or other violations have occurred, the chief animal control officer may deny or revoke the license.
- C. If a special purpose license is denied or revoked, the animal care and control center shall prepare a written report which includes:
  - 1. Reasons for denial or revocation; and
  - 2. Time periods the animal care and control center allowed the applicant to comply with any notices to correct conditions required to obtain or keep a license.
- D. The applicant shall receive a copy of the report within fourteen business days of the denial or revocation.
- E. If, upon complaint filed by a citizen of the municipality, a court of competent jurisdiction finds that recorded covenants relating to the requirements of this title have been violated and have not been waived for the premises where the animals are kept, the chief animal control officer shall revoke that license following receipt of a copy of the court's findings and order. The holder of the license shall be notified of the license revocation in writing.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.15.090 Inspections.**

- A. The animal care and control center may inspect the premises and/or animals of all special purpose licensees annually or upon a public complaint. The animal care and control center may inspect prior to the issuance or renewal of a multi-animal or commercial facility license.

- B. Special purpose license inspections:
1. A commercial facility, open to the public, may be inspected without notice during the times of normal business operations; or
  2. A private residence may be inspected within 72 hours of notification to the resident of the intent to inspect. Such inspection shall be conducted between the hours of 8:00 a.m. and 8:00 p.m.
  3. Inspections shall be conducted by animal control officers and/or a licensed veterinarian trainee to examine all animals in the facility.

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **17.15.100 Breeder license revocation. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

## **Chapter 17.25 IMPOUNDMENT, ADOPTION, REDEMPTION, AND EUTHANASIA OF ANIMALS\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.25 and enacted provisions designated as a new Ch. 17.25 to read as herein set out. Former AMC Ch. 17.25 pertained to impoundment. History of former AMC Ch. 17.25 is as set out below. The user is also directed to the Code Comparative Table.

17.25.010 Impoundment and animals subject to impoundment.

(GAAB 17.15.010; AO No. 78-65A; AO No. 86-39; AO No. 92-75(S); AO No. 96-134(S-2), § 32, 7-1-97)

17.25.020 Impoundment procedure.

(GAAB 17.15.010; AO No. 78-65A; AO No. 96-134(S-2), § 33, 7-1-97)

17.25.030 Terms of impoundment.

(GAAB 17.15.010; AO No. 78-65A; AO No. 86-39; AO No. 96-134(S-2), § 34, 7-1-97)

17.25.040 Redemption of impounded animal.

(GAAB 17.15.020; AO No. 78-65A; AO No. 83-2; AO No. 86-39; AO No. 89-25(S); AO No. 92-75(S); AO No. 96-134(S-2), § 35, 7-1-97)

17.25.050 Availability for adoption.

(GAAB 17.15.050; AO No. 78-65A; AO No. 78-188; AO No. 86-39; AO No. 91-85(S-1); AO No. 96-134(S-2), § 36, 7-1-97)

17.25.060 Adoption exceptions and requirements.

(GAAB 17.15.050; AO No. 78-65A; AO No. 83-2; AO No. 83-97, 11-21-83; AO No. 96-134(S-2), § 37, 7-1-97; AO No. 97-97(S), § 4, 7-22-97)

17.25.070 Disposition of animals not made available for adoption or redemption.

(AO No. 78-65(S); AO No. 78-188; AO No. 86-39, 7-14-86; AO No. 96-134(S-2), § 38, 7-



1-97)

17.25.075 Impoundment at business facility or at owner's home.

(AO No. 86-39, 7-14-86; AO No. 92-75(S); AO No. 96-134(S-2), § 39, 7-1-97)

17.25.080 Reserved.

17.25.090 Protective custody.

(AO No. 78-65A; AO No. 83-2; AO No. 83-97, 11-21-83; AO No. 96-134(S-2), § 41, 7-1-97)

17.25.100 Reserved.

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17.25.010 Impoundment and animals subject to impoundment.

17.25.020 Impoundment procedures.

17.25.030 Terms of impoundment.

17.25.035 Impoundment pending investigation.

17.25.040 Redemption of impounded animal.

17.25.050 Availability for adoption.

17.25.060 Adoption exceptions and requirements.

17.25.070 Euthanasia.

17.25.073 Impounding of animals held pending a decision.

17.25.075 Impoundment at business facility or owner's home.

17.25.080 Reserved.

17.25.090 Protective custody.

17.25.100 Reserved.

17.25.110 Hearings affecting impounded animals.

### **17.25.010 Impoundment and animals subject to impoundment.**

A. An animal control officer shall check an animal subject to impoundment for identification. If the animal is wearing a current municipal dog license, the owner or custodian is known, and the animal poses no threat to another animal or the public health, welfare and safety, the officer may take reasonable measures to return the animal to its owner or custodian with the issuance of a notice to comply or NOV, provided there are no outstanding verifiable fees or fines due to the animal care and control center. The following animals are subject to impoundment:

1. An uncontrolled animal in the presence of the officer, where the owner or custodian is not present. At the time of impoundment, the officer shall post a written notice describing the animal, giving the date, time and reason for impoundment, and where the animal may be recovered either:
  - a. In a prominent place on the owner's premises, if known; or
  - b. In a prominent place at the location of impoundment, if possible;
2. An animal that poses a threat to itself, another animal, or the public health, welfare or safety;
3. An animal exhibiting behavior described in Section 17.40.020;
4. An animal which is found to be in violation of a classification requirement or condition of quarantine imposed pursuant to Section 17.25.040D., 17.30.080, or 17.40.040;

5. An animal required to be forfeited to the municipality pursuant to Section 17.10.015A.3., 17.25.040D., or 17.40.040D.; or
  6. An animal where ownership is prohibited by federal, state, or municipal law.
- B. An animal control officer is authorized to obtain a warrant to seize an animal in violation of subsections A.2. through A.6. above.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 3, 9-10-09)

#### **17.25.020 Impoundment procedures.**

- A. If the animal is impounded on public property or on the private property of another not its owner or custodian, the officer shall first check the animal for an identification tag or microchip. If the officer can identify the owner or custodian, he or she may take reasonable measures to return it, unless an animal has previously been in violation of the same impoundable condition. Then the officer shall impound it at the animal care and control center.
- B. After taking an animal into custody, the officer shall take the animal to the animal care and control center where it shall be checked again for identification including a tag or microchip, checked for its health, and then housed humanely.
- C. If an animal's owner or custodian can be identified, the animal care and control center shall attempt to notify the animal's owner or custodian of the impoundment and the conditions under which the animal may be redeemed.
- D. If the animal is impounded from private property, the officer shall, after securing custody of animal, post a notice, in a conspicuous place, on the nearest residence or structure from where the animal was seized.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.030 Terms of impoundment.**

- A. An animal without identification, whose owner or custodian is not known, shall be kept three full animal care and control center business days, unless redeemed earlier by the owner.
- B. An animal with identification shall be held for a period of not less than five full animal care and control center business days, unless redeemed earlier by its owner. The animal control officer shall make every reasonable attempt to discover the identity of and make contact with the owner or custodian of an animal with identification to include, but not be limited to, contact by telephone or notice posted on the property. Maintaining the animal for longer periods may be approved by the chief animal control officer when the owner or custodian is known and upon showing good cause why redemption of the animal within the normal impound period is not possible.
- C. The animal care and control center shall maintain records of impounded animals for at least two years. The records shall be public information and available upon reasonable request of the public in accordance with Chapter 3.90, with the exception of privacy information protected under law. The information shall

include, but not be limited to:

1. The species, breed, color and sex of the animal;
2. The location where the animal was impounded or found;
3. Any form of identification found on the animal, such as collar, identification, license or rabies tag, tattoo or microchip identification number; and
4. The disposition of the animal.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.035 Impoundment pending investigation.**

- A. If, during the investigation of an incident, an animal control officer determines that an animal may safely be kept on the property of an owner or custodian pending an administrative hearing, the animal control officer may set conditions for the keeping of the animal.
- B. If, during the investigation of an incident, the animal control officer determines the animal poses an immediate or potential threat to another animal or the public health, safety, or welfare, the animal may be seized and impounded. The owner or custodian of the animal shall be responsible for all costs and expenses of keeping the animal at the animal care and control center.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.040 Redemption of impounded animal.**

- A. An animal may be redeemed by the owner from the animal care and control center upon proof the animal has a current rabies vaccination, is currently licensed under this title, if required, and if the animal is kept in the municipality. The owner shall pay all impound, licensing, rabies vaccination, daily board, medical treatment, previously unpaid/outstanding animal control fees and fines owed by the owner, and any other fees required.
- B. An animal may be redeemed by the custodian for the owner, with written proof of the owner's intention to allow redemption, proof the animal has a current rabies vaccination, a current license, if required, and if the animal is kept in the municipality. The custodian shall pay all impound, licensing, rabies vaccination, daily board, medical treatment, all previously unpaid/outstanding animal control fees and fines owed by the owner, and any other fees required.
- C. An animal that has been classified at level five behavior, or a wolf hybrid that has been classified at level 3 or level 4.a, is not redeemable.
- D. Within seven days from the date of impoundment, any animal classified as level 1, 2, 3 or 4 under Section 17.40.020, except a wolf hybrid that has been classified at level 3 or level 4.a., shall be released to the owner upon payment of all fees required and upon verification of compliance with Sections 17.30.080 and 17.40.040, including any classification requirements set by the chief animal control officer. Upon failure of the owner to comply with Section 17.40.040, the chief animal control officer may impound or re-impound the animal and require

the owner to forfeit the animal to the municipality. An animal shall not be allowed to reside with or be redeemed by anyone who has been convicted, nor to a person residing in the same household with a person convicted, of a crime under Title 8.55 or inhumane treatment of an animal in another jurisdiction.

- E. An animal shall not be redeemed by anyone who has a pending case, nor to a person residing in the same household with a person who has a pending case, under Title 8.55 or inhumane treatment of an animal in another jurisdiction.
- F. An animal shall not be redeemed by an owner or person where such ownership is prohibited by federal, state or municipal law.
- G. The chief animal control officer or designee shall make a written record of each decision made pursuant to this section to clearly and precisely explain the reason for the decision. A copy of the written decision shall be served upon the owner or person who attempts to redeem the animal.
- H. It is unlawful to fail to comply with any condition of redemption imposed by the chief animal control officer under this title.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 4, 9-10-09)

#### **17.25.050 Availability for adoption.**

- A. The animal care and control center shall take affirmative action to make available for adoption all unclaimed animals except for those in paragraph C of this section.
- B. After the minimum term of impoundment, or additional time as required by law or the animal's well being, the animal care and control center shall determine, with consultation available by a licensed veterinarian, those animals to be made available for adoption.
- C. None of the following animals shall be made available for adoption:
  - 1. An animal exhibiting symptoms of a major infectious or contagious disease, as determined by a licensed veterinarian;
  - 2. An animal that in the judgment of a licensed veterinarian should be euthanized for humane reasons. If the animal has traceable identification or the animal owner or custodian is known, every effort shall be made to contact the owner or custodian prior to euthanasia; provided the animal is not in a suffering or dying condition;
  - 3. An animal determined by a court of competent jurisdiction to be unadoptable;
  - 4. An animal subject to a pending administrative or judicial hearing, or an appeal;
  - 5. An animal that is the subject of a quarantine or protective custody imposed under this title, except when the term of quarantine or protective custody and all appeals have expired and the owner has not, or cannot, redeem the animal;
  - 6. An animal prohibited from being owned by federal, state or municipal law;

7. An animal determined by the chief animal control officer, in consultation with a licensed veterinarian, exhibiting behavior described under Section 17.40.020A as level 3, 4, or 5 that could pose a threat to another animal or the public health, safety and welfare.
- D. The chief animal control officer or designee may approve the rescue of animals referenced in 17.25.050C.1. or unclaimed animals that would otherwise be euthanized if the rescue group agrees to provide necessary medical care for the animal.
- E. An animal determined to be adoptable shall be held available for adoption for a minimum period of five days, unless the chief animal control officer or designee determines the animal care and control center is at full capacity. In such case, the chief animal control officer may shorten the availability period for an animal.
- F. Animals surrendered to the animal care and control center by owners releasing entitlement to them shall be available for adoption under the terms of this section.
- G. Animals under protective custody by the animal care and control center, not redeemed by owners, and whose appeal time has expired, shall be available for adoption under the terms of this section.
- H. At the end of the period allowed for redemption, ownership of the animal shall be relinquished to the municipality. The animal may become available for adoption and shall no longer be available for redemption by the animal owner or custodian.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.25.060 Adoption exceptions and requirements.**

- A. The animal care and control center shall not release an animal for adoption under any of the following circumstances:
  1. The prospective owner has inadequate or inappropriate facilities for confining an animal or for providing humane care and control of an animal. If the prospective owner does not own his/her place of residence, the consent of the landlord to the adoption is required.
  2. The prospective owner has been convicted of a crime under Title 8.55 (cruelty to animals) or inhumane treatment of an animal in another jurisdiction; or has outstanding unpaid fees or fines; or has two or more violations of this title within the past 12 months.
  3. Any circumstance which, in the opinion of the chief animal control officer, endangers the welfare of the animal or the public health, safety and welfare.
- B. No person under eighteen years of age shall adopt an animal from the animal care and control center.
- C. No animal shall be released or adopted for the purpose of scientific research, medical purposes, blood donation, consumption, fighting, gaming, auction or illegal purposes.
- D. A person adopting an animal shall pay Municipality of Anchorage adoption,

rabies vaccination, license, microchipping, and any other fees that apply to the adoptive animal.

1. Rescue groups approved and registered with the animal care and control center are exempt from the following fees when the animal care and control center makes a request to the rescue group to adopt an animal:
  - a. Dog license fees pursuant to 17.70.010A.2. when the group is a license vendor in good standing;
  - b. Rabies and other vaccinations pursuant to 17.70.010A.3.;
  - c. Microchip fee pursuant to 17.70.010A.5.c.; and
  - d. Adoption fees pursuant to 17.70.010A.5.e.
- E. Any dog or cat over the age of four months adopted from the animal care and control center shall be spayed or neutered except if, in the determination of a licensed veterinarian, a medical delay is required due to the health or age of the animal. The chief animal control officer shall establish procedures to accomplish spay/neuter, either at the animal care and control center, or through arrangements with the local veterinary community and establish an appropriate fee structure, using customary market prices for such medical services in order to implement this section.
  1. Any person who adopts a dog or cat that is not spayed or neutered at the time of adoption, shall agree in writing to have the animal spayed or neutered by a date specified. The date specified for sterilization may be altered upon the written recommendation of a licensed veterinarian. Proof of sterilization shall be submitted to the animal care and control center upon completion. The person adopting the animal shall provide for the expense of the required sterilization.
  2. The chief animal control officer shall have authority to implement an early spay/neuter program and establish an earlier age for the animal care and control center spay/neuter requirement, after making a determination that it is an appropriate and reasonably safe medical practice.
- F. All dogs and cats adopted from the animal care and control center shall be implanted with a microchip for purposes of identification.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2008-129, § 1, 12-17-08; AO No. 2009-29, § 1, 3-3-09)

### **17.25.070 Euthanasia.**

- A. The following animals may be euthanized at any time:
  1. An animal described in Section 17.25.050C.1, .2, or .3; or
  2. An unowned animal, not pending a hearing or court decision, posing an unreasonable risk of physical injury; or
  3. An adoption eligible animal, remaining unadopted following expiration of the minimum term of availability specified in Section 17.25.050E.
- B. An animal which is not eligible for redemption or adoption may be euthanized

after the right to appeal expires without being invoked or after all appeals under this title are completed.

- C. Euthanasia of an animal shall be accomplished humanely by a licensed veterinarian or a technician trained by a licensed veterinarian.
- D. The animal care and control center shall maintain a list of animals euthanized within the past 30 days, including a description of the animal and the condition for euthanasia, available for review by the general public.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.073 Impounding of animals held pending a decision.**

Pending a final decision in any legal or administrative proceeding, an impounded animal may be held at the animal care and control center or other commercial facility approved by the chief animal control officer or designee. The owner shall have the right to reasonable daily visitation for a minimum of ten minutes per day as staffing allows.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.075 Impoundment at business facility or owner's home.**

- A. The chief animal control officer or designee may permit an impounded animal to be held in a business facility provided:
  - 1. The animal is maintained at the sole expense of the owner, including the cost of all normal veterinary care;
  - 2. The facility owner and the chief animal control officer, or designee, agree to this type of impoundment in a written document signed by all parties;
  - 3. The facility demonstrates and maintains an ability to keep the animal in a manner no less secure than offered at the animal care and control center;
  - 4. The facility shall release the animal only to the chief animal control officer or designee or upon receipt of a signed release agreement and compliance with all written conditions of the release;
  - 5. The facility and the animal owner hold the municipality harmless and indemnify it against any liability arising from the actions or condition of the animal while it is impounded and kept under this subsection;
  - 6. The chief animal control officer or designee shall have the authority to inspect the premises where the animal is kept at any time during normal business hours without prior notice;
  - 7. The owner timely pays all fees established by the municipality for this service prior to transport of the animal(s); and
  - 8. The facility has in force and maintains, during the period the animal is in the ownership, possession or restraint of the business facility, a liability insurance policy in the amount of \$1,000,000.00.
- B. The chief animal control officer or designee may permit an impounded animal which is the subject of a hearing or appeal to be held in the owner's home so

long as the owner and the chief animal control officer or designee agree in writing that the owner shall abide by all the conditions as stated in subsections A.1. through A.7. above.

- C. Upon finding by the chief animal control officer or designee that any of the conditions stated in subsection A of this section have not been met by either the commercial facility or by the owner the owner shall have the animal care and control center transfer the animal to another facility or return the animal to the animal care and control center. In addition, the person responsible for the violation may be subject to a penalty as prescribed under this title.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.25.080 Reserved.**

#### **17.25.090 Protective custody.**

- A. An officer shall take an animal not subject to impoundment into protective custody when necessary to preserve the animal's health or safety and humane care and treatment.
- B. If an animal has been placed in protective custody due to charges of cruelty against the owner, the animal shall not be released to its owner until a final determination is made pursuant to Chapter 8.55 (Cruelty to Animals).
- C. The animal care and control center shall maintain an animal in protective custody which is subject to redemption until the animal is redeemed by its owner or for a minimum of five days, after which time the animal may be disposed of as an impounded animal except:
  - 1. Where an animal was placed in protective custody because the owner or custodian is arrested and charged with a crime and is unable to redeem the animal in person in which case the minimum period shall be ten days.
- D. An animal that is in protective custody and which is subject to redemption may be redeemed by the owner or the owner's designee upon demand and payment of fees and costs. The owner shall not be charged an impoundment fee, but shall be charged boarding fees as set by regulation.
- E. A person who owns an animal taken into protective custody and disposed of as an impounded animal may obtain a review of that disposition as provided in Section 17.05.100.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 6, 5-18-04)

#### **17.25.100 Reserved.**

#### **17.25.110 Hearings affecting impounded animals.**

An owner or custodian may request a hearing for an animal impounded pursuant to Section 17.25.010 of this title within 15 business days of the impoundment of the animal on forms provided by the animal care and control center. The hearing shall be conducted by the administrative hearing officer under the provisions of Section



17.05.100 of this title.

(AO No. 2001-158(S-4), § 1, 1-1-03)

## **Chapter 17.30 RABIES CONTROL, IMMUNIZATION, AND QUARANTINE PROCEDURES\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.30 and enacted provisions designated as a new Ch. 17.30 to read as herein set out. Former AMC Ch. 17.30 pertained to rabies control. History of former AMC Ch. 17.30 is as set out below. The user is also directed to the Code Comparative Table.

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17.30.010 Reporting required.

(GAAB 17.20.010, 17.20.050, 17.20.060; AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 43, 7-1-97)

17.30.020 Disposition of animals biting a person or suspected of having rabies.

(GAAB 17.20.010; AO No. 78-65A; AO No. 83-97; AO No. 85-8; AO No. 86-39; AO No. 92-75(S); AO No. 96-134(S-2), § 44, 7-1-97)

17.30.030 Quarantine of individual animals.

(GAAB 17.20.010; AO No. 78-65A; AO No. 83-2; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 96-134(S-2), § 45, 7-1-97)

17.30.040 Areawide quarantine.

(GAAB 17.20.010; AO No. 78-65A; AO No. 85-8; AO No. 96-134(S-2), § 46, 7-1-97)

17.30.050 Rabies immunization required.

(GAAB 17.20.020; AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 47, 7-1-97)

17.30.060 Immunization records.

(GAAB 17.20.030; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 96-134(S-2), § 48, 7-1-97)

17.30.070 Use of false immunization certificate prohibited.

(GAAB 17.20.040; AO No. 78-65A; AO No. 96-134(S-2), § 49, 7-1-97)

17.30.080 Annual rabies vaccination clinic.

(GAAB 17.10.030; AO No. 78-65A; AO No. 96-134(S-2), § 50, 7-1-97)

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17.30.010 Purpose.

17.30.020 Rabies immunization required.

17.30.030 Immunization records.

17.30.040 Use of false immunization certificate prohibited.

17.30.050 Annual rabies vaccination clinic.

17.30.060 Human victim, reporting required.

17.30.070 Disposition of animals.

17.30.080 Animal quarantine.

**17.30.010 Purpose.**

The purpose and intent of this chapter is to ensure the control and prevention of rabies within the municipality.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.30.020 Rabies immunization required.**

It is unlawful to own or have custody of a dog, wolf hybrid, cat, ferret, or any other animal required by state law, over the age of four months, that does not have a current rabies vaccination administered in accordance with state law.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.30.030 Immunization records.**

- A. A licensed veterinarian shall record rabies vaccinations he or she gives on a certificate form approved by the state division of public health and available from the municipality. The municipality shall maintain a completed copy of the form for animal recording, identification, rabies abatement, and prevention purposes. The valid and completed form shall have:
  - 1. The name and residence address of the animal's owner;
  - 2. The name, age, sex, breed, species and color of the animal;
  - 3. The date of the immunization;
  - 4. The type of vaccine used and the vaccine's expiration date;
  - 5. The name and signature of the veterinarian performing the immunization; and
  - 6. The name of the veterinary clinic.
- B. The veterinarian shall give the original copy of the form to the animal's owner, the second copy shall be forwarded to the animal care and control center, and the third copy shall remain with the veterinarian or clinic.
- C. Following vaccination, the veterinarian shall issue a rabies tag and may issue a Municipality of Anchorage dog license tag to the owner. Current rabies and municipal dog license tags must be affixed to the animal's collar or harness and worn by the animal at all times, unless the animal is on the property of the owner or custodian, in competition, in training or hunting. Cats and ferrets are not required to wear a rabies tag if they are microchipped and registered.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2004-86, § 7, 5-18-04)

**17.30.040 Use of false immunization certificate prohibited.**

- A. It is unlawful for a person to issue or transfer a certificate or receipt for a rabies immunization or rabies tag where the person knows no immunization has been

administered.

- B. No person shall procure, receive, use or attempt to use a certificate, receipt or tag for a rabies immunization as proof of the immunization for any animal other than the animal for which it was issued.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.30.050 Annual rabies vaccination clinic.**

At least annually, the animal care and control center shall hold a rabies vaccination clinic where vaccination shall be available at cost plus ten percent, but not less than \$2.00 per animal.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.30.060 Human victim, reporting required.**

- A. For purposes of rabies abatement, control and prevention, any owner or custodian of an animal that bites a human shall promptly notify the animal care and control center of the incident. Any person bitten by an animal shall promptly notify the animal care and control center.
- B. A medical practitioner who treats a human for an animal bite shall promptly report to the animal care and control center the name and residence address of the victim, and such other information as may aid the chief animal control officer or designee in the control of rabies.
- C. A licensed veterinarian shall report to the animal care and control center any animal suspected of being infected with rabies.
- D. Paragraphs A, B, and C above reference animals capable of being infected with rabies.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.30.070 Disposition of animals.**

- A. If an animal control officer or peace officer reasonably suspects an animal to have rabies, the officer shall cause the animal to be impounded and quarantined immediately.
- B. Any animal capable of being infected with rabies that has bitten a human shall be quarantined. Other animals capable of being infected with rabies, exposed to this animal, may also be quarantined. An Anchorage police department dog, which inflicts a bite in the line of duty shall not be quarantined when proof of current rabies is shown, but such dog must be observed for the following fourteen days.
- C. When a licensed veterinarian diagnoses or reasonably suspects an animal of being rabid, notification shall be made to the animal care and control center and the department of health and human services.
  - 1. The department of health and human services, in consultation with a licensed veterinarian, may take any action reasonably necessary to determine whether an animal is infected with rabies including, but not

limited, to the removal and inspection of an animal's head.

- D. The department of health and human services directs the disposition of an animal which is found to be rabid and all aspects of the quarantine procedures under this title. The carcass of an animal suspected of being rabid shall, upon demand, be surrendered to the animal care and control center.
- E. An unvaccinated animal capable of being infected with rabies, that is bitten by an animal diagnosed as rabid, shall be euthanized immediately. If a bitten animal has a current rabies vaccination, it shall be re-vaccinated immediately and quarantined under Section 17.30.080 for 30 days.
- F. No person shall kill a rabid animal or an animal subject to quarantine except to defend a human from death or bodily injury, unless otherwise provided by this title.

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **17.30.080 Animal quarantine.**

- A. *Required; duration.* An animal capable of being infected with rabies that bites a human shall be quarantined immediately. The department of health and human services shall determine the duration of the quarantine, which shall not be less than 10 nor more than 14 days. Police dogs employed by the Anchorage police department which inflict a bite in the line of duty, and have a current rabies vaccination, are exempt from this requirement.
- B. *Conditions of quarantine.*
  - 1. Subject to subsections 2 and 4 below, the owner or custodian of a quarantined animal shall confine it to prevent contact with other persons or animals. The animal shall only be taken outdoors under control by leash and muzzled or to a confined area if muzzled for brief periods to relieve itself. In the alternative, the animal shall be kept under equally secure conditions at a veterinary hospital of the owner's or custodian's choice. The owner shall inform the animal care and control center where the animal is being kept.
  - 2. An animal shall remain quarantined until written release by a licensed veterinarian or the chief animal control officer. The chief animal control officer may require an animal be inspected before release.
  - 3. No person shall remove a quarantined animal from the municipality without notifying the chief animal control officer in writing at least two business days before the removal and obtaining written consent from the chief animal control officer or designee.
  - 4. An animal capable of being infected with rabies, with no proof of current rabies vaccination, that bites a human shall be quarantined for not less than 10 nor more than 14 days at the animal care and control center or at a licensed veterinary facility, with the approval of the chief animal control officer.
- C. *Payment of costs.* The owner of a quarantined animal shall pay all costs related to quarantine including boarding and transport fees required by the animal care

and control center or licensed veterinary facility, whether the location of its quarantine is selected by its owner or the chief animal control officer.

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **17.30.090 Area-wide quarantine.**

- A. When the director of the department of health and human services or designee finds an animal in the municipality positively diagnosed as rabid, an area-wide rabies quarantine may be declared for a period of 30 days. If additional animals are diagnosed as rabid during this period, the director or designee may extend the duration of the area-wide quarantine for up to an additional six months.
- B. During an area-wide quarantine, every animal capable of being infected with rabies shall be confined. No animal subject to the area-wide quarantine may be removed from the municipality without prior written consent of the director of department of health and human services or designee.

(AO No. 2001-158(S-4), § 1, 1-1-03)

## **Chapter 17.35 CRUELTY TO ANIMALS\***

\_\_\_\_\_\*Editor's note--AO No. 98-59(S), § 2, effective May 19, 1998, reorganized, renumbered and amended §§ 17.35.010--17.35.040 as new §§ 8.55.010--8.55.050. See the analysis of Ch. 8.55 below for location of current provisions pertaining to cruelty to animals. Section 2 of AO No. 2001-158(S-4) as amended, effective January 1, 2003, required a section by section listing of the cruelty to animals provisions in Anchorage Municipal Code Chapter 8.55. The user's attention is also directed to the Code Comparative Table for a more detailed analysis of inclusion of said AO No. 98-59(S).

### Chapter 8.55 Cruelty to Animals

8.55.010 Cruelty to animals.

8.55.020 Animal fighting.

8.55.030 Accidents involving injury to animals.

8.55.040 Trapping of animals.

8.55.050 Penalties.

8.55.060 Classified animals.

8.55.070 Wolf hybrids.

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- 17.35.010 Cruelty to animals. (Renumbered)
  - 17.35.020 Automobile and animal accidents.(Renumbered)
  - 17.35.030 Crimes and penalties. (Renumbered)
  - 17.35.035 Animals forfeited due to cruelty conviction. (Renumbered)
  - 17.35.040 Exceptions. (Renumbered)

## Chapter 17.40 REGULATION OF ANIMAL BEHAVIOR\*

\_\_\_\_\_\*Editor's note--AO No. 96-134(S-2), § 56, effective July 1, 1997, repealed chapters 17.40 and 17.50 and in their stead a new Chapter 17.40 is hereby enacted to read as herein set out. Formerly, such chapters pertained to dealing with dangerous dog and vicious dog prohibited and derived from AO No. 91-85(S-1); AO No. 92-75(S). Subsequently, AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed AMC Ch. 17.40 and enacted provisions designated as a new Ch. 17.40 to read as herein set out. Former AMC Ch. 17.40 pertained to similar subject matter. History of former AMC Ch. 17.40 is as set out below. The user is also directed to the Code Comparative Table.

17.40.010 Purpose.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.020 Classification and exceptions to classification of animals.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.030 Determination, notice and appeal of classification.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.040 Regulation of classified animals.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.050 Removal, reduction or modification of classification.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.060 Additional licensing fees.

(AO No. 96-134(S-2), § 56, 7-1-97)

17.40.070 Crimes and penalties. (Renumbered)

(AO No. 96-134(S-2), § 56, 7-1-97)

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17.40.010 Purpose.

17.40.020 Classifications and exceptions to classification of animals.

17.40.030 Determination, notice, and appeal of classification.

17.40.040 Regulation of classified animals.

17.40.050 Removal, reduction or modification of classification. (Repealed)

17.40.060 Additional licensing fees. (Repealed)

17.40.070 Crimes and penalties. (Renumbered to 8.55)

17.40.080 Compliance inspections.

17.40.085 Removal, reduction or modification of classification.

17.40.090 Additional licensing fees.

17.40.095 Dangerous animals from other jurisdictions.

17.40.100 Keeping by minors prohibited.

### **17.40.010 Purpose.**

The purpose of this chapter is to provide for the public's health and safety, and the safety of animals by identifying and establishing procedures for dealing with animals in the municipality which have demonstrated, by specific behavior, the potential threat of causing physical injury to humans or other animals.

**17.40.020 Classifications and exceptions to classification of animals.**

- A. *Classifications.* Subject to the authority of the chief animal control officer under subsection B below, an animal may be classified based on one of the following levels:
1. *Level one behavior* is established if an unrestrained animal is found to menace or chase, and display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any person or domestic animal.
  2. *Level two behavior* is established if an animal bites or causes physical injury to any domestic animal, or if an unrestrained animal kills any unrestrained domestic animal.
  3. *Level three behavior* is established if an animal, while under restraint, inflicts an aggressive bite or causes any physical injury to any human.
  4. *Level four behavior* is established if any of the following occur:
    - a. An unrestrained animal inflicts an aggressive bite or causes physical injury to any human; or
    - b. An unrestrained animal kills a domestic animal that is restrained; or
    - c. An animal, regardless of whether it is restrained, for the second time injures or kills a domestic animal.
  5. *Level five behavior* is established if any of the following occur:
    - a. An animal, regardless of whether it is restrained, causes serious physical injury or the death of any human; or
    - b. An animal is used as a weapon in the commission of a crime; or
    - c. An animal previously classified as a level three or four, or as a potentially dangerous animal under a prior enactment of this Code, commits a level three or four behavior described in subsection A.3. or A.4. above after the owner receives notice of the prior level three or four classification.
- B. *Exceptions to classifications.* Notwithstanding subsection A above, the chief animal control officer shall have discretionary authority to refrain from classifying an animal even if the animal has engaged in the behaviors specified in subsection A, if the chief animal control officer determines that one of the following is true:
1. At the time of injury or damage, the victim was committing trespass or other tort on premises occupied by the owner or custodian of the animal, the victim was teasing, tormenting, abusing, or assaulting the animal, its offspring, or the owner or custodian, or the victim was committing or attempting to commit a crime;
  2. The animal was protecting or defending itself, its offspring, or a human

within the immediate vicinity of the animal from an attack or assault while under control or confined;

3. The injury or damage to a domestic animal occurred while the animal was working or in training as a hunting animal, herding animal, or predator abatement animal on the property of or under the control of its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal;
4. The animal is trained to attack persons independently or upon oral command while under the restraint and supervision of an authorized government or law enforcement unit and the act is directly associated with the proper execution of the animal's duties;
5. The animal was responding to pain or injury;
6. The animal was protecting its offspring from attack by another animal;
7. The animal is trained or is being trained for the sport of Schutzhund competition or personal protection and the victim was a willing participant and did not file a complaint;
8. The animal, with a current rabies vaccination, causes injury to the owner, owner's family, trainer or person caring for the animal, unless:
  - a. A complaint is received from the injured party;
  - b. The victim is a minor who is not involved in training or competing with the animal; or
  - c. The animal is unredeemable; or
9. The decision not to classify reasonably serves and promotes justice, fairness, and the purposes and intent of this title, the protection of public health, safety and welfare, and the humane care and treatment of animals.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 5, 9-10-09)

#### **17.40.030 Determination, notice and appeal of classification.**

- A. *Authority to classify.* The chief animal control officer has the authority to determine whether any animal has engaged in the behaviors specified by Section 17.40.020.
- B. *Notice and appeal of classification.* The chief animal control officer shall serve the animal's owner with written notice of the animal's specified behavior, the animal's classification and the level of the fine imposed, and the classification requirements applicable to the animal. Notice of classification and classification requirements shall be provided in accordance with Section 17.05.070C.
  1. The owner may appeal the chief animal control officer's decision to a hearing officer under Section 17.05.100.
  2. The owner shall comply with the classification requirements as specified in the notice unless modified or reversed on appeal. Failure to comply with the specified requirements shall be a violation of this chapter for



which a fine may be imposed.

3. The chief animal control officer shall have authority to impound the animal pending completion of all appeals.
4. If the chief animal control officer's decision or the hearing officer's decision finds that an animal has engaged in level five behavior, the animal shall be impounded pending the completion of any appeals.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 6, 9-10-09)

#### **17.40.040 Regulation of classified animals.**

- A. The chief animal control officer shall have the discretion to increase or decrease a classified animal's restrictions based upon relevant circumstances.
- B. In addition to other requirements of this chapter, the owner of a classified animal shall comply with the following classification requirements:
  1. *Level one.* Animals classified as level one shall be restrained so the animal cannot reach any public sidewalk or adjoining property and located so as not to interfere with the public's access to the owner's property whenever that animal is outside the owner's home, provided, however, such animal shall not be under control by command.
  2. *Level two.* Animals classified as level two shall be confined in a location which may include a secure enclosure or under control by leash only.
  3. *Levels three and four.* Animals classified as level three or four shall at all times be confined in a locked secure enclosure or under control by a substantial leash or chain not to exceed six feet in length, and under the control of a competent adult who is familiar with and in control of the animal. The requirement of control is not satisfied by an electronic collar or electronic fence. Animals classified as level three or four shall also be muzzled when not on the owner's property. Wolf hybrids classified as level 3 or 4.a shall be euthanized. It is a violation of this subsection to breed, sell, exchange or abandon an animal classified as level three or four, except as specifically provided in this chapter.
  4. *Level five.* Animals classified as level five shall be euthanized. In addition, the chief animal control officer may suspend for a period the animal owner's right to be the owner of any animal in the municipality, including animals currently owned by that person.
    - a. All animals classified as level five shall be euthanized at any time with the owner's consent or on a date not sooner than 30 days after a final decision by the hearing officer or final judgment by the court. Notification to the municipality of an appeal of a final decision of the hearing officer to the animal control appeals board or a court shall delay euthanization of the animal as set forth in Section 17.25.070B.
    - b. During any appeal process, it is a violation of this section to breed, sell, exchange or abandon an animal classified as level five or allow it to reside in any household containing animals.

- C. *Microchip.* To insure correct identification, all classified animals shall be implanted with a permanent microchip to identify the animal and its owner.
- D. *Insurance.* The chief animal control officer may require that the owner of an animal classified as level three or four furnish proof of liability insurance in the amount of at least \$100,000.00 for bodily injury to or the death of any person or domestic animal. If required, the policy shall be on file in the animal control office and shall be required to be kept current throughout the ownership of the animal. Failure to maintain the insurance is just cause for the animal to be immediately impounded by the chief animal control officer and, if the insurance is not reinstated and proof filed with the animal care and control center within seven days, the animal shall be forfeited to the municipality.
- E. *Warning sign.* The owner or custodian of a level three or four classified animal shall display a sign at all fence entrances and secure enclosures on the property where the animal is kept, containing a visual and written warning that there is a potentially dangerous animal on the property. The owner or custodian shall not permit the warning sign to be removed from the secure enclosure.
- F. *Written verification of spay or neuter.* The chief animal control officer may require the animal owner to provide written verification that the classified animal has been spayed or neutered.
- G. *Control by leash.* A classified animal shall only be off the property of the owner or custodian when leashed with a substantial leash or chain not to exceed six feet in length and under the control of a competent adult who is familiar with and in control of the animal.
- H. *Notice of disposal or escape.* The owner or custodian of an animal classified as level 3, 4, or 5 pursuant to this chapter shall:
  - 1. Notify the animal care and control center immediately if the animal escapes, is unconfined without control of a competent person, attacks another human being or animal, or dies.
  - 2. Obtain written consent from the chief animal control officer or designee at least 48 hours in advance of the intention to sell, transfer or permanently remove the animal from the residence or place where the animal is kept. The new location of the animal shall be given to the animal care and control center, along with the name, address and telephone number of the new owner. The owner must inform the new owner of the classification requirements and the new owner must consent to and comply with said requirements.
- I. All classified animals shall be licensed in accordance with Section 17.15.010.
- J. All classified animals shall have a current rabies vaccination in accordance with Section 17.30.020.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 7, 9-10-09)

#### **17.40.050 Removal, reduction or modification of classification. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.40.060 Additional licensing fees. (Repealed)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.40.070 Crimes and penalties. (Renumbered to 8.55)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

**Editor's note:** AO No. 98-59(S), § 3, effective May 19, 1998, renumbered § 17.40.070 as a new § 8.55.060.

**17.40.080 Compliance inspections.**

The owner or custodian of any animal classified as level two, three, or four shall consent to inspection of the property where the animal is kept with 24 hours written notice by the animal care and control center. The inspection shall be set at a reasonable time and in a reasonable manner to verify compliance with the requirements of this chapter.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.40.085 Removal, reduction or modification of classification.**

- A. An owner of a classified animal may apply to the chief animal control officer, in writing, to have the classification reduced, modified or removed in accordance with this section upon payment of outstanding fees, including review fee, a showing that the owner has attended and presents evidence of the owner's and animal's satisfactory completion of an obedience training course or other appropriate program approved by the chief animal control officer, and:
  - 1. A level one or level two animal has been classified for one year without any further incident, including any violation of this title; or
  - 2. If a level three or four animal, the animal has been classified for two years without any further incident, including any violation of this title.
- B. Restrictions for level three and level four animals, except wolf hybrids, may be reduced, modified or removed, except the requirement for the use of a secure enclosure.
- C. Requests for termination, modification or reduction of a classification may be submitted to the chief animal control officer, upon proof of compliance with requirements in Section 17.40.085A., but not more often than once each year. All requests for reclassification shall be accompanied by a review fee established by regulation.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 8, 9-10-09)

**17.40.090 Additional licensing fees.**

In addition to the normal licensing fees established, there shall be an annual fee, set by regulation, for animals classified as level two, three or four. This additional fee shall be imposed at the time of classification and shall be payable within 30 days of notification by the chief animal control officer. Annual payment of this additional fee shall

be payable within 30 days of notification by the chief animal control officer.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2009-88, § 9, 9-10-09)

#### **17.40.095 Dangerous animals from other jurisdictions.**

No animals found to have exhibited behavior equal to level 4 classification as defined in this Code in another jurisdiction shall be kept, owned or harbored in the municipality without prior written approval by the chief animal control officer.

(AO No. 2001-158(S-4), § 1, 1-1-03)

#### **17.40.100 Keeping by minors prohibited.**

No animal classified as level 4 shall be kept or owned by a person who is a minor.

(AO No. 2001-158(S-4), § 1, 1-1-03)

### **Chapter 17.60 WOLF HYBRIDS\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.60 and enacted provisions designated as a new Ch. 17.60 to read as herein set out. Former AMC Ch. 17.60 pertained to similar subject matter. History of former AMC Ch. 17.60 is as set out below. The user is also directed to the Code Comparative Table.

17.60.010 Possession of wolf hybrids.

(AO No. 92-75(S); AO No. 96-134(S-2), § 57, 7-1-97)

17.60.020 Reserved.

17.60.030 Reserved.

17.60.040 Vaccination of wolf hybrids.

(AO No. 92-75(S); AO No. 96-134(S-2), § 59, 7-1-97)

17.60.050 Crimes and penalties. (Renumbered)

(AO No. 92-75(S); AO No. 96-134(S-2), § 60, 7-1-97)

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17.60.010 Possession of wolf hybrids.

17.60.020 Reserved.

17.60.030 Reserved.

17.60.040 Vaccination of wolf hybrid.

17.60.050 Crimes and penalties. (Renumbered to 8.55)

#### **17.60.010 Possession of wolf hybrids.**

No person shall own, possess, keep, maintain, harbor, transport, sell or advertise for sale any wolf hybrid within municipal boundaries except as provided under state law.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.60.020 Reserved.**

**17.60.030 Reserved.**

**17.60.040 Vaccination of wolf hybrids.**

Until an approved USDA rabies vaccination is available for wolf hybrids, any wolf hybrid that bites a human shall be immediately euthanized by the animal care and control center and its head submitted for rabies testing.

(AO No. 2001-158(S-4), § 1, 1-1-03)

**17.60.050 Crimes and penalties. (Renumbered to 8.55)**

(AO No. 2001-158(S-4), § 1, 1-1-03)

**Chapter 17.70 ANIMAL CARE AND CONTROL FEES, FINES, AND CIVIL PENALTIES\***

\_\_\_\_\_\*Editor's note--AO No. 2001-158(S-4), § 1, effective Jan. 1, 2003, repealed former AMC Ch. 17.70 and enacted provisions designated as a new Ch. 17.70 to read as herein set out. Former AMC Ch. 17.70 pertained to animal control fees, fines and penalties. History of former AMC Ch. 17.70 is as set out below. The user is also directed to the Code Comparative Table.

17.70.010 Animal control fee schedule.

(AR No. 83-19; AR No. 86-33; AO No. 89-25(S); AO No. 90-27(S-1); AR No. 92-145; AO No. 92-75(S); AO No. 92-158; AO No. 93-66; AO No. 97-97(S), § 1, 7-22-97)

17.70.020 Civil penalties for animal control violations.

(AO No. 92-158; AO No. 97-97(S), § 2, 7-22-97)

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17.70.010 Animal care and control fee schedule.  
17.70.020 Civil penalties for animal care and control violations.

**17.70.010 Animal care and control fee schedule.**

A. The chief animal control officer shall provide for collection and disbursement of the following fees and refunds in the administration of Title 17:

TABLE INSET:

Type	Fee	Refund
1. Special purpose license fees:		
a. Animal litter license:	\$25.00 per litter; each litter registered with the animal care and control center.	
b. Multi-Animal Facility License:		
1. Four to ten animals:	\$100.00 bi-annually	
2. Eleven or more animals:	\$150.00 bi-annually	
c. Commercial Facility License:	\$100.00 annually.	

Type	Fee			Refund
<b>2. MOA dog license:</b>				
	Up to One Year	Up to Two Years	Up to Three Years	
a. 1. Unsterilized Dog	\$23.00	\$43.00	\$63.00	None
2. Sterilized Dog	\$15.00	\$27.00	\$39.00	None
b. Replacement tag	\$5.00			None
c. A vendor authorized to issue a municipal dog license pursuant to Section 17.15.040 may retain \$3.00 for each license fee collected.				

<b>3. Vaccinations:</b>		
a. Rabies vaccination	Cost rounded to nearest dollar plus 10%.	See subsection A.4.c. of this section.
b. Other vaccinations	Cost rounded to nearest dollar plus 10%.	None
c. Rabies vaccinations, for animals capable of being infected with rabies, are not required for animals under four months of age, but a deposit for such vaccination is required upon the adoption or redemption of animals under four months of age from the animal care and control center.		
<b>4. Redeemed Animals:</b>		
a. Sterilized dogs and cats	\$45.00	None
b. Unsterilized dogs and cats	\$80.00	\$25.00 upon proof of sterilization within 30 days from release.
c. Sterilized Classified Dogs and Cats	\$45.00 first redemption; \$80.00 second redemption; \$150.00 third and subsequent redemptions	
d. Unsterilized Classified Dogs and Cats	\$80.00 first redemption; \$150.00 second redemption; \$200.00 third and subsequent redemptions	
e. All animals without proof of required rabies vaccination.	Cost rounded to nearest dollar plus 10%.	Cost rounded to nearest dollar plus 10% for animals vaccinated within 30 days after attaining four months of age.
f. The owner or custodian shall pay all impound, licensing, rabies vaccination, daily board, medical treatment, previously unpaid/outstanding animal care and control fees and fines owed by the owner, and any other fees required prior to redemption of the animal.		
g. An impound fee shall be charged whether the animal was brought into the shelter by a member of the public or impounded in the field by an animal control officer, with the exception of stolen animals.		
h. All species other than dogs and cats shall be charged a fee in accordance with a fee schedule established by the chief animal control officer, but which shall not exceed \$100.00.		
i. An animal impounded and transported which, by reason of species, size and strength, cannot be kept in the animal care and control center may be redeemed upon payment of a fee established by this section plus actual costs reasonably incurred.		
<b>5. Adoption:</b>		
a. Sterilization fee (dogs and cats):of Sterilization plus license fees as applicable.	Cost of Sterilization plus license fees as applicable.	None
b. If the animal is not spayed or neutered at the time of adoption, the chief animal control officer may require a deposit equal to the cost of the sterilization to be made at the time of the adoption, to be refunded within 30 days following presentation of proof of sterilization to the animal care and control center. Proof of sterilization must be in the form of a signed document from a licensed veterinarian.		
c. Microchip and registration fees (dogs and cats)	Cost plus \$10.00.	None
d. Vaccination fees as applicable	Cost rounded to the nearest dollar plus 10%	None
e. For all animals, there shall also be an adoption fee, in addition to the fees described in subsections A.5.a.-d. above.		
i. The separate adoption fee shall be in accordance with a fee schedule established by the chief animal control officer, and shall not exceed \$150.		
<b>6. Boarding fees:</b>		
a. Dog	\$12.00 per day	None
b. Cat	\$10.00 per day	None
c. Boarding fees for animals other than dogs and cats shall be assessed in accordance with a schedule established by the chief animal control officer not to exceed \$100.00 each day for any animal.		
<b>7. Special service fees for the public:</b>		
a. Microchip and registration fees	Cost plus \$10.00.	None
b. Cremation fee:		

1. Dogs and cats over 12 weeks of age received directly from owner.	\$15.00 each.	None
2. All kittens and puppies under 12 weeks of age received directly from owner.	\$1.00 each, not to exceed, \$15.00/litter.	None
3. Deceased dogs and cats from veterinarian clinics and animal businesses when private crematoria are not available.	Current fee average for private or mass cremation, private sector.	None
c. Owner surrender fee:		
1. Dogs and cats over 12 weeks of age received directly from owner.	\$20.00 each.	
2. All kittens and puppies under 12 weeks of age received directly from owner.	\$1.00 each, not to exceed, \$20.00 litter.	
d. Animal Transport fee. Transport to alternate facility under Sections 17.25.075 (impound) or 17.30.080 (quarantine).	\$30.00 one way.	None
8. Classified Animals:		
a. Annual fee for level 2, 3 or 4 classified animals under Section 17.40.090.	\$100.00	None
b. Classification review fee under Section 17.40.085.	\$35.00	None

B. In addition to all other applicable fees, the cost to the animal care and control center for veterinary services reasonably determined by the chief animal control officer to be necessary to maintain the health of the animal while in the custody of the animal care and control center shall be assessed in accordance with a schedule established by the chief animal control officer.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2003-152S, § 11, 1-1-04; AO No. 2004-86, § 8, 5-18-04; AO No. 2008-129, § 2, 12-17-08; AO No. 2009-29, § 2, 3-3-09; AO No. 2009-88, § 10, 9-10-09)

**17.70.020 Civil penalties for animal care and control violations.**

A. In addition to any other penalties provided by law, a person who violates any of the following provisions shall be subject to the applicable civil penalties stated below:

**TABLE INSET:**

Anchorage Municipal Code Provision	Civil Penalty
17.10.010 Animals in public places	\$75 first violation; \$100 second violation and \$150 for third and subsequent violations.
17.10.012 Unidentified cats	\$50 first violation; \$75 second violation and \$100 for third and subsequent violations.
17.10.015A. Animal disturbance	\$50 first violation; \$100 second violation; and \$400 for third and subsequent violations within one year with a \$200 refund on voluntary debarking of the animal(s).
17.10.015B. Animal nuisance	\$100 each violation.
17.10.015C. Animal nuisance	\$50 first violation; \$75 second violation and \$100 for third and subsequent violations.
17.10.020 Control and confinement	\$75 first violation; \$100 second violation and \$150 for third and subsequent violations.
17.10.030 Care and sanitation	\$250 first violation per premise; \$500 each subsequent violation per premise.
17.10.050 Facility standards	\$100 first violation; \$150 second violation.
17.10.090 Off-leash dog areas	\$75 first violation; \$100 second violation; \$150 for third and subsequent violations.
17.15.010 Dog license required	\$75 first violation; \$100 second violation; \$150 for third and each subsequent violation.

17.15.060 Special purpose license	\$150 first violation; \$300 second and each subsequent violation.
17.25.060E. Mandatory sterilization	\$125 first violation; \$150 each subsequent violation.
17.30.020 Rabies vaccination	\$75 first violation; \$100 second violation; \$150 third and each subsequent violation.
17.30.060 Report bite	\$100 first violation; \$250 each subsequent violation.
17.30.080 Quarantine	\$100 first violation; \$250 each subsequent violation.
17.40.040 Regulation of classified animals	\$250.00 first violation; \$500.00 second violation; \$1,000.00 third and subsequent violations.
17.40.090 Additional licensing fee	\$100.00 first violation; \$150.00 second violation; \$300.00 third and subsequent violations.
Violations of all other provisions of Title 17	\$25 first violation, \$50 second violation, \$100 each subsequent violation.

- B. A person who fails to resolve a notice of violation (NOV) issued for a violation of any provision of this title within the time stated on the NOV shall be subject to a civil penalty in the amount of \$25.00, in addition to any other penalty provided by law.
- C. If an agency is required to collect any outstanding money due the municipality, a collection fee shall be added, in addition to any other fees and penalties, in an amount not to exceed 40 percent of the debt.

(AO No. 2001-158(S-4), § 1, 1-1-03; AO No. 2003-152S, § 11, 1-1-04; AO No. 2009-88, § 11, 9-10-09)

## Appendix Chapter 8.55. CRUELTY TO ANIMALS\*

\***Editor's note:** AO No. 98-59(S), § 2, effective May 19, 1998, renumbered, reorganized and amended §§ 17.35.010--17.35.040 as new §§ 8.55.010--8.55.050. Subsequently, AO No. 2003-77, § 1, effective May 20, 2003, amended Ch. 8.55, in its entirety, to read as herein set out. At the request of the city, the provisions of AO No. 2003-77 are included as an appendix to Title 17 as well as Ch. 8.55. See also the Code Comparative Table.

- 8.55.005 Animal defined.
- 8.55.010 Cruelty to animals.
- 8.55.020 Animal fighting.
- 8.55.030 Accidents involving injury to animals.
- 8.55.040 Trapping of animals.
- 8.55.050 Penalties.
- 8.55.060 Classified animals.
- 8.55.070 Wolf hybrids.
- 8.55.085 Exceptions.

### 8.55.005 Animal defined.

For purposes of this chapter only, *animal* means all members of the Phylum Cordata, Subphylum Vertebrata, excluding non-domestic animals and humans, unless otherwise specifically stated.

(AO No. 2003-77, § 1, 5-20-03)

### 8.55.010 Cruelty to animals.



- A. *Prohibited acts.* It is unlawful for any person, with criminal negligence, to:
1. Maim, mutilate, torture, kill or abandon an animal; or
  2. Injure, torment, poison, provoke or otherwise abuse an animal; or
  3. Maintain an animal in an inhumane manner, including failure to provide adequate food, water, housing and care; or
  4. Keep an animal on vacant property or in an unoccupied structure, unless the animal is cared for in a humane manner; or
  5. Have an animal within, on or attached to a motor vehicle under conditions that may endanger the health, safety or welfare of the animal, including but not limited to insufficient control or extreme temperature.
    - a. A peace officer is authorized to remove an animal from a motor vehicle at any location when the officer reasonably believes there is a violation of this section. Any animal so removed shall be delivered to the animal care and control center after the removing officer leaves written notice of the removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle.
    - b. No peace officer shall be held criminally or civilly liable for action taken under this subsection.
- B. *Use of tranquilizer guns.* It is unlawful for any person to use a tranquilizer gun or blowpipe to capture or immobilize an animal unless authorized by the chief animal control officer or designee.

(AO No. 96-134(S-2), §§ 19, 52, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** AO No. 96-134(S-2), §§ 19, 52, renumbered § 17.10.060.A., C., D., F. as a new § 17.35.010. Formerly, § 17.10.060 derived from GAAB 17.05.060; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 92-75(S).

### **8.55.020 Animal fighting.**

- A. It is unlawful for any person, with criminal negligence, to:
1. Cause or allow an animal to fight another animal or a human being, unless the animal is:
    - a. Acting in defense of itself, its owner or custodian, or the property of its owner or custodian against trespass, tort or other crime in or on the premises of the owner or custodian at the time the injury or damage was sustained by the victim; or
    - b. Acting in defense of an owner, custodian or third person, within the immediate vicinity of the animal, from attack or assault; or
    - c. Acting in defense of physical abuse, assault or attack to itself or its offspring, by another animal or a person or persons; or
    - d. Responding to pain or injury; or

- e. Trained and used by an authorized law enforcement unit to act in a manner directly associated with the proper execution of its duties; or
  - f. Trained or is being trained for the sport of Schutzhund competition; or
  - g. Hunting, animal herding, or abating predators, or in training for hunting, animal herding or predator abatement, on the property of, or under the control of, its owner or custodian, and the injury or damage was to a species appropriate to the work of the animal.
2. Own, possess, keep or train any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal or human being; or
  3. Manufacture, buy, sell, barter, exchange, or possess any of the implements commonly known as gaffs or slashers, or any other sharp or pointed implement designed to be attached in place of the natural spur of a gamecock or fighting bird; or
  4. Train any animal for the purpose of fighting, or allow an exhibition of fighting on his or her premises, or to be a spectator at such training or exhibition of fighting.

(AO No. 96-134(S-2), §§ 19, 52, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** AO No. 96-134(S-2), §§ 19, 52, renumbered § 17.10.060.A., C., D., F. as a new § 17.35.010. Formerly, § 17.10.060 derived from GAAB 17.05.060; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 92-75(S).

#### **8.55.030 Accidents involving injury to animals.**

- A. It is unlawful for the driver of a vehicle involved in an accident that injures an animal to fail, with criminal negligence, to stop the vehicle as close to the scene of the accident as possible and:
  1. Inform the animal's owner of the injury, if ownership is readily ascertainable; or
  2. Inform a peace officer or the animal care and control office of the injury, the time and location of the accident, the description of the injured animal, identification the animal may possess, if the information can be safely and reasonably attained, and the apparent nature of the injury.

(AO No. 96-134(S-2), §§ 19, 53, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** AO No. 96-134(S-2), §§ 19, 53, renumbered § 17.10.060.E. as a new § 17.35.020. Formerly, § 17.10.060 derived from GAAB 17.050.060; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 92-75(S).

#### **8.55.040 Trapping of animals.**

- A. It is unlawful for any person, with criminal negligence, to use any type of trap, such as steel jaw traps, snares or spring traps that might physically harm an animal, to capture animals for noncommercial reasons.
1. Any humane-type trap used for the purposes of capture of animals shall be monitored by the person using it at least once every 12 hours. Any animal captured shall be cared for in a humane manner and returned to the animal's owner, an animal control officer, or the animal care and control center.
  2. No person may use any trap for capture of domestic animals and noncommercial purposes of a type not approved by the chief animal control officer or designee.
  3. No person may offer false information to any peace officer or animal control authority concerning the identity or ownership of a trapped animal he or she has trapped.

(AO No. 96-134(S-2), §§ 19, 52, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** AO No. 96-134(S-2), §§ 19, 52, renumbered § 17.10.060.A., C., D., F. as a new § 17.35.010. Formerly, § 17.10.060 derived from GAAB 17.05.060; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 92-75(S).

#### **8.55.050 Penalties.**

- A. A person who with criminal negligence violates this chapter shall, upon conviction, be subject to a fine of not more than \$10,000.00, imprisonment for not more than one-year, or both and be prohibited from owning or maintaining another animal for as long as the court determines.
- B. In addition to any fine or imprisonment, the court may also require the defendant to receive mandatory counseling and/or complete community work service as provided for in AS 12.55.055.
- C. A person convicted of violating this chapter, and who owns the animal, shall relinquish all rights of ownership of the animal, and/or any other animals owned by that individual, to the municipality. The rights of persons not convicted under this chapter to an animal forfeited under this chapter shall be determined under Title 17 and its regulations.
- D. A person convicted of violating this chapter shall pay any and all costs incurred by the animal care and control center for animals involved, including but not limited to, housing, feed and veterinary care.

(AO No. 96-134(S-2), §§ 19, 54, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-73, § 3, 4-22-03; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** AO No. 96-134(S-2), §§ 19, 54, renumbered § 17.10.060.G. as a new § 17.35.030. Formerly, § 17.10.060 derived from GAAB 17.05.060; AO No. 78-65A; AO No. 83-97, 11-21-83; AO No. 86-39; AO No. 92-75(S).

#### **8.55.060 Classified animals.**

A person who with criminal negligence violates any provision of Chapter 17.40 "Regulation of Animal Behavior," pertaining to animals classified as level three, four or five shall, upon conviction, be subject to a fine up to \$2,000.00 or imprisonment of not more than six months, or both.

(AO No. 96-134(S-2), § 56, 7-1-97; AO No. 98-59(S), 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** Ordinance No. 98-59(S), § 3, effective May 19, 1998, renumbered § 17.40.070 as a new § 8.55.060.

### **8.55.070 Wolf hybrids.**

Any person convicted of violating any provision of Chapter 17.60, "Wolf Hybrids" with criminal negligence is guilty of a misdemeanor and may be punished by imprisonment for up to six months in jail or a fine of not more than \$2,000.00 or both.

(AO No. 92-75(S); AO No. 96-134(S-2), § 60, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-73, § 3, 4-22-03; AO No. 2003-77, § 1, 5-20-03)

**Editor's note:** Ordinance No. 98-59(S), § 3, effective May 19, 1998, renumbered § 17.60.050 as a new § 8.55.070.

### **8.55.085 Exceptions.**

A. This chapter does not apply to:

1. Impounding, euthanizing or other disposition of an animal in a humane manner as authorized by law; or
2. Killing or injuring an animal where necessary to protect a human being or domesticated animal from death or bodily injury; or
3. Euthanasia of an animal by request of its owner or the owner's authorized agent.

(AO No. 2003-77, § 1, 5-20-03)

**From:** [Melissa Jacobsen](#)  
**To:** [Jo Johnson](#)  
**Subject:** FW: Dogs Traveling in Truck Beds  
**Date:** Monday, August 08, 2016 8:52:50 AM  
**Attachments:** [dogs\\_trucks\\_bgnd.pdf](#)

---

Jo,

Attached is the pdf of the information in the link below.

Thanks! Melissa

---

**From:** Dots Sherwood [mailto:dotsvet@gmail.com]  
**Sent:** Monday, August 08, 2016 8:50 AM  
**To:** Melissa Jacobsen  
**Subject:** Dogs Traveling in Truck Beds

Hi Melissa

I would like to add this additional information on a literature review on dogs in truck beds and risk of injury.

<https://www.avma.org/KB/Resources/LiteratureReviews/Pages/Dogs-Traveling-in-Truck-Beds-Backgrounder.aspx>

Dr. Dots Sherwood MVB MSc MRCVS  
Homer Veterinary Clinic PC  
326 Woodside Avenue  
Homer  
AK 99603

907-235-8960  
[dotsvet@gmail.com](mailto:dotsvet@gmail.com)



---

## *Literature Review on the Welfare Implications of Dogs Traveling in Truck Beds*

(July 24, 2007)

---

### **THE ISSUE**

Dogs transported unsecured in the cargo area (truck bed) of vehicles such as pick up trucks are at risk of injury if they jump or are thrown from the vehicle.

### **WELFARE CONCERNS**

Injuries incurred by dogs falling or jumping from truck beds or falling within truck beds are less common than injuries incurred by free-roaming dogs struck by vehicles. However, like injuries resulting from vehicular strikes, truck bed injuries tend to be severe and multiple and include fractures and abrasions.<sup>1,a</sup> A survey<sup>a</sup> of veterinarians in Massachusetts found 141 practitioners (71% of those surveyed) had treated a total of 592 dogs that year that were injured as a result of riding in a truck bed. Data relating to dogs are limited, but data collected regarding human truck bed passengers indicate they are at significantly greater risk of injury<sup>2</sup> and death<sup>3</sup> than passengers riding in the cab. Riding in a truck bed may place dogs in contact with shifting loads sufficient to cause injuries and, if the truck bed is uncovered, expose them to road dust, debris, and heated metal surfaces.

### **ALTERNATIVES**

Ejection from a truck bed may be prevented by use of a tether, however this introduces risks of tangling, choking, or dragging behind the vehicle. Any tether used should be short enough to retain the dog's front and hind legs within the truck and should be combined with a tractable surface to allow the dog to remain easily within the range of the tether while the truck is in motion.

Dogs may be confined to a truck bed in a secure cage or kennel, but attention must be paid to ensuring appropriate space (sufficient to stand up and lie down, but not enough that the dog may be thrown from one side of the crate/kennel to the other), ventilation, and protection from the elements. Enclosures on a truck bed may accumulate toxic carbon monoxide<sup>4</sup> and provide only limited protection in the event of an accident.<sup>3</sup>

Within the truck cab a dog is subject to the same risks as a human passenger, and a safety harness can limit the dog's ability to distract or interfere with the driver and may minimize injuries to both in the event of an accident.

### **LEGISLATION**

Many states have banned traveling with dogs in the truck bed or require they be secured, others have legislation pending.

### **SUMMARY**

Dogs transported in open truck beds are at risk of severe injury.

This peer-reviewed summary has been prepared by the American Veterinary Medical Association Animal Welfare Division. While principally a review of the scientific literature, it may also include information gleaned from proprietary data, legislative and regulatory review, market conditions, and scholarly ethical assessments. It is provided as information and its contents should not be construed as official AVMA policy. Mention of trade names, products, commercial practices or organizations does not imply endorsement by the American Veterinary Medical Association.

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Page 1 of 2

214

## FOOTNOTES

a. Massachusetts Society for the Prevention of Cruelty to Animals, untitled 1997 document obtained via personal communication Jul 3 2007

## REFERENCES

1. Houston DM, Fries CL, Alcorn AM, et al. Injuries suffered by dogs from riding in the back of open pickup trucks: a retrospective review of seventy cases. *Can Vet J* 1995;36:510-512.
2. Agran P, Diane M, Anderson C. Injuries to occupants in cargo areas of pickup trucks. *West J Med* 1994;161:479-482.
3. Anderson C, Agran P, Winn D, et al. Fatalities to occupants of cargo areas of pickup trucks. *Accid Anal Prev* 2000;32:533-540.
4. Hampson N, Norkool D. Carbon monoxide poisoning in children riding in the back of pickup trucks. *J Am Med Ass* 1992;267:538-540.





**ORDINANCE REFERENCE SHEET**  
**2016 ORDINANCE**  
**ORDINANCE 16-43**

An Ordinance of the City Council of Homer, Alaska, Amending Ordinance 13-03(S)(2) to Change the Terms for Adjusting the Amortization of Principal of the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond.

Sponsor: City Manager

1. Council Regular Meeting August 8, 2016 Introduction
  - a. Third Amendment to Loan Agreement
  - b. Ordinance 13-02
  - c. Ordinance 13-03(S)(2)
  - d. Ordinance 15-17(S)
  - e. Ordinance 16-03(S)



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

City Manager

3  
4 **ORDINANCE 16-43**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 AMENDING ORDINANCE 13-03(S)(2) TO CHANGE THE TERMS FOR  
8 ADJUSTING THE AMORTIZATION OF PRINCIPAL OF THE NATURAL  
9 GAS DISTRIBUTION SPECIAL ASSESSMENT BOND AUTHORIZED  
10 BY ORDINANCE 13-02, AND AUTHORIZING AN AMENDMENT TO  
11 THE LOAN AGREEMENT BETWEEN THE CITY AND THE KENAI  
12 PENINSULA BOROUGH REGARDING THE BOND.

13  
14 WHEREAS, By Ordinance 13-03(S)(2), adopted February 25, 2013, the City authorized  
15 the issuance of a Natural Gas Distribution Special Assessment Bond (“Bond”) in the principal  
16 amount of not to exceed \$12,700,000, and the execution and delivery of a Loan Agreement  
17 (“Loan Agreement”) between the City and the Kenai Peninsula Borough (“Borough”)   
18 regarding the Bond; and

19  
20 WHEREAS, By Ordinance 15-17(S), adopted June 15, 2015, the City amended  
21 Ordinance 13-03(S)(2) to provide for the prepayment of principal of the Bond, and to  
22 authorize the execution and delivery of a corresponding amendment to the Loan Agreement;  
23 and

24  
25 WHEREAS, By Ordinance 16-03(S), adopted January 25, 2016, the City amended  
26 Ordinance 13-03(S)(2) to state the actual principal amount of the Bond and to change the  
27 principal and interest payment dates for the Bond, and to authorize the execution and  
28 delivery of a corresponding amendment to the Loan Agreement; and

29  
30 WHEREAS, Ordinance 13-03(S)(2) and the Loan Agreement require that upon any  
31 prepayment of principal of the Bond the amortization of the principal of the Bond shall be  
32 adjusted so that each remaining scheduled payment of principal and interest on the Bond  
33 shall be in an equal amount; and

34  
35 WHEREAS, Adjusting the amortization of the principal of the Bond after each  
36 prepayment of principal on the Bond is unnecessary and imposes an administrative burden  
37 when scheduled payments of principal and interest on the Bond are made only annually; and

38  
39 WHEREAS, Because installments of principal and interest on the Bond are due  
40 annually, it would be sufficient to adjust the amortization of the principal of the Bond once  
41 for all prepayments made since the last annual installment payment immediately before the  
42 next installment is due.

43 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

44  
45 Section 1. Section 13 of Ordinance 13-03(S)(2) is amended to read as follows (added  
46 language is bold and underlined; deleted language is stricken through):

47  
48 Section 13 – Sinking Fund. A special fund of the City designated the  
49 "City of Homer Natural Gas Distribution Special Assessment Bond Sinking  
50 Fund" is hereby created for the purpose of paying and securing the payment of  
51 the Bond. The Sinking Fund shall be held separate and apart from all other  
52 funds and accounts of the City and shall be a trust fund for the Registered  
53 Owner of the Bond. Payments of principal and interest on assessments levied  
54 for the Improvement in the District shall be deposited in the Sinking Fund.  
55 Amounts in the Sinking Fund shall be used to pay principal and interest on the  
56 Bond, and are hereby pledged for that purpose. Prepayments of assessments  
57 shall be applied to prepay the principal of the Bond; **Not less than five days**  
58 **before the due date of each annual installment of principal and interest on**  
59 **the Bond, the amortization of the principal of the Bond shall be adjusted to**  
60 **take into account all prepayments of the outstanding principal of the Bond**  
61 **made since payment of the last annual installment of principal and**  
62 **interest,** and upon any such prepayment the amortization of the principal of  
63 the Bond shall be adjusted so that each remaining scheduled payment of  
64 principal and interest on the Bond shall be in an equal amount.

65  
66 Section 2. The City Manager is hereby authorized to execute the Third Amendment to  
67 Loan Agreement, in substantially the form presented at this meeting, but with such changes,  
68 modifications, additions and deletions therein as she shall deem necessary, desirable or  
69 appropriate, the execution thereof to constitute conclusive evidence of approval of any and  
70 all changes, modifications, additions or deletions therein from the form and content of said  
71 document now before this meeting, and to execute and deliver an amended and restated  
72 Loan Agreement that incorporates all amendments to the Loan Agreement that have been  
73 authorized through the effective date of this ordinance.

74  
75 Section 3. This Ordinance is not permanent in nature, and shall not be codified.

76  
77 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_\_ day of  
78 \_\_\_\_\_, 2016.

79  
80 CITY OF HOMER

81  
82  
83 \_\_\_\_\_  
84 MARY E. WYTHE, MAYOR

85 ATTEST:

86

87

88 \_\_\_\_\_

89 JO JOHNSON, MMC, CITY CLERK

90

91 YES:

92 NO:

93 ABSTAIN:

94 ABSENT:

95

96

97 First Reading:

98 Public Hearing:

99 Second Reading:

100 Effective Date:

101

102 Reviewed and approved as to form.

103

104 \_\_\_\_\_

105 Mary K. Koester, City Manager

106

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

108

109

110 Fiscal Note: NA

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

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



## THIRD AMENDMENT TO LOAN AGREEMENT

This THIRD AMENDMENT TO LOAN AGREEMENT (“Amendment”), dated as of August \_\_\_, 2016, amends the LOAN AGREEMENT (“Loan Agreement”) dated as of March 25, 2013, by and between the KENAI PENINSULA BOROUGH (“Lender”), an Alaska municipal corporation, and the CITY OF HOMER (“Borrower”), an Alaska municipal corporation.

### R E C I T A L S

WHEREAS, by Ordinance 13-03(S)(2), adopted February 25, 2013, Borrower authorized the issuance to Lender of a Natural Gas Distribution Special Assessment Bond (“Bond”) in a principal amount equal to the aggregate amount of all advances under the Loan Agreement, but not to exceed \$12,700,000, and the execution and delivery of the Loan Agreement; and

WHEREAS, Section 3.03 of the Loan Agreement provides that prepayments of assessments shall be applied to prepay the principal of the Loan, and upon any such prepayment the amortization of the principal of the Loan shall be adjusted so that each remaining scheduled payment of principal and interest on the Loan shall be in an equal amount; and

WHEREAS, adjusting the amortization of the principal of the Loan upon each prepayment is unnecessary and imposes an administrative burden; and

WHEREAS, because installments of principal and interest on the Loan are due only once a year, it would be sufficient to adjust the amortization of the principal of the Loan once for all prepayments made since the last installment payment immediately before the next installment is due.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto covenant and agree as follows:

Section 1. Section 3.03 of the Loan Agreement is amended to read as follows:

#### Section 3.03 Prepayment.

(a) *Optional Prepayment.* The Borrower may prepay the outstanding principal of the Loan in whole or in part at any time in an amount equal to the principal amount of the Loan to be prepaid plus interest accrued thereon to the date of prepayment.

(b) *Mandatory Prepayment.*

(1) Prepayments of assessments shall be applied to prepay the principal of the Loan.

(2) Notwithstanding any other provision of this Agreement, Borrower and Lender agree that the total amount of assessments against condominium units in the District shall be reduced pursuant to the decision of the Superior Court in *Castner v. City of Homer, et al.*, Case No. 3HO-13-00038CI, and Borrower shall prepay principal of the Loan in an amount equal to the amount of such reduction. Borrower may make this prepayment from Free Main Allowance and other reimbursements that Borrower receives from ENSTAR Natural Gas Company, provided that immediately following such a prepayment the amount in the Reserve Fund will not be less than the Reserve Requirement.

(3) Notwithstanding any other provision of this Agreement, if the total amount of assessments against properties in the District is reduced due to action of the City Council of Borrower either (i) waiving the assessment of certain properties in the District that cannot be served by the natural gas distribution system, or (ii) recognizing subdivisions reducing the number of contiguous lots under common ownership by assessing only the reduced number of lots, Borrower shall prepay principal of the Loan in an amount equal to the amount of such reduction. Borrower may make this prepayment from Free Main Allowance and other reimbursements that Borrower receives from ENSTAR Natural Gas Company, and from any other legally available funding sources, provided that immediately following such a prepayment the amount in the Reserve Fund will not be less than the Reserve Requirement.

(4) Lender consents to Borrower's amendment of Borrower's Ordinance 13-03(S)(2) to permit Borrower to apply Free Main Allowance and other reimbursements that Borrower receives from ENSTAR Natural Gas Company in the manner described in the preceding two paragraphs.

(c) *Notice of Prepayment.* The Borrower shall give the Lender notice of any intended prepayment of the Loan not less than 10 nor more than 45 days prior to the date fixed for prepayment.

(d) *Loan Reamortization.* Not less than five days before the due date of each annual installment of principal and interest on the Loan, the amortization of the principal of the Loan shall be adjusted to take into account all prepayments of the outstanding principal of the Loan made since payment of the last annual installment of principal and interest, so that each remaining scheduled payment of principal and interest on the Loan shall be in an equal amount.

Section 2. Except as expressly amended herein, all terms and conditions of the Loan Agreement as originally executed and previously amended shall remain in full force and effect.



IN WITNESS WHEREOF, the Lender and the Borrower have caused this Amendment to be executed in their respective names all by their duly authorized officers, as of the date first set forth above.

LENDER: KENAI PENINSULA BOROUGH

By: \_\_\_\_\_  
Mike Navarre, Mayor

ATTEST:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

BORROWER: CITY OF HOMER

By: \_\_\_\_\_  
Mary K. Koester, City Manager

ATTEST:

\_\_\_\_\_  
Jo Johnson, City Clerk



**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 13-02**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,  
ALASKA CREATING THE CITY OF HOMER NATURAL  
GAS DISTRIBUTION SPECIAL ASSESSMENT DISTRICT,  
APPROVING THE IMPROVEMENT PLAN FOR THE  
DISTRICT, AND AUTHORIZING THE CITY MANAGER TO  
PROCEED WITH THE IMPROVEMENT.

WHEREAS, On July 23, 2012 the Council adopted Resolution 12-069 initiating a special assessment district for a natural gas distribution system in the City; and

WHEREAS, On September 24, 2012, the Council adopted Resolution 12-081 accepting and approving the improvement plan submitted by the City Manager for the proposed natural gas distribution system special assessment district; and

WHEREAS, Notice of a public hearing on the improvement plan has been published at least twice in a newspaper of general circulation in the City, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing; and

WHEREAS, The Council conducted public hearings on the improvement plan on January 14, and January 28, 2013; and

WHEREAS, Owners of real property that would bear 50 percent or more of the assessed cost of the improvement did not file timely written objections to the improvement plan with the City Clerk.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The natural gas distribution system in the City that is proposed in the improvement plan will improve the public health, safety and welfare, and is necessary and of benefit to the properties to be assessed.

Section 2. Owners of real property that would bear 50 percent or more of the assessed cost of the improvement did not file timely written objections to the improvement plan with the City Clerk

Section 3. There is hereby created the City of Homer Natural Gas Distribution Special Assessment District ("District"). The improvement that is to be constructed in the District shall be as described in the improvement plan and illustrated in Exhibit B to this ordinance. The properties that are to be assessed for the improvement are described in Exhibit A to this ordinance.



85 ATTEST:

86

87

88

89



JO JOHNSON, CMC, CITY CLERK

90

91

YES: 6

92

NO: 6

93

ABSTAIN: 6

94

ABSENT: 6

95

96

First Reading: 1/28/13

97

Public Hearing: 2/11/13

98

Second Reading: 2/11/13

99

Effective Date: 2/12/13

100

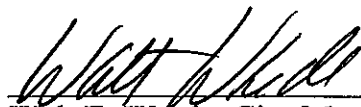
101

Reviewed and approved as to form:

102

103

104



Walt E. Wrede, City Manager

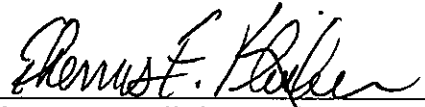
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106

107

108

Date: 2/14/13



Thomas F. Klinkner, City Attorney

Date: 2-21-13



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**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 13-03(S)(2)**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AUTHORIZING THE CITY TO ISSUE A NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$12,700,000 TO FINANCE THE DESIGN AND CONSTRUCTION OF NATURAL GAS DISTRIBUTION IMPROVEMENTS IN THE CITY, FIXING CERTAIN DETAILS OF SUCH BOND AND AUTHORIZING ITS SALE; AND REPEALING HCC CHAPTER 17.08.

WHEREAS, On February 11, 2013, the Council adopted Ordinance 13-02 creating the City of Homer Natural Gas Distribution Special Assessment District (“District”), and authorizing the City Manager to proceed with the design and construction of a natural gas distribution system in the District (the “Improvement”), and negotiate for the sale of special assessment bonds or other financing for the construction of the Improvement for Council approval; and

WHEREAS, Interim financing for the Improvement is required in anticipation of the levying of special assessments against the real property in the District, and after the levying of the assessments, long-term financing for the Improvement will be required; and

WHEREAS, AS 29.46.130 and AS 29.46.140 authorize the City of Homer “City” respectively to issue notes to obtain interim financing for improvements in a special assessment district, and to issue bonds to obtain long-term financing for improvements in a special assessment district, in each case payable out of special assessments for the improvement, without voter approval; and

WHEREAS, The City Manager has negotiated a Loan Agreement between the Kenai Peninsula Borough (“Lender”) and the City, the form of which is now before this meeting, which provides for the Lender to purchase a bond to finance the Improvement on the terms and conditions set forth therein and in this Ordinance, and it is in the best interest of the City that the City sell the bond to the Lender under such terms and conditions; and

WHEREAS, Homer City Code Chapter 17.08, regarding special assessment bonds, contains terms that are obsolete and conflict with the terms of the financing authorized by this ordinance, and should be repealed.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1 – Definitions. In addition to the terms that are defined in the recitals above, the following terms shall have the following meanings in this Ordinance:

47 "Bond Register" means the registration books maintained by the Registrar as Bond  
48 registrar, which include the names and addresses of the owners or nominees of the owners of the  
49 Bond.

50  
51 "Bond" means the "Natural Gas Distribution Special Assessment Bond, 2013" of the  
52 City, the issuance and sale of which are authorized herein.

53  
54 "City" means the City of Homer, a municipal corporation of the State of Alaska,  
55 organized as a first class city under Title 29 of the Alaska Statutes.

56  
57 "Council" means the Council of the City of Homer, as the general legislative authority of  
58 the City, as the same shall be duly and regularly constituted from time to time.

59  
60 "District" means the Homer Natural Gas Distribution System Special Assessment District  
61 created by Ordinance 13-02.

62  
63 "ENSTAR" means ENSTAR Natural Gas Company, a division of Semco Energy, Inc., a  
64 Michigan corporation.

65  
66 "Guaranty Fund" means the fund of that name created by Section 15.

67  
68 "Improvement" means the natural gas distribution system to be constructed in the  
69 District.

70  
71 "Lender" means the Kenai Peninsula Borough, a municipal corporation of the State of  
72 Alaska, organized as a second class borough under Title 29 of the Alaska Statutes.

73  
74 "Loan Agreement" means the Loan Agreement between the City and the Lender  
75 concerning the Bond.

76  
77 "Ordinance" means this Ordinance 13-03(S) of the City.

78  
79 "Registered Owner" means the person named as the registered owner of a Bond in the  
80 Bond Register. The Lender is the initial Registered Owner.

81  
82 "Registrar" means the City Treasurer, or any successor that the City may appoint by  
83 resolution.

84  
85 "Reserve Fund" means the fund of that name created by Section 14.

86  
87 "Sinking Fund" means the fund of that name created by Section 13.

88



89 "Special Assessments" means all special assessments to be levied against real property in  
90 the District to pay the costs of the Improvement.  
91

92 Section 2 – Authorization of Bond and Purpose of Issuance. For the purpose of providing  
93 the funds necessary to pay the costs of designing and constructing the Improvement, to pay  
94 interest on the Bond during the construction of the Improvement, the funding of the reserves  
95 required herein, and to pay all costs incidental thereto and to the issuance of the Bond, the City  
96 shall issue the Bond in a principal amount equal to the aggregate amount of the advances that the  
97 Registered Owner makes to the City for such purposes, but not to exceed \$12,700,000.  
98

99 Section 3 – Obligation of Bond. The Bond is a special obligation of the City and is  
100 payable solely from assessments to be levied against the real property in the District for the  
101 Improvement, and funds pledged for the payment of the Bond under this Ordinance. Said  
102 assessments shall constitute a sinking fund for the payment of principal of and interest on the  
103 Bond. Neither the faith and credit nor the taxing power of the City is pledged for the payment of  
104 the Bond.  
105

106 Section 4 – Description of Bond. The Bond shall be designated "City of Homer Natural  
107 Gas Distribution Special Assessment Bond, 2013," shall be issued in fully registered form, and  
108 shall be numbered in the manner and with such additional designation as the Registrar deems  
109 necessary for purposes of identification, and may have endorsed thereon such legends or text as  
110 may be necessary or appropriate to conform to the rules and regulations of any governmental  
111 authority or any usage or requirement of law with respect thereto. The Bond shall be dated as of  
112 its delivery date.  
113

114 The Bond shall bear interest from its date at a rate of Four Percent (4.0%) per annum, and  
115 shall be payable in two payments of interest only on the 1<sup>st</sup> days of April 2014 and 2015, and ten  
116 equal annual installments of principal and interest, commencing on the 1<sup>st</sup> day of April 2016 and  
117 continuing on April 1 of each year thereafter, until April 1, 2025, when the remaining principal  
118 balance of the Bond, plus accrued interest, shall be due and payable. Interest will be computed  
119 on the basis of a 360-day year consisting of twelve 30-day months.  
120

121 Section 5 – Optional Redemption. The Bond shall be subject to optional redemption in  
122 whole or in part at any time, at a redemption price equal to the principal amount of the Bond to  
123 be redeemed plus accrued interest to the date of redemption.  
124

125 Section 6 – Notice of Redemption. Notice of any intended redemption of the Bond shall  
126 be given not less than 10 nor more than 45 days prior to the date fixed for redemption by first  
127 class mail to the Registered Owner of the Bond at its address as it appears on the Bond Register  
128 on the day the notice is mailed. The requirements of this section shall be deemed to be complied  
129 with when notice is mailed as herein provided, whether or not it is actually received by the  
130 Registered Owner. All official notices of redemption shall be dated and shall state the  
131 redemption date and the redemption price.



175 is the single registered Bond entitled \$12,700,000 City of Homer Natural Gas Distribution  
176 Special Assessment Bond, 2013.

177  
178 THIS BOND IS PAYABLE SOLELY FROM ASSESSMENTS TO BE LEVIED  
179 AGAINST THE REAL PROPERTY IN THE CITY OF HOMER NATURAL GAS  
180 DISTRIBUTION SPECIAL ASSESSMENT DISTRICT, AND FUNDS PLEDGED FOR THE  
181 PAYMENT OF THE BOND UNDER THE ORDINANCE, AND IS NOT A GENERAL  
182 OBLIGATION OF THE CITY, AND NEITHER THE FAITH AND CREDIT NOR THE  
183 TAXING POWER OF THE CITY IS PLEDGED FOR ITS REPAYMENT.

184  
185 IT IS HEREBY CERTIFIED and declared that this Bond is issued pursuant to and in  
186 strict compliance with the Constitution and laws of the State of Alaska and the ordinances of the  
187 City of Homer, and that all acts, conditions and things required to happen, to be done and to be  
188 performed precedent to and on the issuance of this Bond have happened, been done and been  
189 performed.

190  
191 IN WITNESS WHEREOF, the City of Homer, Alaska, has caused this Bond to be  
192 executed by the signature of its Mayor and attested by its Clerk under the seal of the City on this  
193 \_\_\_\_\_ day of March, 2013.

194  
195 CITY OF HOMER

196  
197  
198  
199 \_\_\_\_\_  
200 FRANCIE ROBERTS, MAYOR  
201 PRO TEMPORE

202 ATTEST:

203  
204  
205 \_\_\_\_\_  
206 JO JOHNSON, CMC, CITY CLERK  
207

208 Section 8 – Execution. The Bond shall be executed in the name of the City by the  
209 signature of the Mayor, and its corporate seal shall be impressed or otherwise reproduced thereon  
210 and attested by the signature of the City Clerk. The execution of the Bond on behalf of the City  
211 by persons who at the time of the execution are duly authorized to hold the proper offices shall  
212 be valid and sufficient for all purposes, although any such person shall have ceased to hold office  
213 at the time of delivery of the Bond or shall not have held office on the date of the Bond.

214  
215 Section 9 – Payment of Principal and Interest. The Bond shall be payable in lawful  
216 money of the United States of America which at the time of payment is legal tender for the  
217 payment of public and private debts. Installments of principal and interest on the Bond shall be

218 payable on the due date in immediately available funds at the office of the Registered Owner in  
219 Soldotna, Alaska, or at another location specified at the option of the Registered Owner;  
220 provided that the final installment of the principal of the Bond, plus accrued interest, shall be  
221 payable upon presentation and surrender of the Bond by the Registered Owner at the office of the  
222 Registered Owner in Soldotna, Alaska.

223

224 Section 10 – Registration.

225

226 (a) Bond Register. The Bond shall be issued only in registered form as to both  
227 principal and interest. The Registrar shall keep, or cause to be kept, a Bond Register at its  
228 principal office. The Treasurer of the City is hereby appointed as Registrar and paying agent for  
229 the Bond.

230

231 (b) Registered Ownership. The City and the Registrar, each in its discretion, may  
232 deem and treat the Registered Owner of the Bond as the absolute owner thereof for all purposes,  
233 and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of  
234 the Bond shall be made only as described in Section 9, but such registration may be transferred  
235 as herein provided. All such payments made as described in Section 9 shall satisfy and discharge  
236 the liability of the City upon the Bond to the extent of the amount or amounts so paid.

237

238 (c) Transfer or Exchange of Registered Ownership. The registered ownership of the  
239 Bond may be transferred or exchanged, but no transfer of the Bond shall be valid unless it is  
240 surrendered to the Registrar with the assignment form appearing on such Bond duly executed by  
241 the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory  
242 to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall  
243 cause to be executed and delivered, without charge to the Registered Owner or transferee, a new  
244 Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and  
245 interest rate and for the same aggregate principal amount, naming as Registered Owner the  
246 person or persons listed as the assignee on the assignment form appearing on the surrendered and  
247 canceled Bond. The Bond may be surrendered to the Registrar and exchanged, without charge,  
248 for an equal aggregate principal amount of Bonds of the same date, maturity, and interest rate.  
249 The Registrar shall not be obligated to transfer or exchange the Bond following any notice of  
250 redemption.

251

252 Section 11 – Lost Stolen, Destroyed or Mutilated Bond. Upon surrender to the Registrar  
253 of a mutilated Bond, the City shall execute and deliver a new Bond of like maturity and principal  
254 amount. Upon filing with the Registrar of evidence satisfactory to the City that a Bond has been  
255 destroyed, stolen or lost and of the ownership thereof, and upon furnishing the City with  
256 indemnity satisfactory to it, the City shall execute and deliver a new Bond of like maturity and  
257 principal amount. The person requesting the execution and delivery of a new Bond under this  
258 section shall comply with such other reasonable regulations as the City may prescribe and pay  
259 such expenses as the City may incur in connection therewith.

260

261           Section 12 – Application of Bond Proceeds. The proceeds of the sale of the Bond shall  
262 be applied to pay the costs of designing and constructing the Improvement, including the funding  
263 of the reserves required herein, and to pay all costs incidental thereto and to the issuance of the  
264 Bond, including without limitation the costs of the Lender as provided in the Loan Agreement,  
265 and shall be deposited in the appropriate funds or accounts of the City for such purposes.  
266

267           Section 13 – Sinking Fund. A special fund of the City designated the "City of Homer  
268 Natural Gas Distribution Special Assessment Bond Sinking Fund" is hereby created for the  
269 purpose of paying and securing the payment of the Bond. The Sinking Fund shall be held  
270 separate and apart from all other funds and accounts of the City and shall be a trust fund for the  
271 Registered Owner of the Bond. Payments of principal and interest on assessments levied for the  
272 Improvement in the District shall be deposited in the Sinking Fund. Amounts in the Sinking  
273 Fund shall be used to pay principal and interest on the Bond, and are hereby pledged for that  
274 purpose. Prepayments of assessments shall be applied to prepay the principal of the Bond, and  
275 upon any such prepayment the amortization of the principal of the Bond shall be adjusted so that  
276 each remaining scheduled payment of principal and interest on the Bond shall be in an equal  
277 amount.  
278

279           Section 14 – Reserve Fund.  
280

281           (a) A special fund of the City designated the "City of Homer Natural Gas Distribution  
282 Special Assessment Bond Reserve Fund" is hereby created for the purpose of paying and  
283 securing the payment of the Bond, and is hereby pledged for that purpose. The Reserve Fund  
284 shall be held separate and apart from all other funds and accounts of the City and shall be a trust  
285 fund for the Registered Owner of the Bond. There shall be paid into the Reserve Fund:  
286

287                   (1) That part of the proceeds of the Bond which is designated for deposit in  
288 the Reserve Fund by the Loan Agreement; and  
289

290                   (2) All monies received from ENSTAR as refunds of main extension  
291 advances or free main allowance arising out of new customers connecting to the  
292 Improvement; and  
293

294                   (3) Any Sinking Fund and Guaranty Fund balances remaining after the  
295 discharge of the Bond.  
296

297           (b) Until the Bond has been discharged, the funds in the Reserve Fund may be used  
298 only to pay the difference between the amount of principal and interest due on the Bond and the  
299 amount in the Sinking Fund that is available to pay that principal and interest; provided, if the  
300 Finance Director determines that the amount of funds available in the Reserve Fund exceeds the  
301 amount of the next annual installment of principal and interest due on the Bond, the Finance  
302 Director may apply such excess to a prepayment of the Bond.  
303

304 (c) At such time as the Finance Director determines that the sum of the amounts in  
305 the Reserve Fund, the Guaranty Fund and the Sinking Fund equals or exceeds the amount  
306 required to (i) discharge the Bond, (ii) pay all refunds of assessments required upon discharge of  
307 the Bond, and (iii) pay any other amounts that may be owing on the Bond, the Finance Director  
308 shall cause such payment to be made and the Bond to be discharged.

309  
310 Section 15 – Guaranty Fund. A special fund of the City designated the "City of Homer  
311 Natural Gas Distribution Special Assessment Bond Guaranty Fund" is hereby created for the  
312 purpose of paying and securing the payment of the Bonds, and is hereby pledged for that  
313 purpose. The Guaranty Fund shall be held separate and apart from all other funds and accounts  
314 of the City and shall be a trust fund for the Registered Owner of the Bonds. The Council  
315 annually shall appropriate to the Guaranty Fund a sum the Council determines to be adequate,  
316 with all other available funds, to cover a deficiency in the funds available to pay principal and  
317 interest on the Bonds if the reason for the deficiency is nonpayment of assessments when due.  
318 Money received from actions taken against property for nonpayment of assessments levied in the  
319 District shall be credited to the Guaranty Fund. Amounts in the Guaranty Fund shall be used to  
320 pay principal and interest on the Bonds when other funds are not available for that purpose.

321  
322 Section 16 – Amendatory and Supplemental Ordinances.

323  
324 (a) The Council from time to time and at any time may adopt an Ordinance or  
325 Ordinances supplemental hereto, which Ordinance or Ordinances thereafter shall become a part  
326 of this Ordinance, for any one or more of the following purposes:

327  
328 (1) To add to the covenants and agreements of the City in this Ordinance,  
329 other covenants and agreements thereafter to be observed, or to surrender any right or  
330 power herein reserved to or conferred upon the City.

331  
332 (2) To make such provisions for the purpose of curing any ambiguities or of  
333 curing, correcting or supplementing any defective provision contained in this Ordinance  
334 or in regard to matters or questions arising under this Ordinance as the Council may deem  
335 necessary or desirable and not inconsistent with this Ordinance and which shall not  
336 adversely affect the interests of the Registered Owner of the Bond.

337  
338 Any such supplemental Ordinance may be adopted without the consent of the Registered  
339 Owner of the Bond, notwithstanding any of the provisions of subsection (b) of this section.

340  
341 (b) With the consent of the Registered Owners of not less than 60 percent in  
342 aggregate principal amount of the Bond at the time outstanding, the Council may adopt an  
343 Ordinance or Ordinances supplemental hereto for the purpose of adding any provisions to or  
344 changing in any manner or eliminating any of the provisions of this Ordinance or of any  
345 supplemental Ordinance; provided, however, that no such supplemental Ordinance shall:

346

347 (1) Extend the due date of any principal installment payable under the Bond,  
348 or reduce the rate of interest thereon, or extend the time of payments of interest from their  
349 due date, or reduce the amount of the principal thereof, or reduce any premium payable  
350 on the redemption thereof, without the consent of the Registered Owners of all of the  
351 Bond so affected; or

352  
353 (2) Reduce the aforesaid percentage of Registered Owners of the Bond  
354 required to approve any such supplemental Ordinance without the consent of the  
355 Registered Owners of all of the Bond then outstanding.

356  
357 (3) Remove the pledge and lien of this Ordinance on assessments to be levied  
358 against the real property in the District, and funds pledged for the payment of the Bond  
359 under this Ordinance.

360  
361 It shall not be necessary for the consent of the Registered Owner of the Bond under this  
362 subsection (b) to approve the particular form of any proposed supplemental Ordinance, but it  
363 shall be sufficient if such consent shall approve the substance thereof.

364  
365 (c) Upon the adoption of any supplemental Ordinance pursuant to the provisions of  
366 this section, this Ordinance shall be deemed to be modified and amended in accordance  
367 therewith, and the respective rights, duties and obligations under this Ordinance of the City and  
368 the Registered Owner of the Bond shall thereafter be determined, exercised and enforced  
369 thereunder, subject in all respects to such modification and amendment, and all the terms and  
370 conditions of any such supplemental Ordinance shall be deemed to be part of the terms and  
371 conditions of this Ordinance for any and all purposes.

372  
373 (d) Any Bond executed and delivered after the adoption of any supplemental  
374 Ordinance pursuant to this section may bear a notation as to any matter provided for in the  
375 supplemental Ordinance, and if the supplemental Ordinance shall so provide, a new Bond so  
376 modified as to conform, in the opinion of the Council, to any modification of this Ordinance  
377 contained in any such supplemental Ordinance may be prepared by the City and delivered  
378 without cost to the Registered Owner of the Bond then outstanding, upon surrender for  
379 cancellation of such Bond in an equal aggregate principal amount.

380  
381 Section 17 – Sale of Bond; Loan Agreement. The Bond shall be sold at negotiated sale to  
382 the Lender as provided in the Loan Agreement. The City Manager is hereby authorized to  
383 execute the Loan Agreement, in substantially the form presented at this meeting, but with such  
384 changes, modifications, additions and deletions therein as he shall deem necessary, desirable or  
385 appropriate, the execution thereof to constitute conclusive evidence of approval of any and all  
386 changes, modifications, additions or deletions therein from the form and content of said  
387 document now before this meeting, and from and after the execution and delivery of said  
388 document, the City Manager hereby is authorized, empowered and directed to do all acts and  
389 things and to execute all documents as may be necessary to carry out and comply with the

390 provisions of the Loan Agreement as executed. Upon the execution of the Loan Agreement, the  
391 City shall execute and deliver the Bond to the Borough in the form authorized herein.

392  
393 Section 18 – Authority of Officers. The City Manager, the acting City Manager, the  
394 Clerk and the acting Clerk are, and each of them hereby is, authorized and directed to do and  
395 perform all things and determine all matters not determined by this Ordinance, to the end that the  
396 City may carry out its obligations under the Bond and this Ordinance.

397  
398 Section 19 – Miscellaneous. No recourse shall be had for the payment of the principal of  
399 or the interest on the Bond or for any claim based thereon or on this Ordinance against any  
400 member of the Council or officer of the City or any person executing the Bond.

401  
402 Section 20 – Ordinance a Contract with Registered Owner. In consideration of the  
403 purchase and acceptance of the Bond by those who shall own the same from time to time, the  
404 provisions of this Ordinance shall constitute a contract with the Registered Owners of each  
405 Bond, and the obligations of the City under this Ordinance shall be enforceable by any court of  
406 competent jurisdiction; and the covenants and agreements herein set forth to be performed on  
407 behalf of the City shall be for the equal benefit, protection and security of the Registered Owners  
408 of any and all of the Bond.

409  
410 Section 21 – Severability. If any one or more of the provisions of this Ordinance shall be  
411 declared by any court of competent jurisdiction to be contrary to law, then such provision shall  
412 be null and void and shall be deemed separable from the remaining provisions of this Ordinance  
413 and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

414  
415 Section 22 – Repeal of HCC 17.08. HCC Chapter 17.08 is repealed.

416  
417 Section 23 – Codification. Section 22 of this Ordinance is of a permanent and  
418 general character and shall be included in the City Code. The remainder of this Ordinance  
419 is not permanent in nature, and shall not be codified.

420  
421 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 25<sup>th</sup> day of  
422 February 2013.

423  
424 CITY OF HOMER  
425  
426  
427  
428 \_\_\_\_\_  
429 FRANCIE ROBERTS, MAYOR  
430 PRO TEMPORE



431 ATTEST:

432

433

434

435 \_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

436

437 YES:

438 NO:

439 ABSTAIN:

440 ABSENT:

441

442 First Reading:

443 Public Hearing:

444 Second Reading:

445 Effective Date:

446

447 Reviewed and approved as to form:

448

449

450

451 \_\_\_\_\_  
Walt E. Wrede, City Manager

452

453

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

\_\_\_\_\_  
Thomas F. Klinkner, City Attorney

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



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**CITY OF HOMER  
HOMER, ALASKA**

City Manager

**ORDINANCE 15-17(S)**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING ORDINANCE 13-03(S)(2) TO PERMIT THE CITY TO PREPAY PRINCIPAL OF THE NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT BOND AUTHORIZED BY ORDINANCE 13-02(S)(2), AND AUTHORIZING AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY AND THE KENAI PENINSULA BOROUGH REGARDING THE BOND.

WHEREAS, By Ordinance 13-03(S)(2), adopted February 25, 2013, the City authorized the issuance of a Natural Gas Distribution Special Assessment Bond ("Bond") in the principal amount of not to exceed \$12,700,000, and the execution and delivery of a Loan Agreement between the City and the Kenai Peninsula Borough regarding the Bond; and

WHEREAS, By Resolution 15-017, adopted March 23, 2015 the City confirmed the assessment roll for the Homer Natural Gas Distribution Special Assessment District ("District"); and

WHEREAS, On April 3, 2015, the Superior Court in *Castner v. City of Homer, et al.*, Case No. 3HO-13-00038CI, ruled that the City's method of assessing condominium units in the District was unlawful, and the Alaska Supreme Court recently denied a Petition for Review of this ruling; and

WHEREAS, The Council may consider whether to (i) waive the assessment of certain properties in the District that cannot be served by the natural gas distribution system, and (ii) recognize subdivisions reducing the number of contiguous lots under common ownership by assessing only the reduced number of lots; and

WHEREAS, The City and the Kenai Peninsula Borough have agreed that the City should prepay the principal of the Bond in an amount equal to any reduction in the amount of assessments in the District that results from (i) any requirement that the City reassess condominium units in the District, or (ii) any decision by the Council to waive the assessment of properties in the District that cannot be served by the natural gas distribution system or to assess only a reduced number of contiguous lots in common ownership resulting from resubdivision.

43 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
44

45 Section 1. Section 14 of Ordinance 13-03(S)(2) is amended to read as follows (added  
46 language is underlined):

47  
48 Section 14 – Reserve Fund.

49 (a) A special fund of the City designated the "City of Homer Natural  
50 Gas Distribution Special Assessment Bond Reserve Fund" is hereby created for  
51 the purpose of paying and securing the payment of the Bond, and is hereby  
52 pledged for that purpose. The Reserve Fund shall be held separate and apart  
53 from all other funds and accounts of the City and shall be a trust fund for the  
54 Registered Owner of the Bond. There shall be paid into the Reserve Fund:

55 (1) That part of the proceeds of the Bond which is  
56 designated for deposit in the Reserve Fund by the Loan Agreement; and

57 (2) All monies received from ENSTAR as refunds of main  
58 extension advances or free main allowance arising out of new  
59 customers connecting to the Improvement, which shall be held in a  
60 separate subaccount in the Reserve Fund; and

61 (3) Any Sinking Fund and Guaranty Fund balances remaining  
62 after the discharge of the Bond.

63 (b) Until the Bond has been discharged, the funds in the Reserve  
64 Fund may be used only to pay the difference between the amount of principal  
65 and interest due on the Bond and the amount in the Sinking Fund that is  
66 available to pay that principal and interest; provided, (i) monies in the Reserve  
67 fund that were received from ENSTAR as refunds of main extension advances  
68 or free main allowance arising out of new customers connecting to the  
69 Improvement may be used as provided in subsection (d) of this section, and (ii)  
70 if the Finance Director determines that the amount of funds available in the  
71 Reserve Fund exceeds the amount of the next annual installment of principal  
72 and interest due on the Bond, the Finance Director may apply such excess to a  
73 prepayment of the Bond.

74 (c) At such time as the Finance Director determines that the sum of  
75 the amounts in the Reserve Fund, the Guaranty Fund and the Sinking Fund  
76 equals or exceeds the amount required to (i) discharge the Bond, (ii) pay all  
77 refunds of assessments required upon discharge of the Bond, and (iii) pay any  
78 other amounts that may be owing on the Bond, the Finance Director shall  
79 cause such payment to be made and the Bond to be discharged.

80 (d) Monies in the Reserve fund that were received from ENSTAR as  
81 refunds of main extension advances or free main allowance arising out of new  
82 customers connecting to the Improvement may be used as follows:

83 (1) The City may prepay principal of the Bond in an amount  
84 equal to the reduction in the total amount of assessments against

condominium units in the District pursuant to the decision of the Superior Court in *Castner v. City of Homer, et al.*, Case No. 3HO-13-00038CI, provided that immediately following such a prepayment the amount in the Reserve Fund shall not be less than the Reserve Requirement.

(2) The City may prepay principal of the Bond in an amount equal to the reduction in the total amount of assessments in the District due to action of the City either (i) waiving the assessment of certain properties in the District that cannot be served by the natural gas distribution system, or (ii) recognizing subdivisions reducing the number of contiguous lots under common ownership by assessing only the reduced number of lots, provided that immediately following such a prepayment the amount in the Reserve Fund shall not be less than the Reserve Requirement.

Section 2. The City Manager is hereby authorized to execute the First Amendment to Loan Agreement, in substantially the form presented at this meeting, but with such changes, modifications, additions and deletions therein as she shall deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions or deletions therein from the form and content of said document now before this meeting.

Section 3. This Ordinance is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 15<sup>th</sup> day of June, 2015.

CITY OF HOMER

Francie Roberts  
FRANCIE ROBERTS, MAYOR PRO TEMPORE

ATTEST:

Jo Johnson  
JO JOHNSON, MMC, CITY CLERK

127 YES: 4  
128 NO: ~~0~~  
129 ABSTAIN: ~~0~~  
130 ABSENT: 2  
131  
132  
133 First Reading: 05.26.15  
134 Public Hearing: 06.15.15  
135 Second Reading: 06.15.15  
136 Effective Date: 06.16.15  
137  
138  
139  
140 Reviewed and approved as to form.  
141 Mary K. Koester  
142 Mary K. Koester, City Manager  
143  
144  
145 Date: 6.19.15  
146  
147  
148 Fiscal Note: NA

Thomas F. Klinkner  
Thomas Klinkner, City Attorney  
Date: 6-25-15

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

3 City Manager

4 **ORDINANCE 16-03(S)**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
7 AMENDING ORDINANCE 13-03(S)(2) TO STATE THE ACTUAL  
8 PRINCIPAL AMOUNT OF, AND CHANGE THE PAYMENT DATES  
9 FOR, THE NATURAL GAS DISTRIBUTION SPECIAL ASSESSMENT  
10 BOND AUTHORIZED BY ORDINANCE 13-02, AND AUTHORIZING  
11 AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY  
12 AND THE KENAI PENINSULA BOROUGH REGARDING THE BOND.

13  
14 WHEREAS, By Ordinance 13-03(S)(2), adopted February 25, 2013, the City authorized  
15 the issuance of a Natural Gas Distribution Special Assessment Bond ("Bond") in the principal  
16 amount of not to exceed \$12,700,000, and the execution and delivery of a Loan Agreement  
17 between the City and the Kenai Peninsula Borough ("Borough") regarding the Bond; and  
18

19 WHEREAS, All advances that will be made under the Loan Agreement have been made,  
20 the aggregate amount of such advances is \$12,359,388, and such amount may be  
21 documented by issuing a new bond to the Borough in exchange for the original Bond; and  
22

23 WHEREAS, By Resolution 15-017, adopted March 23, 2015 the City confirmed the  
24 assessment roll for the Homer Natural Gas Distribution Special Assessment District  
25 ("District"); and  
26

27 WHEREAS, Due to delays in the assessment process, the first assessment payments  
28 were due on September 1, 2015, and subsequent assessment installment payments will be  
29 due on July 1 of each year; and  
30

31 WHEREAS, As of the September 1, 2015 assessment payment date, the City had made a  
32 payment of principal and interest on the Bond to the Borough from assessment payments  
33 received by the City as of that date; and  
34

35 WHEREAS, To allow prompter payments under the Loan Agreement the due date for  
36 installment payments on the Bond should be changed from April 1 to September 1  
37 commencing with the installment payment that is due in 2016.  
38

39 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:  
40

41 Section 1. Section 2 of Ordinance 13-03(S)(2) is amended to read as follows (added  
42 language is underlined; deleted language is stricken through):

43 For the purpose of providing the funds necessary to pay the costs of designing and  
44 constructing the Improvement, to pay interest on the Bond during the construction of the  
45 Improvement, the funding of the reserves required herein, and to pay all costs incidental  
46 thereto and to the issuance of the Bond, the City shall issue the Bond in a principal amount  
47 equal to the aggregate amount of the advances that the Registered Owner makes to the City  
48 for such purposes, which is \$12,359,388.

49  
50 Section 2. The second paragraph of Section 4 of Ordinance 13-03(S)(2) is amended to  
51 read as follows (added language is underlined; deleted language is stricken through):

52  
53 The Bond shall bear interest from its date at a rate of Four Percent (4.0%) per annum,  
54 and shall be payable in two payments of interest only on the 1st days of April 2014 and 2015, a  
55 payment of principal and interest that was received by the Borough as of the September 1,  
56 2015 assessment due date, and nine equal annual installments of principal and interest,  
57 commencing on the 1st day of September 2016 and continuing on September 1 of each year  
58 thereafter, until September 1, 2024 when the remaining principal balance of the Bond, plus  
59 accrued interest, shall be due and payable. Interest will be computed on the basis of a 360-  
60 day year.

61  
62 Section 3. The first paragraph of the form of the bond in Section 7 of Ordinance 13-  
63 03(S)(2) is amended to read as follows (added language is underlined; deleted language is  
64 stricken through):

65  
66 The City of Homer (the "City"), a municipal corporation of the State of Alaska,  
67 acknowledges itself indebted and for value received promises to pay (but only out of the  
68 sources mentioned herein) to the Registered Owner identified above, or its registered assigns,  
69 a principal amount equal to the aggregate amount of the advances that the Registered Owner  
70 makes to the City to pay the costs of designing and constructing the Improvement, to pay  
71 interest on the Bond during the construction of the Improvement, the funding of the reserves  
72 required herein, and to pay all costs incidental thereto and to the issuance of the Bond, which  
73 is Twelve Million Three Hundred Fifty Nine Thousand Three Hundred Eighty Eight Dollars  
74 (\$12,359,388), together with accrued interest on the outstanding principal amount of this  
75 Bond at a rate of Four Percent (4.0%) per annum. This Bond is payable in two payments of  
76 interest only on the 1st days of April 2014 and 2015, a payment of principal and interest that  
77 was received by the Borough as of the September 1, 2015 assessment due date, and nine  
78 equal annual installments of principal and interest, commencing on the 1st day of September  
79 2016 and continuing on September 1 of each year thereafter, until September 2024, when the  
80 remaining principal balance of the Bond, plus accrued interest, shall be due and payable.  
81 Both principal of and interest on this Bond shall be payable in any lawful money of the United  
82 States of America which at the time of payment is legal tender for the payment of public and  
83 private debts. Interest on this Bond shall be computed on the basis of a 365-day year.  
84 Installments of principal and interest on this Bond shall be paid at the office of the Registered



85 Owner in Soldotna, Alaska, or at the option of the Registered Owner at the office of the  
86 Treasurer of the City in Homer, Alaska

87

88 Section 4. The third paragraph of the form of the bond in Section 7 of Ordinance 13-  
89 03(S)(2) is amended to read as follows (added language is underlined; deleted language is  
90 stricken through):

91

92 This Bond is issued pursuant to Chapter 46, Title 29 of the Alaska Statutes and  
93 Ordinance 13-03(S) of the City duly and regularly adopted February 25, 2013, for the purpose  
94 of providing funds to pay the costs of designing and constructing a natural gas distribution  
95 system (the "Improvement") in the City of Homer Natural Gas Distribution Special  
96 Assessment District, and is the single registered Bond entitled \$12,359,388 City of Homer  
97 Natural Gas Distribution Special Assessment Bond, 2013.

98

99 Section 5. The amended Bond shall be executed in the name of the City by the  
100 signature of the Mayor, and its corporate seal shall be impressed or otherwise reproduced  
101 thereon and attested by the signature of the City Clerk.

102

103 Section 6. The City Manager is hereby authorized to execute the Second Amendment  
104 to Loan Agreement, in substantially the form presented at this meeting, but with such  
105 changes, modifications, additions and deletions therein as she shall deem necessary,  
106 desirable or appropriate, the execution thereof to constitute conclusive evidence of approval  
107 of any and all changes, modifications, additions or deletions therein from the form and  
108 content of said document now before this meeting. The City Manager also is hereby  
109 authorized to deliver the amended Bond to the Kenai Peninsula Borough in exchange for the  
110 original Bond.

111

112 Section 7. This Ordinance is not permanent in nature, and shall not be codified.

113

114 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 25<sup>th</sup> day of January, 2016.

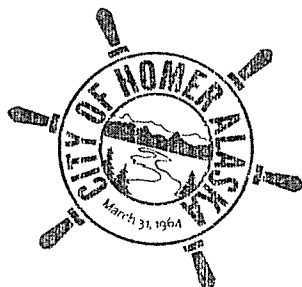
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CITY OF HOMER

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*Mary E. Wythe*  
MARY E. WYTHE, MAYOR

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121 ATTEST:

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*Jo Johnson*  
JO JOHNSON, MMC, CITY CLERK

127 YES: 6  
128 NO: 0  
129 ABSTAIN: 0  
130 ABSENT: 0

131  
132

133 First Reading: 1/11/16  
134 Public Hearing: 1/25/16  
135 Second Reading: 1/25/16  
136 Effective Date: 1/26/16

137

138 Reviewed and approved as to form.

139

140 Mary K. Koester  
141 Mary K. Koester, City Manager

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143 Date: 1-28-16

144

145

146 Fiscal Note: NA

\_\_\_\_\_  
Thomas Klinkner, City Attorney

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

# ORDINANCE(S)



# CITY MANAGER'S REPORT





## City of Homer

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

Office of the City Manager

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-8121 x2222

(f) 907-235-3148

## Memorandum

TO: Mayor Wythe and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: August 17, 2016  
SUBJECT: City Manager's Report – August 22, 2016

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### Dispatch

The Kenai Peninsula Borough Mayor's office has engaged City Administration since fall of last year on a proposal to consolidate dispatch services. Concerned about losing their contract with the State for Dispatch, they have reached out to Seward, Kenai and Homer to gauge interest in consolidation. Soldotna Police Department already dispatches through the Borough, though their cost would go up under this proposal. City administration has actively participated, providing stats and attending meetings. This is not the first time consolidation has come up. The proposal to consolidate dispatch has been floated a number of times during Chief Robl's tenure, and the City has always come to the conclusion that although the idea of greater efficiency with consolidated services sounds good, it begins to fall apart in the details. This round is no different, though the stakes are potentially higher with the budget being so tight. I have run the numbers and see no long term cost savings for the City. Administrative staff would have to be retained, and PERS termination study penalties would be incurred. There are also considerable risks including equipment failure, loss of local knowledge, and loss of control over how dispatch services are provided to the City and what we are charged for them. I have attached both the Borough's proposal and my response which provides a more detailed analysis of a complicated topic. Up until now I have refrained from digging into the details publicly as I want to be sensitive to the hard working and dedicated public servants who answer to our 911 calls any time of day or night and make sure they know their jobs are not on the line. Dispatch is a notoriously difficult position to fill and we have a great team there now. I would hate to lose any of them based on the misconception their job is at risk and want to ensure any Dispatcher reading this that is not the case. Nevertheless, this is an important enough topic that Council needs to be in the loop. The Borough would like an opportunity to address you on the topic. Would you like to extend an invitation to Mayor Navarre to present to Council during Committee of the Whole at the next Council meeting (September 12)? Mayor Navarre and Larry Persily are scheduled as visitors for the regular meeting to discuss the KPB ballot propositions that will go before the voters this fall.

### Operation Northern Edge

After the passage of Resolution 16-081(A), Opposing Siting and Timing of U.S. Navy Training Exercises that Pose Risks to Fish and Fisheries in the Gulf of Alaska, I was contacted by

Senator Murkowski's office who emphasized Senator Murkowski's involvement in insisting that the Navy and Alaskan Command work with local communities regarding exercise scheduling and activities. Murkowski's staff will be meeting with the Navy this month and will request they reinitiate consultation with the City of Homer. I have extended an open invitation to Senator Murkowski's staff on this topic, and let them know how much the City appreciates that this issue has not dropped off their radar.

### **Audit Presentation Scheduled for September 26**

Auditors across Alaska are waiting for information from the State on PERS to be able to finalize the 2015 audits. The State should release that information next week and the audit firm, BDO, is scheduled to present to you September 26. The date has been delayed by months, however I am glad Council will have information on 2015 before budget talks for 2017 begin.

### **Assistant Fire Chief Position Funded through SAFER Grant**

I am ecstatic to announce that the City of Homer has received a SAFER grant through Homeland Security for an assistant fire chief at the Homer Volunteer Fire Department. This is a two-year grant that fully funds (salary and benefits, \$248,000 over two years) an assistant chief position. As you are aware, an assistant chief position has been on the books but not funded for many years due to budget constraints. In my opinion, this position is the number one staffing need for the City. This position will have a dramatic impact on the department, the volunteers, and our department's responsiveness and readiness. The morale boost to the crew to know they have help cannot be articulated. The timing could not be better. This position will have such a positive impact on our community, and allow the department to play a bigger role in the community. If you were in my office on Wednesday morning you would have seen me doing my best happy dance yet. I should have a grant agreement in September for Council to accept by Ordinance.

### **Sales Tax and Vacation Rentals by Owner**

At the August 8 Council meeting while discussing budget priorities, Council brought up a question about how vacation rentals (Airbnb and VRBO, for example) are taxed. I contacted Larry Persily with the Borough and he confirmed that their lodging transactions are taxable--though compliance can be difficult. The sales tax staff scans the websites (Airbnb and VRBO) on a monthly basis looking for unregistered businesses.

From Mr. Persily, "A couple of points to keep in mind: Under the proposed code revision, anyone taking in less than \$2,500 a year would be exempt from collecting sales tax. So the low-priced room that gets rented out 30 nights a year at \$60 a night would be tax exempt. And, also under the code revision, we clarify and reaffirm that either the property owner pays the tax or Airbnb pays the tax, we don't really care much which one. (We don't say Airbnb by name, but reference out-of-borough businesses with an agent or business link in the borough.) Though, admittedly, it will be easier to collect from the local rental operator. This same provision would apply to Amway, Shaklee and other distributors who use local agents to peddle their goods."



### **Lunch with a Councilmember**

With fall around the corner (though it seems like it has settled in already), the timing is right to resurrect Lunch with a Councilmember, as long as Councilmembers are still up for it.

The Library Director spoke with the Friends who sponsor this event. Their suggestions are:

- Start in October
- Do it the same day every month through March
- Send out the schedule to all the non-profits and other organizations we can think of in town
- Have councilmembers sign up in advance so the Friends can make one poster (with the election in October we should wait till the second meeting to circulate a signup sheet)

Questions for Council are:

- Is the first Council Monday of the month still the preferred day?
- If so, would someone like to sign up for Oct. 10<sup>th</sup>?
- Any other suggestions (timing, etc.)? - the Friends are open to ideas.

Enc:

Draft Dispatch Consolidation Proposal from KPB  
City of Homer Response





## City of Homer

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

Office of the City Manager

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(p) 907-235-8121 x2222

(f) 907-235-3148

### Memorandum

TO: Mayor Navarre, Kenai Peninsula Borough  
FROM: Katie Koester, City Manager, City of Homer  
DATE: May 17, 2016  
SUBJECT: Dispatch Consolidation

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#### **Redundancy/ loss of connectivity**

This is a big issue for the City, Homer is the most distant client in this proposal. How would redundancy be provided if connectivity is lost? This happens from time to time now. According to our consultant, ProComm, employing 2 systems, like ALMR and HPD 1&2 or HVFD 1&2 is not redundant, once connectivity to Homer is lost we would be 100% down. I understand that we cannot necessarily plan for 'the big one,' but it is a policy call to decide how much risk we are willing to take on. I am unable to say with confidence that the risk of losing connectivity is limited to a major, regional natural disaster and would like a greater degree of assurance that routine outages can be prevented.

#### **Extra charges/services**

Cameras. Like Seward, the City of Homer has a number of security cameras that are monitored by dispatch (airport, port, etc.) From the paperwork you presented at the meeting, this looks like a \$143 charge per month per circuit?

Cost for other departments. Depending on events, there can be a lot of radio work for dispatchers with Public Works and Port and Harbor. KPB dispatch would have to tie into the Harbor radio system and Public works repeaters, which would have an equipment cost and call level cost.

Local alarms. There are several local alarms that ring into dispatch (panic buttons at City Hall, the College, High School, etc.). There are also alarms for the water treatment plant and pump stations. What will that service cost? Can it be provided?

#### **Cost**

We have confirmation from the state that by eliminating the classification of employees – dispatchers – it would trigger a termination study.

The HPD does not track call volume with the same software the Borough does. Though we had dispatch go through the call log by hand to try and come up with more comparable statistics, we are certain our call volume – and therefore cost – will increase under the CAD system used by KPB. Under the proposal, Homer would be paying less than Soldotna. HPD is a busier department than Soldotna and our call volume under CAD would reflect that.

### Local Knowledge

The importance of local knowledge is more than just knowing the local geography and landmarks. Our local dispatchers know the frequent callers, know when to take a call more seriously and can think quickly to apply local resources in a situation. At least once a year we have a potentially major incident turn out well because of this type of local knowledge.

### Capital cost avoidance

This may be an area where municipalities can experience true cost savings. It would be helpful to understand what one time cost saving there are (new radios that cities would have to buy anyway) and what ongoing savings there would be (ongoing dispatch equipment replacement cost?).

The City of Homer is in the process of designing a new police station. There will be a cost avoidance in not housing dispatch that Council will need to consider.

### Control and the future/ administration

What is the guarantee to municipalities that this cost will not escalate in the future? How will all the municipalities have a true seat at the management table? I know this question is equally important to the administration as it is to the municipalities. I do not have a solution. A joint operating agreement where each municipality has a seat may be a viable option, but I would worry that efficiencies would be lost in this type of management structure, which could drive up cost. I also worry about a central peninsula bias in such a structure. Figuring out this structure would be a necessity before making any final commitments. I am interested to see proposals from the other municipalities, or a consultant that specializes in 911 services, on how to handle this issue.

### City of Homer staffing under a consolidated dispatch

The staffing needs for HPD are one jail officer (dispatch currently monitors cameras when there is no coverage in the jail) and 2.5 administrative support staff. We also would need some increased overtime hours for the officers for the paperwork processing dispatch helps with. A good argument can be made that the City should be replacing a jailer regardless of the location of dispatch. However, this would still not push the needle to an annual cost savings for the City of Homer.

<u>Salary &amp; Wages</u>	<u>Benefits Total</u>	<u>Total Labor Costs</u>
65,000	34,130	99,130
60,000	32,612	92,612
28,000	22,899	50,899
46,000	28,363	74,363

2.5 dispatchers retained as staff = \$317,000/ year Total Labor Costs

+ 1 jailer added

350 hours additional OT officers = \$14,000/ year

PERS Termination Study estimate = \$130,000/ initial year

= \$85,000 / every year after

First year = Costs City \$461,000 (Labor Costs/ OT/ PERS Termination estimate)

Every year after = \$416,000 (Labor Costs/ OT/ PERS Termination estimate)

### **In Summary**

Thank you for taking on this incredibly complex issue. As this concept progresses, the City would like to see a radio systems engineer to design the connectivity needed for a joint dispatch center. The engineer can design the center and the satellites as a unified system connected with multiple redundant links for reliability. An emergency communications consultant with experience in 911 systems and radio systems should be employed in system design and to ensure all users are treated equally. A radio systems consultant, the City of Homer uses ProComm, could provide a feasibility assessment before investing significant dollars in design. Radio communications is a very complicated topic. With these assurances from professionals, I think removed locations like the City of Homer would feel much more secure that we are not taking on an untenable amount risk.

The City of Homer is willing to see this process through until we can get more reliable information and assurances on some of the larger unknowns. Given the preliminary numbers I am skeptical this will be financially feasible for Homer. Nevertheless, there are many moving pieces and it is important to explore all the options and present Council with the risks and benefits of consolidation.



Kenai Peninsula Borough Consolidated Dispatch Center  
Fee Methodology Proposal  
DRAFT

**1. SUMMARY**

The Soldotna Public Safety Communications Center (SPSCC) provides dispatch services to a number of borough service areas and the city of Soldotna. The borough is examining the possibility of offering these services to the cities in the borough that currently operate independent dispatch centers (Kenai, Homer, and Seward). This document proposes a fee structure for all agencies that a consolidated SPSCC would dispatch for. This fee structure is calculated based on the actual cost to run dispatch with the addition of Seward, Kenai and Homer dispatch centers. This structure may be changed slightly – based on the number of additional dispatchers needed – if all three cities do not decide to consolidate. The maximum borough-wide savings will be achieved with consolidation of all centers. *This document is a DRAFT PROPOSAL only and is intended to outline a potential structure and important points of consideration moving forward.*

**Total direct cost for borough<sup>1</sup> operated consolidated center: \$3,001,057**

The cost of running this consolidated center will be split amongst all agencies that the SPSCC dispatches for, after the deduction of the E911 surcharge, State Park Service contributions, individual city specialized services, and borough general fund contribution. The borough general fund will cover small agencies that are not within cities or service areas (Moose Pass, Hope, Cooper Landing, and Ninilchik), 911 addressing, and the purchase of 6 new radio consoles.

This cost breakdown is based on the cost of running a center (FY2017 budget) with **6 additional dispatchers and .5 additional administrative assistants** (Totaling 13 public safety dispatchers, 3 shift supervisors, 1 communications center manager, 1 IT specialist, 1 administrative assistant) There are also 8 state dispatchers and 1 state office assistant in the SPSCC.

This number also includes the estimated cost of annual training for airport response (\$8,000 annually), maintaining radio/IP linkage with Seward and Homer (\$232/month), and door buzz-in circuit charges (\$100/month for Homer and Seward, \$300/month for Kenai). However, city specific costs are billed separately and deducted from the overall budget before calculating cost/call. These fees are discussed in the specialized services below.

**2. GENERAL COST BREAKDOWN**

Event call volume, rather than 911 call volume, is the best way to measure cost allocation. The current borough CAD system will be able to track these numbers, and these numbers represent the proportional workload for each agency at the center. To account for year-to-year fluctuation, fees for call volume ranges have been established.

Police calls are generally more frequent and have a shorter duration, and are thus weighted at half of the cost per call (\$24/call). Fire and EMS calls tend to be longer duration and are thus weighted at \$48/call. This reflects

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<sup>1</sup> The state pays for a portion of personnel and equipment, these costs are not included In this discussion

**Kenai Peninsula Borough Consolidated Dispatch Center  
Fee Methodology Proposal  
DRAFT**

the average workload for each call, and is similar to the structure used by Fairbanks Emergency Communications Center. This ratio should be reassessed and adjusted at a future date to reflect relative average workload of the two types of calls. However, as there is not data collected at a standardized center at this time, a 2:1 ratio will be used.

**Fire and EMS calls: \$48/call  
Police calls: \$24/call**

Minimum fees for fire agencies will be based on 200 calls/ year and police agencies will be based on 1000 calls/year. Fire agency rates will increase every 200 calls until reaching 1000 calls. At this point the rate will increase every 1000 calls. Rates for police agencies will increase every 1000 calls. This system is used by Fairbanks Emergency Communications Center.

This fee system is structured simply so that agencies participating in the SPSCC have a realistic idea of what they will be charged. These ranges should be reassessed when this structure is reviewed. If agencies in the borough frequently fluctuate between two blocks - for instance if the call volume of Anchor Point fluctuates regularly between 190 and 210 - this structure should be adjusted to maximize year-to-year stability and ease of agency budgeting.

<b>Fire Agency</b>		
0	200	\$9,600
201	400	\$19,200
401	600	\$28,800
601	800	\$38,400
801	1000	\$48,000
1001	1200	\$57,600
1201	1400	\$67,200
1401	1600	\$76,800
1601	1800	\$86,400
1801	2000	\$96,000
2001	3000	\$144,000
3001	4000	\$192,000
4001	5000	\$240,000
5001	6000	\$288,000

<b>Police Agency</b>		
0	1000	\$24,000
1001	2000	\$48,000
2001	3000	\$72,000
3001	4000	\$96,000
4001	5000	\$120,000
5001	6000	\$144,000
6001	7000	\$168,000
7001	8000	\$192,000
8001	9000	\$216,000
9001	10000	\$240,000
10001	11000	\$264,000
11001	12000	\$288,000
12001	13000	\$312,000
13001	14000	\$336,000

These rates are calculated by dividing operating budget (after deduction of E911 surcharge, State Park contributions, borough general fund contributions, and specialized services) by total weighted call volume to calculate a cost/call value. This will be recalculated after the first year of operating a consolidated center, and every three years beyond that. There will be a 2% annual increase in these rates to account for inflation.

All call volume charges after year one will be based on borough tracked call volumes for the previous calendar year, this will be standardized across all agencies. The borough will submit a notice by March 1<sup>st</sup> of each year,



Kenai Peninsula Borough Consolidated Dispatch Center  
 Fee Methodology Proposal  
 DRAFT

and an invoice by July 1<sup>st</sup>, which will be paid in full by September 30<sup>th</sup> each year. If this becomes effective in the middle of a fiscal year, the agency will pay a prorated amount for the first year. Rates for FY2017 will be based on CY2015 call volumes.

**3. ANNUAL SPECIALIZED SERVICES**

Fees will also include a cost for any specialized service outside of normal dispatch responsibilities. The below list includes fees for services that dispatch currently offers. Additionally services may be offered per agreement between the agency and the SPSCC, the fees for these services should be actual additional cost of providing these services at the center. Specialized costs are deducted from the operating budget prior to the calculation of the general cost/call discussed above.

Service		Rate	Measurement
Police Administrative Call Taking*	Upon request	\$1.50	Per call
Airport Preparedness Staff Training	Kenai required	\$8,000	Estimated annual training cost at 8 hours/dispatcher
TLS Circuit Charge	Homer Seward	\$232/month	Per month, if cities move to ALMR this charge will be eliminated
Buzz-in circuit charge	Homer Seward	\$100/month	Per month
Airport circuit charges	Kenai	\$300/month	Estimated – will be based on actual cost
Camera Access†	Upon request	TBD	Charge will include TLS circuit charge plus an additional \$143/month to increase TLS circuit speed, other charges will be agreed upon based on specific needs

\*For administrative calls, each city is responsible for coordinating with DPS to add a circuit to utilize the current administrative phone system, for configuring scheduled forwarding of administrative calls to the DPS line, for the cost of circuit tying their phone system to the DPS administrative system, and for any long distance charges incurred. Any call that does not result in a CAD Call for Service (CFS) will be billed at the administrative call rate. Any administrative call requiring CFS and associated records management data entry will be billed at standard rates.

†Camera systems must integrate with the current borough system and charges will be determined on an individual basis. Agencies are responsible for any set up cost. Passive access only, active monitoring not available.

Kenai Peninsula Borough Consolidated Dispatch Center  
 Fee Methodology Proposal  
 DRAFT

**4. ONE TIME CITY INTEGRATION FEES**

These costs reflect one time fees associated with the transition and integration of the dispatch centers. There will be a one-time integration fee of **\$10,000** per city to cover general transition costs. Other costs are estimated in the table below, but will be charged to the cities at actual cost.

Service		Estimate	Measurement
One time integration fee	All cities	\$10,000	Flat fee
Radio/IP linkage*	Homer/Seward	\$6,000	Actual cost
Buzz-in capabilities	Homer/Seward	\$5,000	Actual cost
Airport transition	Kenai	\$15,000	Actual cost

\* Homer and Seward will be responsible for maintaining their own legacy radio system, and will be required to maintain the remote end of the radio-IP bridge.

**5. ESTIMATED FEES PER AGENCY**

**General Cost**

Agency	Fire and EMS	Police	Contribution
City of Soldotna	0	11,322	\$288,000
City of Kenai	1,378	7,840	\$259,200
City of Homer	637	8,819	\$254,400
City of Seward*	694	3,728	\$134,400
KESA	174	-	\$9,600
Central Emergency Services	2,802	-	\$144,000
BCFSA	130	-	\$9,600
Nikiski Fire Service Area	884	-	\$48,000
Anchor Point	213	-	\$19,200
State Park Service	Pays for 1 dispatcher		\$105,000
<b>Total</b>			<b>\$1,271,400</b>

*\*Seward call-volume CY2015: SVAC 523, SVFD EMS 205, SVFD Fire/Other 144. To avoid charging Seward twice for EMS calls, SVFD EMS calls are not included in total Fire/EMS call volume*

**Specialized Cost**

Will be determined based on additional services selected by agencies and actual cost.

Agency	Type	Fee
City of Kenai	Airport training, airport circuits	\$11,600
City of Homer	TLS Circuit, buzz-in circuit	\$3,984
City of Seward	TLS Circuit, buzz-in circuit	\$3,984
<b>Total</b>		<b>\$19,568</b>

Kenai Peninsula Borough Consolidated Dispatch Center  
 Fee Methodology Proposal  
 DRAFT

**Integration Cost**

Estimated one time cost of integrating new centers. This is not included in overall operating budget overview below, as these fees are specifically to cover transition costs, not annual operating budget.

Agency	Type	Fee
City of Kenai	Integration, airport	\$25,000
City of Kenai	Integration, radio/IP, buzz-in	\$21,000
City of Homer	Integration, radio/IP, buzz-in	\$21,000

**Total Charges**

Estimated total cost of consolidated center per agency.

Agency	First Year	Annual
City of Soldotna	\$288,000	\$288,000
City of Kenai	\$295,800	\$270,800
City of Homer	\$279,384	\$258,384
City of Seward	\$159,384	\$138,384
KESA	\$9,600	\$9,600
CES	\$144,000	\$144,000
BCFSA	\$9,600	\$9,600
Nikiski Fire Service Area	\$48,000	\$48,000
Anchor Point	\$19,200	\$19,200

**Borough Charges**

The borough general fund will cover the following costs

Item	Measurement	Cost
Radio replacement*	Annual budget	\$98,963
911 Addressing	Annual budget	\$122,115
Small agency call†	433 calls (401-600 block)	\$28,800
<b>Total</b>		<b>\$249,878</b>

\*The equipment replacement fund will be used to cover the cost of 6 new dispatch radio consoles  
 †Hope (19), Ninilchick (229), Cooper Landing (123), Moose Pass (62)

This document provides an estimate of consolidation costs. If additional services and integration costs specific to each city are identified, these costs will be billed to the integrating agency. General unexpected transition costs for the SPSCC itself (such as project management) will be covered by the borough. Estimated costs include:

Item	Measurement	Cost
ProQA software licensing	One time	\$11,000
New equipment	One time	\$20,000
<b>Total</b>		<b>\$31,000</b>

Kenai Peninsula Borough Consolidated Dispatch Center  
 Fee Methodology Proposal  
 DRAFT

**6. CONSOLIDATED CENTER BUDGET OVERVIEW**

<b>Consolidated dispatch budget summary</b>	
Revenue from agencies	1,290,968
E911 revenue	1,544,348
Borough general fund	249,878
<b>Total revenue</b>	<b>3,085,194</b>
FY 2017 budget	2,431,295
- E911 Payments	(158,400)
+ 6 dispatchers, .5 admin	708,594
+ Airport and radio/IP costs	19,568
<b>Total consolidated annual budget</b>	<b>3,001,057</b>
<b>Fund Balance</b>	<b>84,137</b>

**7. AGENCY INPUT**

Cities will be charged based on their actual call volume collected by the CAD system at the SPSCC. Actual costs after year one may vary from estimated costs in this document, as there is not currently a unified way of collecting call volume data. Fees will be determined based on calendar year call volume and charged to cities on an annual basis during fiscal year budget preparation. The base rate (fee/call) will be recalculated every three years based on overall center call volume and operating budget.

In order to account for advances in technology and other changes in dispatch center operations, the entire fee structure will need to be reassessed periodically. The group for this fee structure reassessment will include representatives from each of the agencies participating in the call center. In addition, there will need to be an avenue created for input on fee methodology and other aspects of dispatch operations.

This proposal does not go in to detail on the structure of this group, which will be worked out with the agreement of all agencies.

**8. E911 SURCHARGE**

The borough will continue collect all E911 surcharges and this charge will be deducted from overall operating cost before rate per call for Fire, EMS, and Police are determined.



# City of Homer

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

Office of the City Clerk

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## Memorandum

TO: MAYOR WYTHE AND CITY COUNCIL  
FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK  
DATE: AUGUST 18, 2016  
SUBJECT: BID REPORT

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**NOTICE OF SALE** - Notice is hereby given that the **28' vessel Scorpio**, AK 3856M (expired), located on the uplands on the North side of the Homer Small Boat Harbor in Homer, Alaska, will be sold by the City of Homer to the highest bidder as is, together with its trailer, equipment, gear, furniture, apparel, fixtures, tackle, boats, machinery, anchors and all appurtenances. Wheel immobilizer is not included. The Scorpio is a 28' fiberglass Carver recreational vessel with a 10' beam and a 2 ½ ' draft. It is currently on a damaged trailer. Vessel is considered to be abandoned. A bidder's packet and bidding instructions are available at Homer City Hall, Office of the City Clerk, 491 E. Pioneer Avenue, Homer, AK 99603, phone (907) 235-3130. Sealed bids will be received at the office of the City Clerk until **2:00 p.m., September 6, 2016**, at which time they will be opened and read. The time of receipt will be determined by the City Clerk's time stamp. The sale will be to the highest bidder. Payments must be made in cash, certified check or cashier's check. There is a minimum acceptable bid of \$200. Vessel must be removed from City property within 14 calendar days of receipt of quit claim and Bill of Sale. Vessel cannot return to the Homer harbor facilities without an inspection and authorization from the Homer harbormaster. The City of Homer reserves the right to reject all bids.

### **INVITATION TO BID FOR CITY-OWNED 2016 DREDGE MATERIALS**

Sealed bids for the **City-owned 2016 Dredge Materials** will be received at the Office of the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603 until **2:00 p.m. Thursday, August 18, 2016** at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for receipt of the bid shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.

### **INVITATION TO BID KACHEMAK DRIVE (PHASE III) WATER AND SEWER IMPROVEMENTS**

Sealed bids for the construction of the **Kachemak Drive (Phase III) Water and Sewer Improvements** will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **2:00 p.m. Thursday, September 1, 2016**, at which

time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for the receipt of the bids shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Plan holder registration forms and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>

### **REQUEST FOR PROPOSALS FOR OPERATION AND MANAGEMENT OF THE HOMER ANIMAL SHELTER**

Sealed proposals for Operation and Management of the Homer Animal Shelter will be received until **4:00 p.m., September 16, 2016** at the office of the City Clerk, City Hall, City of Homer, 491 E. Pioneer Avenue, Homer, Alaska, 99603. The time of receipt will be determined by the City Clerk's time stamp. All proposers must submit a City of Homer Plan Holders Registration Form to be on the Plan Holder's List. All proposers are required to **attend one mandatory Pre-Proposal Conference and Tour either: Wednesday, August 24, 2016 at 2:00 p.m. or Thursday, August 25, 2016 at 2:00 p.m.**, at the Homer Animal Shelter, 3575 Heath Street, Homer, Alaska.

# CITY ATTORNEY REPORT







**MEMORANDUM**

**TO: MAYOR AND CITY COUNCIL MEMBERS  
CITY OF HOMER**

**FROM: HOLLY C. WELLS**

**RE: CITY ATTORNEY REPORT FOR APRIL 2016**

**FILE NO.: 506,742.23**

**DATE: AUGUST 17, 2016**

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The following summarizes our activities as City Attorney during the month of July, 2016.

City Council. Holly Wells attended the August 8, 2016 Council meeting.

City Manager. I worked with the City Manager on negotiations surrounding land sale discussions with the Mental Health Land Trust. On an administrative level, I also met with the City Manager to address her request for monitoring of the legal fees accrued and consideration of cost-cutting measures that would eliminate any unnecessary legal fees. Tom Klinkner worked with the City Manager on monitoring the City's contract with Wyndham Publishing. Mr. Klinkner also worked with the City Manager on identifying and reviewing changes proposed to the lease between the City and SpitwSpots and negotiating the terms of that lease.

Marijuana Regulation. Various members of our team worked on the preparation of documents for the Homer Cannabis Advisory Commission (the "CAC"), including but not limited to the consideration of the implementation and enforcement of an excise tax on marijuana and marijuana products within the City of Homer (the "City"). I met with the City Planner and the City Manager regarding taxation options, challenges, and fiscal concerns and advised the CAC regarding the expenses associated with the implementation of a City excise tax program.

Planning Department. Katie Davies worked with the Planning Director to devise a procedure for the enforcement of City land laws in small claims court.

Public Works Department. We worked with the Public Works Director on drafting required certifications for clean water fund loans.

Port & Harbor. Katie Davies worked with the Harbor Master and Port staff on the creation of an updated citation form and simplified appeals process regarding such citations. I worked with the Port and Harbor staff and the Harbor Master regarding requests for proposals for the creation of an updated and tailored harbor database program.

Parks & Recreation. Mr. Klinkner worked with the City Manager on the animal control contract. Mr. Klinkner and I also worked with the Kenai Peninsula Borough (the "Borough") on the transfer of recreation power to the Borough for the limited purpose of leasing an indoor recreational facility.

H.A.R.T. Program. We advised the City Manager regarding whether voter approval is required to change the purposes for which H.A.R.T. funds are spent.

Griswold v. City of Homer. Mr. Griswold filed numerous motions requesting extensions and supplements as well as his opening brief in one of two cases currently being appealed by Mr. Griswold. Our team is working diligently to respond to those pleadings.

Clear Creek Cat Rescue v. City of Homer. Mr. Klinkner worked on drafting a reply to opposing counsel's option to partial summary judgment filed by the City.

I will be available to answer questions regarding these matters at the September 12, 2016 Council meeting.

cc: Katie Koester  
Jo Johnson

HCW/

# COMMITTEE REPORTS



PENDING BUSINESS



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

3 City Manager/  
4 Public Works Director

5 **RESOLUTION 16-078**

6  
7 A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING  
8 MEMORANDUM 16-120 ESTABLISHING CONDITIONS UNDER WHICH  
9 ADJACENT AND BENEFITTED PROPERTIES CAN CONNECT TO THE  
10 SHELLFISH AVENUE/SOUTH SLOPE DRIVE WATER MAIN PROJECT.

11  
12 WHEREAS, The extension of a water main along Shellfish Avenue/South Slope Drive is  
13 recommended by the Water/Sewer Master Plan and construction will be complete by the end  
14 of the summer 2016; and

15  
16 WHEREAS, This type of improvement is normally constructed through the formation of  
17 a neighborhood initiated Special Assessment District (SAD) where benefitted property owners  
18 are assessed for their fair share based on policy established in the Homer Accelerated Water  
19 and Sewer Program (HAWSP) Manual; and

20  
21 WHEREAS, The Shellfish Avenue/South Slope Drive water main project was not  
22 initiated by the neighborhood property owners, but is being constructed by the City utilizing  
23 in part state and federal grant funds; the conditions under which adjacent property owners  
24 can connect to this new main are not clear; and

25  
26 WHEREAS, Public Works has prepared a Memorandum establishing what an adjacent  
27 property owner needs to do to be allowed to connect to the Shellfish Avenue/South Slope  
28 Drive water main, based on input from affected property owners and previous actions by the  
29 City Council.

30  
31 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves  
32 Memorandum 16-120 which establishes the conditions under which adjacent and benefitted  
33 property owners can connect to the Shellfish Avenue/South Slope Drive water main project.

34  
35 PASSED AND ADOPTED by the Homer City Council this \_\_\_\_ day of \_\_\_\_\_, 2016.

36  
37 CITY OF HOMER

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39  
40 \_\_\_\_\_  
41 MARY E. WYTHE, MAYOR  
42

43 ATTEST:

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47 \_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

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49 Fiscal note: Account #215-2837 - 17 parcels at \$14,057 each



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

3 City Manager/  
4 Public Works Director

5 **RESOLUTION 16-078(S)**  
6

7 A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING  
8 MEMORANDUM ~~16-120~~ **16-138** ESTABLISHING CONDITIONS UNDER  
9 WHICH ADJACENT AND BENEFITTED PROPERTIES CAN CONNECT TO  
10 THE SHELLFISH AVENUE/SOUTH SLOPE DRIVE WATER MAIN  
11 PROJECT.  
12

13 WHEREAS, The extension of a water main along Shellfish Avenue/South Slope Drive is  
14 recommended by the Water/Sewer Master Plan and construction will be complete by the end  
15 of the summer 2016; and  
16

17 WHEREAS, This type of improvement is normally constructed through the formation of  
18 a neighborhood initiated Special Assessment District (SAD) where benefitted property owners  
19 are assessed for their fair share based on policy established in the Homer Accelerated Water  
20 and Sewer Program (HAWSP) Manual; and  
21

22 WHEREAS, The Shellfish Avenue/South Slope Drive water main project was not  
23 initiated by the neighborhood property owners, but is being constructed by the City utilizing  
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25 can connect to this new main are not clear; and  
26

27 WHEREAS, Public Works has prepared a Memorandum establishing what an adjacent  
28 property owner needs to do to be allowed to connect to the Shellfish Avenue/South Slope  
29 Drive water main, based on input from affected property owners and previous actions by the  
30 City Council.  
31

32 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves  
33 Memorandum ~~16-120~~ **16-138** which establishes the conditions under which adjacent and  
34 benefitted property owners can connect to the Shellfish Avenue/South Slope Drive water  
35 main project.  
36

37 PASSED AND ADOPTED by the Homer City Council this \_\_\_\_ day of \_\_\_\_\_, 2016.  
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CITY OF HOMER

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MARY E. WYTHE, MAYOR

ATTEST:

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JO JOHNSON, MMC, CITY CLERK

Fiscal note: Account #215-2837 - 17 parcels at \$14,057 each



# City of Homer

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

## Public Works

3575 Heath Street  
Homer, AK 99603

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

(p) 907- 235-3170

(f) 907-235-3145

## Memorandum 16-120

TO: Mary K. Koester – City Manager  
FROM: Carey Meyer – Public Works Director  
DATE: July 15, 2016  
SUBJECT: **Policy Regarding Conditions for Property Owner Connection  
Shellfish Avenue/South Slope Drive Water Main Extension Project**

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Background: The Water/Sewer Master Plan for the City of Homer calls for improvements to the City’s water system that would improve the reliability of the water service to the community and provide piped drinking water to those that are not currently served. The extension of a water main along Shellfish Avenue/South Slope Drive (see attached map) is one of those improvements. Public Works has completed the design of the improvement and has obtained a grant to help pay for the design and construction. Normally, these types of improvements are constructed through the formation of a neighborhood initiated Special Assessment District (SAD) where benefitted property owners are assessed for their fair share. Water and sewer SAD assessments have normally been distributed equally to all benefitted lots.

This project was initiated by the City. 55% of the cost of design and 70% of the cost of construction will be covered by grants obtained by the City. The remaining costs shall be divided equally between the benefitted property owners fronting the main.

Attached is a table showing the estimated “fair share” of the costs anticipated for each benefitted fronting property. The City Council will review and approve the actual costs once actual costs are known.

Condition for connection to the water main:

- 1) Property owner shall pay their “share” in full or execute an agreement between the City and the property owner(s) that permits connection, promises to pay their “share” in equal annual payments over a 10-20 year period (interest charges at 1.5% over the term of the agreement), and authorizes the City to record a lien against the property. Interest will accrue from the date that the City Council establishes final project cost.

**Recommendation:** The City Council approve this Memorandum which establishes the conditions under which benefitted property owners can connect to the Shellfish Avenue/South Slope water main.



## Memorandum 16-138

TO: Mary K. Koester – City Manager  
FROM: Carey Meyer – Public Works Director  
DATE: August 12, 2016  
SUBJECT: **Policy Regarding Conditions for Property Owner Connection  
Shellfish Avenue/South Slope Drive Water Main Extension Project**

---

Background: The Water/Sewer Master Plan for the City of Homer calls for improvements to the City's water system that would improve the reliability of the water service to the community and provide piped drinking water to those that are not currently served. The extension of a water main along Shellfish Avenue/South Slope Drive (see attached map) is one of those improvements. Normally, these types of improvements are constructed through the formation of a neighborhood initiated Special Assessment District (SAD) where benefitted property owners are assessed for their fair share. Water and sewer SAD assessments have normally been distributed equally to all benefitted lots.

This project was initiated by the City. 55% of the cost of design and 70% of the cost of construction will be covered by grants obtained by the City. The remaining costs shall be divided equally between the benefitted property owners fronting the main.

Based on the estimated cost of water main construction and the number of lots fronting the main, the per lot cost attributable to each lot is estimated to be \$14,057. This amount will be formally established by City Council action when actual costs are known (most probably at the second meeting in September).

### Conditions for connection to the water main:

- 1) The owner of a lot that fronts the Shellfish Avenue/South Slope Drive water main shall request service in writing from the Public Works Department.
- 2) Property owner shall pay their "share" as shown above in full or execute an agreement between the City and the property owner(s) that permits connection, promises to pay their "share" in equal annual payments over a 10-20 year period (interest charges at 1.5% over the term of the agreement), and authorizes the City to record a lien against the property. Interest will accrue from the date the City Council establishes final project costs, for a period of 20 years (equivalent to the term of the construction loan).
- 3) If a lot that fronts the main is subdivided, new lots that front the main will be required to pay a share equal to the per lot cost per HCC 17.04.100 - Subdivision After Levey of Assessments.

- 4) The water connection permit fee (currently \$658.40) must be paid when the connection permit is issued.

**Recommendation:** The City Council approve this Memorandum which establishes the conditions under which property owners fronting the main can connect to the Shellfish Avenue/South Slope water main.



AV  
2015

# 2015 CORRECTED NOTICE OF ASSESSMENT

Annual - Real Property

KENAI PENINSULA BOROUGH  
ASSESSOR'S OFFICE  
144 N. BINKLEY STREET  
SOLDOTNA, AK 99669  
(907) 714-2230 Fax: 714-2393  
(800) 478-4441

copy



MIKE NAVARRE  
BOROUGH MAYOR

Toll free within Kenai Peninsula Borough only



QUIET CREEK COMMUNITY ASSOCIATION INC  
PO BOX 1623  
HOMER AK 99603-1623

**THIS IS NOT A TAX BILL**

March 6, 2015

This is a notice of the January 1st assessed value for the following described taxable property.

Account Number 177-010-82 Tax Code Area 20 - HOMER CITY  
Parcel Address 4725 SOUTH SLOPE DR LAND  
Legal Description T 6S R 13W SEC 17 Seward Meridian HM 2014023 BARNETT SUB QUIET CREEK  
ADDN 2014 TRACT A1

### 2015 ASSESSED VALUES

Assessed Land Value

\$0

Assessed Improvement Value

\$0

Total Assessed Value

\$0

AS 29.45.180(a) & KP.B 5.12.040 (A) Require that a person receiving a Notice of Assessment must advise the Assessor of errors or omissions in the assessment of the person's property, or of disputes in assessed value or taxable status of the property, within 30 days after the mailing of the Notice of Assessment.

Any structures located on this property as of January 1, that are not reflected on this notice must be reported to the Assessor. Structures omitted from the main tax roll will be placed on a supplemental tax roll at the time of discovery and a tax bill will be sent to you including accrued interest.

APPEAL DEADLINE: 04/06/2015 TAXES DUE IN FULL: 10/15/2015  
OR  
BOARD OF EQUALIZATION WILL BEGIN MEETING: 05/25/2015 1st INSTALLMENT DUE: 09/15/2015  
2nd INSTALLMENT DUE: 11/15/2015

**APPEAL PROCEDURE AND IMPORTANT TAX INFORMATION ON REVERSE SIDE**

copy

DECLARATION FOR  
QUIET CREEK COMMUNITY

QUIET CREEK COMMUNITY, LLC, an Alaska Limited Liability Company, owns property in Homer, Alaska, described as:

Tract A, Barnett Subdivision Quiet Addition, according to Plat No. 2003-56, in the Homer Recording District, Third Judicial District, State of Alaska.

QUIET CREEK COMMUNITY, LLC, referred to herein as "Declarant", hereby submits the above-described property, to the provisions of AS 34.08, the Uniform Common Interest Ownership Act, for the purpose of creating the QUIET CREEK COMMUNITY. QUIET CREEK COMMUNITY, LLC declares that the Units created by this Declaration and shown on the plat and plans attached as Exhibit 1 shall be held and conveyed subject to the following terms, covenants, conditions and restrictions.

ARTICLE I  
Definitions

In the Documents, the following words and phrases shall have the following meanings. Any term not defined in the Documents shall have the meaning specified in the Act.

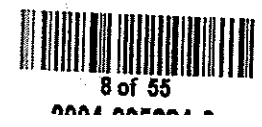
Section 1.1 - Act. The Uniform Common Interest Ownership Act, AS 34.08, as it may be amended from time to time.

Section 1.2 - Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration and shown on Exhibit 2.

Section 1.3 - Association. QUIET CREEK COMMUNITY ASSOCIATION, INC., a non-profit corporation organized under Chapter 10.20 of the statutes of the State of Alaska, or any successor of the Association, by whatever name, charged with the duties and obligations set forth in this Declaration. It is the Association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.4 - Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need be recorded in the property records.

Section 1.5 - Common Elements. Each portion of the Common Interest Community other than a Unit.





copy

Section 1.6 - Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.7 - Common Interest Community. The real property and units created therein subject to the DECLARATION FOR QUIET CREEK COMMUNITY.

Section 1.8 - Condominium: A Common Interest Community in which portions of the real estate are designated for separate ownership, the remainder of the real estate is designated for common ownership solely by the owners of those portions, and the undivided interests in the Common Elements are vested in the Unit Owners.

Section 1.9 - Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a unit not previously disposed of, or who reserves or succeeds to a special Declarant right; in this case, QUIET CREEK COMMUNITY, LLC.

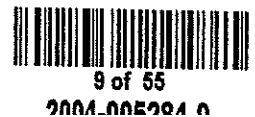
Section 1.10 - Declaration. This document, including any amendments.

Section 1.11 - Development Rights. The rights reserved by the Declarant under Article VIII of this Declaration to create Units, Common Elements and Limited Common Elements within the Common Interest Community, to convert Common Elements into Units or Units into Common Elements, to withdraw real estate from the Common Interest Community, and to enter the Property to construct future phases or to perform other work as provided for under Article VIII, herein.

Section 1.12 - Director. A member of the Executive Board.

Section 1.13 - Documents. The Declaration, Plat and Plans which have been recorded and filed, the Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.14 - Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that



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excepting only trim or sheathing which connects two independently structural partition walls between Units; also including the unfinished outer surfaces of poured concrete walls or fireplaces, the outer surfaces of closed windows and closed perimeter doors, including garage doors, and the outermost finished or unfinished planes of deck framing, enclosed or open air entries and landings, hand and deck railings, and stairways.

(d) Inclusions: Each Unit will include the spaces and improvements lying within the boundaries described in Section 4.3 (a), (b), and (c) above, and will also include the detached spaces, and the Improvements within such spaces, containing any space heating, water heating and air conditioning apparatus, smoke detector systems and all electrical switches, wiring, pipes, ducts, conduits, television., telephone and electrical receptacles and light fixtures and boxes serving that Unit exclusively, the surface of the foregoing being the boundaries of such Unit, whether or not such spaces are contiguous. At only Unit B, the carport area under roof along the north wall is defined as part of the Unit B within the boundaries described in (a), (b) and (c) above.

(e) Exclusions: Except when specifically included by other provisions of Section 4.3, the following are excluded from each Unit: The spaces and improvements lying outside of boundaries described in Section 4.3 (a), (b), and (c) above; and all chutes, pipes, flues, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

(f) Non-contiguous Portions: Certain Units may include special portions, pieces, or equipment, such as water heaters, furnaces, meter boxes, or utility connection structures, portions of which may be situated in crawl spaces or in buildings or structures that are detached or semi-detached from the buildings containing the principal occupied portion of the units. Such special equipment is a part of the unit notwithstanding its non-contiguity with residential portions. In the case of utility services now or hereafter metered to and for the exclusive use of a Unit, the Common Elements extend only to, and do not include, the meter, or the wires, conduits or pipes from it, which are a part of the Unit served.

(g) Inconsistency with Plans: If this definition is inconsistent with the pla definition will control.

ARTICLE V

Common Elements and Limited Common Elements

Section 5.1 - Common Elements. The Common Elements include all of the land area within the Common Interest Community and' any man-made improvements not included in a Unit.

Section 5.2 - Limited Common Elements Depicted on Plans. The following portions of the Common Elements are Limited Common Elements assigned on the Plans to the Units for the

7  
ARTICLE V  
5.1  
5.2  
290 a  
b



(ii) May not change the appearance of the Common Elements or Limited Common Elements, without permission of the Association.

(c) A Unit Owner may submit a written request to the Executive Board for approval to do anything for which approval is required. The Executive Board shall answer any written request for such approval, within thirty (30) days after receipt of the request therefor. Failure to do so within such time shall not constitute a consent by the Executive Board to the proposed action. The approval of a written request may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by reason of reasonable dissatisfaction of the Board with the location of the proposed structure, the elevation, color scheme, finish, design, proportions, architecture, shape, height, style and appropriateness of the proposed structure or alteration, the material used therein, or because of its reasonable dissatisfaction with any or all other matters or things which in the reasonable judgment of the Board will render the proposed alteration or improvement inharmonious or out of keeping with the general plan of improvement of the Common Interest Community. Improvements erected or maintained, otherwise than as approved by the Board, shall be deemed to have been undertaken without the approval of the Board as required by the Declaration. The approval of the Board of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Board of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications. No member of the Board shall be liable to any person for his or her decisions or failure to act in making decisions as a member of said Board. Upon approval of the Board, it shall be conclusively presumed that the location and height of any improvement does not violate the provisions of this Declaration.

(d) Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit shall be approved in writing by the Association before the application is submitted to the relevant department or authority. Such approval will not, however, create any liability on the part of the Association or any of its members to any contractor, sub-contractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

(e) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Units other than those affected by such change.

ARTICLE XIII  
Amendments to Declaration

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Section 13.1 - General. Except as otherwise provided by law or elsewhere in this Declaration,



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this Declaration, including the Plat and Plans, may be amended only by the affirmative vote or agreement of Unit Owners of Units to which at least sixty-seven (67%) of the votes in the Association are allocated.

only

Section 13.2 - When Unanimous Consent Required. Except to the extent expressly permitted or required by provisions of the Act and this Declaration, an amendment may not create or increase Special Declarant Rights, create or increase the number of Units, change the number of Units, change the boundaries of a Unit, the allocated interests of a Unit, or the uses to which a Unit is restricted, in the absence of unanimous (100%) consent of the votes in the Association.

Section 13.3 - Execution of Amendments. An amendment to the Declaration required by AS 34.08.250 of the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and AS 34.08.250 of the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of such designation, by the President of the Association.

Section 13.4 - Recordation of Amendments. Each amendment to the Declaration must be recorded in the recording district in which the Condominium is located. The amendment is effective only upon recording.

Section 13.5 - Consent of Holders of Security Interests. Amendments are subject to the consent requirements of Article XVI.

Section 13.6 - Special Declarant Rights. Provisions in the Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

Section 13.7 - Limitations of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

Section 13.8 - Amendments to Create Units. To exercise any Development Right reserved under Section 8.1 (a) or (b) of this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration. The Declarant shall also record new Exhibit 1 to reflect the changes made by the exercise of the Development Right. The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements created thereby.

ARTICLE XIV  
Amendments to Bylaws

The Bylaws may be amended only by two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.



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**2014-001164-0**

Recording Dist: 309 - Homer  
4/29/2014 09:45 AM Pages: 1 of 3

*# 6*



*Amend ment to  
Q Chas m Deed  
over*

Return to:  
Quiet Creek Community Association, Inc.  
P.O. Box 1623  
Homer, AK 99603

**THIS COVER SHEET HAS BEEN ADDED TO THIS DOCUMENT TO PROVIDE SPACE FOR RECORDING DATA. THIS COVER SHEET APPEARS AS THE FIRST PAGE OF THE DOCUMENT IN THE OFFICIAL PUBLIC RECORD.**

**DO NOT DETACH**

*Copy*

AMENDMENT NO. 6 TO DECLARATION

FOR

QUIET CREEK COMMUNITY

THIS is an amendment to that certain Declaration for Quiet Creek Community , recorded October 27,2004, as Serial No. 2004-005284; described as follows:

FUTURE DEVELOPMENT PHASES OF QUIET CREEK COMMUNITY, as referred to in ARTICLE VIII IN TH DECLARATION in the Declaration for Quiet Creek Community, recorded October 27,2004, as Serial No. 2004-005284, which is Tract A, BARNETT SUBDIVISION, QUIET CREEK ADDITION, ACCORDING TO Plat No. 2003-56, in the Homer Recording District, Third Judicial District, State of Alaska;

EXCEPTING THEREFROM:

All of Phase 1, According to Plat 2005-45;

All of Phase 2, According to Plat No. 2006-75;

All of Phase 3, According to Plat No. 2007-88; and

All of Phase 4, According to Plat No. 2008-14

WHEREAS, the Quiet Creek Homeowner's Association Inc.; acting on behalf of the QUIET CREEK HOMEOWNER'S COMMUNITY, as their designated representatives; have reached a SETTLEMENT AGREEMENT with ALASKA USA FEDERAL CREDIT UNION as recorded in the Homer Recording District 309, on 3-20-2014 as Serial No. 2014-000706-0 cntng. 10 pages, which includes EXHIBIT A; recorded as Serial No. 2014-000705-0 on the same date, which is the CANCELLATION OF AMENDMENT NO. 5, THAT WAS RECORDED October 25,2011, as Serial No.2011-003286-0. This cancellation of Amendment No. 5 declares that said amendment as having no force and effect, in the successor declarant's exercise of their right to withdraw land. FURTHER; in EXHIBIT A OF THE SETTLEMENT AGREEMENT aforementioned, ALASKA USA FEDERAL CREDIT UNION; CANCELS the "RECORD OF SURVEY" RECORDED ON October '7, 2011, Plat No. 2011-39, and any effect of that survey.

WHEREAS, The subsequent QUIT CLAIM DEED, RECORDED 4-17-<sup>2014</sup>~~2004~~, AS Serial No. 2014-000947-0; conveys and quit claims to QUIET CREEK COMMUNITY ASSOCIATION INC., all interest which GRANTOR, ALASKA USA FEDERAL CREDIT UNION, has if any,



2 of 3

2014-001164-0

EXCEPTING THEREFROM; All of Phase 1, according to Plat 2005-45; All of Phase 2, according to Plat No. 2006-75; All of Phase 3, according to Plat No. 2007-88; and All of Phase 4, according to Plat No. 2008-14.

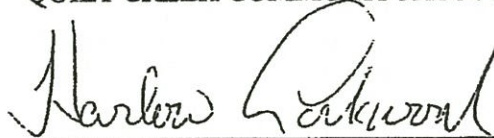
WHEREAS, The aforementioned SETTLEMENT AGREEMENT; the Alaska USA FEDERAL CREDIT UNION, acknowledges that QUIET CREEK COMMUNITY ASSOCIATION INC., is an ASSOCIATION of the Unit Owners of Phase 1, Unit No.'s 702,704,706,708 and 710, Plat No. 2005-45 & 2006-75; Phase 2, Unit No.'s 924,926,928, and 930, Plat No. 2006-75; Phase 3, Unit No.'s 812 and 814, Plat No. 2007-88; and Phase 4, Unit No.'s 816,818 and 820, for a total of 15 Units; and are through this Amendment No.6 are restoring the property to the COMMON ELEMENTS OF the QUIET CREEK COMMUNITY COMDOMINIUM DEVELOPMENT; in which the Unit Owner's have an undivided ownership by percentage.

WHEREAS, The Quiet Creek Homeowner's have no intentions at this time to create any development of additional Units as requested in Amendment 1, as recorded 4-10-2006, as serial No. 2006-001475-0; and therefore through this Amendment No. 6, wish to eliminate the 21 Units un-developed, from Future development and retain the 15 Units as developed under the jurisdiction of the Quiet Creek Community Association Inc., together with the remaining undeveloped COMMON ELEMENTS, Herein described. This action is pursuant to the terms of "The Declaration", as recorded, and the Uniform Common Interest Ownership ACT, AS 34.08 of the Alaska Statutes as it may be amended from time to time. No changes to allocations, and the percentage share of Common Elements. The number of developed Units, are 15 and percentage share equals 6.666%.

IN WITNESS WHEREOF, QUIET CREEK COMMUNITY HOMEOWNER'S, BY AND THROUGH THEIR QUIET CREEK HOMEOWNER'S ASSOCIATION INC. has caused this

Amendment to be executed this 28<sup>th</sup> day of April, 2014.

QUIET CREEK COMMUNITY ASSOCIATION, INC.



Harlow Lockwood, President

Plat# 2008-14  
See also  
Amendment #  
8



3 of 3

2014-001164-0

copy

A  
L  
A  
S  
K  
A

2015-001930-0

Recording Dist: 309 - Homer  
6/30/2015 09:10 AM Pages: 1 of 3

#8



Refer to  
Declaration  
Pg 19 Section 13.2  
Allocated Interests

After recording,  
Return to: Quiet Creek Community  
P.O. Box 1623  
Homer, AK 99603

THIS INSTRUMENT IS BEING RECORDED BY  
KACHEMAK BAY TITLE AGENCY INC., AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN  
EXAMINED AS TO ITS EFFECT, IF ANY, ON THE  
TITLE OF THE ESTATE HEREIN

**THIS COVER SHEET HAS BEEN ADDED TO THIS  
DOCUMENT TO PROVIDE SPACE FOR RECORDING  
DATA. THIS COVER SHEET APPEARS AS THE FIRST  
PAGE OF THE DOCUMENT IN THE OFFICIAL PUBLIC  
RECORD.**

DO NOT DETACH

KPB  
Assessing



AMENDMENT NO. 8 TO DECLARATION

FOR

QUIET CREEK COMMUNITY

THIS is an amendment to that certain DECLARATION for Quiet Creek Community, recorded October 27, 2004, as Serial No. 2004-005284; described as follows:

TRACT A-ONE (A-1) Barnett Subdivision. Quiet Creek Add'n 2014, according to Plat No. 2014-23, in the Homer Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM:

All of Quiet Creek Community, LLC, Phase 1, Plat 2005-45  
All of Quiet Creek Community, LLC, Phase 2, Plat 2006-75  
All of Quiet Creek Community, LLC, Phase 3, Plat 2007-88  
All of Quiet Creek Community, LLC, Phase 4, Plat 2008-14  
(Amended, all within the Homer Recording District, State of Alaska)

Containing 15.441 Acres, According to Survey Plat No. 2014-23

SUBJECT TO all reservations, restrictions, encumbrances, easements and AMENDMENTS to the DECLARATION of record.

In accordance with the "Corrective Statutory Warranty Deed", as recorded No. 2015-000816-0, 3/31/2015 @ 01:59 PM pages 1-4, in the Homer Recording District #309, State of Alaska as described above; does convey and warrant all of that certain real property, The Common Interest Property, to the owners of the Fifteen (15) Units of record, with 6.6666 percent of the Common Interest property to each the owners of each Unit, as GRANTEES as Tenants in Common, and to Grantees' heirs, successors, and assigns.

This Amendment is to clarify that Individual Unit Owners MAY NOT personally encumber, or cause to be encumbered, any portion of their allocated 6.6666 percent Common Interest ownership property other than what would be allowed in a legally acceptable Mortgage of their Unit.

The Declaration for Quiet Creek Community under Article VI, 6.1 Homeowner Approval; requires 80% of Homeowners entitled to vote in the Association, must agree in order for the Common Elements, Article V, 5.1, to be further Subdivided or sold or encumbered in any way. Article VI, 6.3, Any agreements must be ratified by requisite number of Unit Owners.



CORRECTIONS TO PREVIOUSLY RECORDED DOCUMENTS

AMENDMENT NO 6, recorded 2014-001164-0, page 2 of 3, last paragraph, Quit Claim Deed recorded 4-17-2014, (NOT 4-17-2004). This Quit Claim Deed was re-recorded to correct the Notary on 2014-001447-0, 5-30-2014

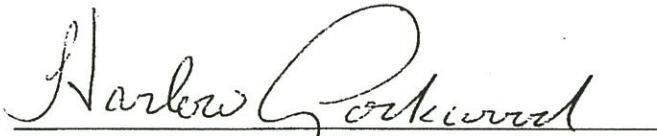
AMENDMENT No. 7, recorded 2014-002836-0, page 1 of 3, first paragraph, refers to Quiet Community and should be Quiet Creek Community; and, page 2 Of 3 should read Common Interest Elements of Tract A-1 (NOT A-2).

CORRECTIVE STATUTORY WARRANTY DEED recorded 2015-000816-0, 3-31-2015, Homer Recording District 309 Homer, Alaska, pages 1-4. Page 1, last paragraph, All of Quiet Creek Community LLC, Phase 4, Plat 2008-14 (NOT 2009-11).

HEREIN CORRECTED AND RATIFIED

THIS action is pursuant to the Declaration of Quiet Creek Community and the Uniform Common Interest Ownership Act, AS 34.08, from which the Declaration was drafted.

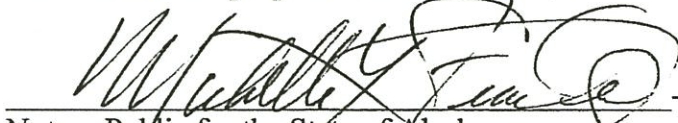
IN WITNESS WHEREOF, Quiet Creek Homeowner's, by and through their Quiet Creek Association Inc., has caused this Amendment to be Executed This 28<sup>th</sup> day of June 2015.

  
Harlow Lockwood, President



State of Alaska  
Third Judicial District

This is to certify that on this 29<sup>th</sup> day of JUNE 2015, before me personally appeared Harlow Lockwood Individually known to me to be the individual described in and who executed the foregoing document on behalf of the Quiet Creek Association, Inc. as President for the purpose therein mentioned.

  
Notary Public for the State of Alaska  
My Commission expires 6-16-2016



3 of 3  
2015-001930-0

# KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669

Toll-free within the Borough: (800) 478-4441

Phone: (907) 714-2230 • Fax: (907) 714-2393

www.borough.kenai.ak.us



Mike Navarre  
Borough Mayor



*This is old  
Quiet Creek for  
PARCEL #  
FOR MERG  
UNDER LY IN  
Proposed*

Dear Mr. Forrester,

Assessing staff have discovered an error in the valuation of your property for 2015.

Following the original Notices of Assessment, which were mailed on February 28, 2015, assessing staff determined that the parcel underlying the Quiet Creek Community (parcel #17701082) no longer had any development rights reserved by the declarant, by any financial institution, or by any other party, and had since been conveyed from the homeowners association to the individual unit owners. As such, staff determined that the value of this parcel should be allocated to the individual condo units rather than being valued and assessed separately, as it was shown in the original Notice of Assessment.

To correct this error, the assessing department mailed corrected Notices of Assessment on or about March 6, 2015. After further review of these noticed values, staff determined that they contained a calculation error. While the value of the underlying parcel was allocated to the individual units, the individual site value for each of the units was omitted.

Enclosed is a second corrected Notice of Assessment for your property in Quiet Creek Community. The value shown on this Notice of Assessment correctly includes a site value for each individual unit, the value of all improvements on each unit, as well as an allocated portion of the value of the underlying parcel. This represents the correct methodology to capture the full value of all the real property interests of each condo unit. Analysis of market data in the Quiet Creek Community supports this method of valuing the individual units.

As director of the Assessing Department, I regret the errors in valuation shown in the first two Notices and any confusion they may have caused. Please note that you have 30 days from the date of this corrected notice to appeal your valuation to the Board of Equalization. If you have questions about your assessment or about how to file an appeal, please contact the assessing department at (907) 714-2230, or email [assessing@kpb.us](mailto:assessing@kpb.us).

Sincerely,

Tom Anderson  
Borough Assessor

*Jes Hane EXT 2622  
LAND APPRAISER*

*KPB Website is only updated  
1x per yr & w/B after  
2015*



# Kenai Peninsula Borough, Alaska

## Assessing Department

### Search Instructions

This site uses the latest single field search technology. Simply enter your search criteria and hit the "search" button to see your results.

Advanced techniques include targeting specific search criteria e.g., "acreage:1-5", the use of the "\*" wildcard character, and sorting options for tailoring the results to your specific needs. Please click on the question mark button for instructions and tips on more advanced search techniques.

### Property Search

Search

ParcelID:177010\*

Search

Your search returned 60 records / 6 pages [Download](#)

First Prev 1 2 3 4 5 6 Next Last

PARCEL: 17701001 Land: \$448,400  
 ADDRESS: Improvement: \$0  
 OWNER: ALASKA GROWTH PROPERTIES LLC Total: \$448,400

PARCEL: 17701082 Land: \$0  
 ADDRESS: 4725 SOUTH SLOPE DR LAND HOMER AK 99603 Improvement: \$0  
 OWNER: ALASKA USA FEDERAL CREDIT UNION Total: \$0

*Master Policy / Wrong*

No Photo

PARCEL: 17701082C006 Land: \$59,000  
 ADDRESS: 924 QUIET CREEK DR HOMER AK 99603 Improvement: \$505,600  
 OWNER: AMMERMAN ROBERT L Total: \$564,600

*OK*

PARCEL: 17701003 Land: \$352,800  
 ADDRESS: Improvement: \$0  
 OWNER: ANDERSON MARGARET Total: \$352,800

PARCEL: 17701043 Land: \$38,800  
 ADDRESS: Improvement: \$0  
 OWNER: BARNETT LAND COMPANY Total: \$38,800

PARCEL: 17701046 Land: \$63,900  
 ADDRESS: 4668 SOUTH SLOPE DR HOMER AK 99603 Improvement: \$0  
 OWNER: BARNETT LAND COMPANY Total: \$63,900

PARCEL: 17701047 Land: \$71,300  
 ADDRESS: 4692 SOUTH SLOPE DR HOMER AK 99603 Improvement: \$0  
 OWNER: BARNETT LAND COMPANY Total: \$71,300



# Kenai Peninsula Borough, Alaska

## Assessing Department

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### Property Search

Search

ParcelID:177010\*

Search

Your search returned 60 records / 6 pages [Download](#)

First Prev 1 2 3 4 5 6 Next Last

<input type="checkbox"/> No Photo	<b>PARCEL:</b> 17701076 ADDRESS: 571 FIREWEED AVE HOMER AK 99603 OWNER: CARFRAE WILLIAM D & CAROLYN G TRUST	Land: \$146,500 Improvement: \$0 Total: \$146,500
-----------------------------------	---	---

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701053 ADDRESS: 986 LARKSPUR CT HOMER AK 99603 OWNER: CRANE RALPH E & SANDY LEE	Land: \$79,900 Improvement: \$149,000 Total: \$228,900
--	--	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701082CO10 ADDRESS: 932 QUIET CREEK DR HOMER AK 99603 OWNER: DAVIDHIZAR FAMILY TRUST TRUST D	Land: \$59,000 Improvement: \$510,500 Total: \$569,500
--	---	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701028 ADDRESS: 961 S LARKSPUR CIR HOMER AK 99603 OWNER: DOWNEY DAVID ROBERT	Land: \$118,900 Improvement: \$433,000 Total: \$551,900
--	---	---

<b>PARCEL:</b> 17701074 ADDRESS: 555 FIREWEED AVE HOMER AK 99603 OWNER: DRUMMOND LINDA KAY FAMILY TRUST	Land: \$115,300 Improvement: \$0 Total: \$115,300
---	---

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701075 ADDRESS: 585 FIREWEED AVE HOMER AK 99603 OWNER: DRUMMOND LINDA KAY FAMILY TRUST	Land: \$143,200 Improvement: \$151,100 Total: \$294,300
--	---	---

<b>PARCEL:</b> 17701080 ADDRESS: 535 FIREWEED AVE HOMER AK 99603 OWNER: DRUMMOND LINDA KAY FAMILY TRUST	Land: \$82,100 Improvement: \$0 Total: \$82,100
---	---

10



# Kenai Peninsula Borough, Alaska

## Assessing Department

### Search Instructions

This site uses the latest single field search technology. Simply enter your search criteria and hit the "search" button to see your results.

Advanced techniques include targeting specific search criteria e.g., "acreage:1-5", the use of the "\*" wildcard character, and sorting options for tailoring the results to your specific needs. Please click on the question mark button for instructions and tips on more advanced search techniques.

### Property Search

Search

ParcelID:177010\*

Search

Your search returned 60 records / 6 pages [Download](#)

First Prev 1 2 3 4 5 6 Next Last

No Photo

PARCEL: 17701082CO03

ADDRESS: 706 QUIET CREEK DR HOMER AK 99603  
OWNER: GRIFFITH MARY ANN

Land: \$59,000  
Improvement: \$407,100  
Total: \$466,100

No Photo

PARCEL: 17701065

ADDRESS: 1065 LARKSPUR CT HOMER AK 99603  
OWNER: HAINES SUZANNE & BRIAN HARRISON COMM

Land: \$100,000  
Improvement: \$231,600  
Total: \$331,600

No Photo

PARCEL: 17701056

ADDRESS: 1064 N LARKSPUR CIR HOMER AK 99603  
OWNER: HARNUM COMMUNITY PROPERTY TRUST

Land: \$73,300  
Improvement: \$316,100  
Total: \$389,400

No Photo

PARCEL: 17701006

ADDRESS: 5040 EAST HILL RD HOMER AK 99603  
OWNER: HAYNES ROBERT L HAYNES ANNE A

Land: \$168,700  
Improvement: \$303,000  
Total: \$471,700

No Photo

PARCEL: 17701052

ADDRESS: 954 LARKSPUR CT HOMER AK 99603  
OWNER: HOBBS JIM R & SHERI L

Land: \$73,300  
Improvement: \$242,700  
Total: \$316,000

PARCEL: 17701009

ADDRESS: 770 SHELLFISH AVE HOMER AK 99603  
OWNER: HOMER CITY OF

Land: \$98,000  
Improvement: \$0  
Total: \$98,000

PARCEL: 17701023

ADDRESS: 934 LARKSPUR CT HOMER AK 99603  
OWNER: ILLG MICHAEL C

Land: \$78,700  
Improvement: \$159,000  
Total: \$237,700

03



# Kenai Peninsula Borough, Alaska

## Assessing Department

262-4441

### Search Instructions

This site uses the latest single field search technology. Simply enter your search criteria and hit the "search" button to see your results.

Advanced techniques include targeting specific search criteria e.g., "acreage:1-5", the use of the "\*" wildcard character, and sorting options for tailoring the results to your specific needs. Please click on the question mark button for instructions and tips on more advanced search techniques.

### Property Search

Search

ParcelID:177010\*

Search

Your search returned 60 records / 6 pages [Download](#)

First Prev 1 2 3 4 5 6 Next Last

<input type="checkbox"/> No Photo	<b>PARCEL:</b> 17701093 ADDRESS: 1088 LARKSPUR CT HOMER AK OWNER: FEFELOV PETER	Land: \$101,200 Improvement: \$0 Total: \$101,200
-----------------------------------	---	---

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701063 ADDRESS: 1015 LARKSPUR CT HOMER AK 99603 OWNER: FITZPATRICK DARREN J	Land: \$84,700 Improvement: \$196,500 Total: \$281,200
--	--	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701082CO05 ADDRESS: 710 QUIET CREEK DR HOMER AK 99603 OWNER: FORRESTER FAMILY TRUST	Land: \$59,000 Improvement: \$480,200 Total: \$539,200
--	--	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701044 ADDRESS: 4606 SOUTH SLOPE DR HOMER AK 99603 OWNER: FRANK MICHAEL W & LINDA G	Land: \$53,200 Improvement: \$171,800 Total: \$225,000
--	--	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701082CO04 ADDRESS: 708 QUIET CREEK DR HOMER AK 99603 OWNER: FRANK WILLIAM E & GAIL S	Land: \$59,000 Improvement: \$472,000 Total: \$531,000
--	--	--

<input checked="" type="checkbox"/> No Photo	<b>PARCEL:</b> 17701041 ADDRESS: 4627 SOUTH SLOPE DR HOMER AK 99603 OWNER: FROMMER MELISSA	Land: \$48,200 Improvement: \$118,100 Total: \$166,300
--	--	--

	<b>PARCEL:</b> 17701082CO11 ADDRESS: 812 QUIET CREEK DR HOMER AK 99603 OWNER: FULLER DAVID L	Land: \$59,000 Improvement: \$521,500 Total: \$580,500
--	--	--

05

04

11

<input type="checkbox"/> No Photo	<b>PARCEL:</b> 17701051 ADDRESS: 602 SHELLFISH AVE HOMER AK 99603 OWNER: GIBSON STEVEN ROSS LIVING TRUST	Land: \$193,500 Improvement: \$247,200 Total: \$440,700
<input type="checkbox"/> No Photo	<b>PARCEL:</b> 17701082CO12 ADDRESS: 814 QUIET CREEK DR HOMER AK 99603 OWNER: GOOD SHEPHERD LEASING CORP	Land: \$59,000 Improvement: \$523,900 Total: \$582,900
<input type="checkbox"/> No Photo	<b>PARCEL:</b> 17701082CO01 ADDRESS: 702 QUIET CREEK DR HOMER AK 99603 OWNER: GOWER DAVID J	Land: \$59,000 Improvement: \$425,600 Total: \$484,600

12  
01

First Prev 1 2 3 4 5 6 Next Last



No Photo

PARCEL: 17701059  
ADDRESS: 5025 EAST HILL RD HOMER AK 99603  
OWNER: VANEK RION

Land: \$78,200  
Improvement: \$304,200  
Total: \$382,400

No Photo

PARCEL: 17701045  
ADDRESS: 4646 SOUTH SLOPE DR HOMER AK 99603  
OWNER: ZEISET MARK A ZEISET LAURA F

Land: \$68,900  
Improvement: \$156,700  
Total: \$225,600

No Photo

PARCEL: 17701082CO14  
ADDRESS: 818 QUIET CREEK DR HOMER AK 99603  
OWNER: ZIDALIS JOHN C ZIDALIS MARIAN G

Land: \$59,000  
Improvement: \$496,900  
Total: \$555,900

14

First Prev 1 2 3 4 5 6 Next Last



# Kenai Peninsula Borough, Alaska

## Assessing Department

### Search Instructions

This site uses the latest single field search technology. Simply enter your search criteria and hit the "search" button to see your results.

Advanced techniques include targeting specific search criteria e.g., "acreage:1-5", the use of the "\*" wildcard character, and sorting options for tailoring the results to your specific needs. Please click on the question mark button for instructions and tips on more advanced search techniques.

### Property Search

Search

ParcelID:177010\*

Search

Your search returned 60 records / 6 pages [Download](#)

First Prev 1 2 3 4 5 6 Next Last

No Photo  
**PARCEL:** 17701057  
 ADDRESS: 1082 N LARKSPUR CIR HOMER AK 99603  
 OWNER: JULIUSSEN GABRIEL J  
 Land: \$77,600  
 Improvement: \$0  
 Total: \$77,600

No Photo  
**PARCEL:** 17701054  
 ADDRESS: 1012 LARKSPUR CT HOMER AK 99603  
 OWNER: KITCHEN ROBERT W & HARRIET A  
 Land: \$75,200  
 Improvement: \$521,300  
 Total: \$596,500

No Photo  
**PARCEL:** 17701082CO02  
 ADDRESS: 704 QUIET CREEK DR HOMER AK 99603  
 OWNER: LOCKWOOD HARLOW TRUST  
 Land: \$59,000  
 Improvement: \$466,600  
 Total: \$525,600

No Photo  
**PARCEL:** 17701082CO15  
 ADDRESS: 820 QUIET CREEK DR HOMER AK 99603  
 OWNER: MONSARRAT LINDA L  
 Land: \$59,000  
 Improvement: \$514,700  
 Total: \$573,700

No Photo  
**PARCEL:** 17701055  
 ADDRESS: 1034 LARKSPUR CT HOMER AK 99603  
 OWNER: MURPHEY FRANCES L  
 Land: \$73,300  
 Improvement: \$175,300  
 Total: \$248,600

No Photo  
**PARCEL:** 17701066  
 ADDRESS: 1085 LARKSPUR CT HOMER AK 99603  
 OWNER: NAULT SHARON PAUL TRUST  
 Land: \$86,200  
 Improvement: \$145,000  
 Total: \$231,200

No Photo  
**PARCEL:** 17701082CO09  
 ADDRESS: 930 QUIET CREEK DR HOMER AK 99603  
 OWNER: NEAL FAMILY LIMITED PARTNERSHIP  
 Land: \$59,000  
 Improvement: \$488,900  
 Total: \$547,900

02

15

09

13



PARCEL: 17701082CO13  
ADDRESS: 816 QUIET CREEK DR HOMER AK 99603  
OWNER: BEERY TRUST

Land: \$59,000  
Improvement: \$520,900  
Total: \$579,900



PARCEL: 17701027  
ADDRESS: 935 S LARKSPUR CIR HOMER AK 99603  
OWNER: BOYER JAMES M

Land: \$83,700  
Improvement: \$241,800  
Total: \$325,500



PARCEL: 17701042  
ADDRESS: 834 SHELLFISH AVE HOMER AK 99603  
OWNER: BURGESS BEAUREGARD A BURGESS BEAUREGARD A

Land: \$46,900  
Improvement: \$518,300  
Total: \$565,200

First Prev 1 2 3 4 5 6 Next Last

07

No Photo

**PARCEL:** 17701082CO07  
ADDRESS: 926 QUIET CREEK DR HOMER AK 99603  
OWNER: NIKORA LEO & BEVERLEY TRUST

Land: \$59,000  
Improvement: \$409,500  
Total: \$468,500

No Photo

**PARCEL:** 17701095  
ADDRESS: 884 LARKSPUR CT HOMER AK 99603  
OWNER: PETERSON JACQUE E

Land: \$79,300  
Improvement: \$235,100  
Total: \$314,400

**PARCEL:** 17701050  
ADDRESS: 682 SHELLFISH AVE HOMER AK 99603  
OWNER: RAMP REALTY LLC

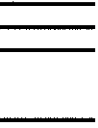
Land: \$212,800  
Improvement: \$0  
Total: \$212,800

First Prev 1 2 3 4 5 6 Next Last

KENAI PENINSULA BOROUGH  
ASSESSOR'S OFFICE  
144 N. BINKLEY STREET  
SOLDOTNA, AK 99669-7520

**2016 NOTICE OF ASSESSMENT**

Address Service Requested



\*AUTO\*\*SCH 5-DIGIT 99507



15 1

3326

FRANK WILLIAMS  
BARBARA WILLIAMS  
11835 GREGORY RD  
ANCHORAGE AK 99516-1910



**MIKE NAVARRE  
BOROUGH MAYOR**

(907) 714-2230 Fax: 714-2393  
(800) 478-4441

Toll free within Kenai Peninsula borough only

**THIS IS NOT A TAX BILL**

This is a notice of the January 1st assessed value for the following described taxable property.

Account Number: 17701082CO08

Tax Code Area: 20 - HOMER CITY

Parcel Address:  
928 QUIET CREEK DR

Legal Description:

T 6S R 13W SEC 17 Seward Meridian HM 2006075 QUIET CREEK COMMUNITY LLC PHASE  
2 UNIT 928

**2016 Assessed Values**

Land: 59,000	Improvements: 511,400	
Total Assessed KPB: 570,400	Exempt Value KPB: 0	Total Taxable KPB: 570,400
Total Assessed City: 570,400	Exempt Value City: 0	Total Taxable City: 570,400

AS 29.45.180(a) & KPB 5.12.040 (A) require that a person receiving a Notice of Assessment must advise the Assessor of errors or omissions in the assessment of the person's property, or of disputes in assessed value or taxable status of the property, within 30 days after the mailing of the Notice of Assessment.

Any structures located on this property as of January 1, 2016 that are not reflected on this notice must be reported to the Assessor. Structures omitted from the main tax roll will be placed on a supplemental tax roll at the time of discovery and a tax bill will be sent to you including accrued interest.

**Any waivers for filing late exemptions after 03/31/2016 will not be approved**

APPEAL DEADLINE: 03/31/2016

TAXES DUE IN FULL: 10/17/2016

OR

BOARD OF EQUALIZATION

1st INSTALLMENT DUE: 09/15/2016

WILL BEGIN MEETING: 05/04/2016

2nd INSTALLMENT DUE: 11/15/2016

**APPEAL PROCEDURE AND IMPORTANT TAX INFORMATION ON REVERSE SIDE**

**Karen R. Forrester**

---

**From:** Grenier, Mary Kay [mkgrenier@kpb.us]  
**Sent:** Monday, July 25, 2016 1:42 PM  
**To:** 'kfrealty@alaskan.com'  
**Subject:** 17701082co08

Karen,  
The KPB's legal description for 17701082CO08 is  
T 6S R 13W SEC 17 Seward Meridian HM 2006075 QUIET CREEK COMMUNITY LLC PHASE 2 UNIT 928

Mary Kay Grenier  
Title Examiner  
Kenai Peninsula Borough  
144 N Binkley  
Soldotna, AK 99669  
(907) 714-2237



*Frank & Barbara Williams*

*Not on TAX Rolls on Request of Homeowner's  
Rights to Privacy.*

XTRA  
copy  
Now  
of  
TAX Roll  
of MASTER  
TAX PARCEL  
177-010-82  
as a MASTER  
policy

(Amended), all within the Homer Recording District, State of Alaska.

GRANTEES:

MASTER Parcel KPB 17701082

Unit No. 702, Phase 1, Tax Parcel No. 177 010 82 CO 01; David J. Gower and Sheri A. Gower, husband and wife, tenants by the entirety, 702 Quiet Creek Dr. and mailing address 56659 E. End Rd., Homer, Alaska 99603-9572, and their heirs, successors and assigns;

Unit No. 704, Phase 1, Tax Parcel No. 177 010 82 CO 02; Lockwood Harlow Trust, 704 Quiet Creek Dr., and mailing address 602 Palladium Dr. E., Joliet, IL, 60435-5677, and its successors and assigns;

Unit No. 706, Phase 1, Tax Parcel No. 177 010 82 CO 03; Griffith, Mary Ann, 706 Quiet Creek Dr., and mailing address 706 Quiet Creek Dr., Homer, Alaska 99603-8228, and her heirs, successors and assigns;

Unit No. 708, Phase 1, Tax Parcel No. 177 010 82 CO 04; William E. Frank and Gail S. Frank, husband and wife, tenants by the entirety, 708 Quiet Creek Dr. and mailing address PO Box 1749, Rockport, TX 78381-1749, and their heirs, successors and assigns;

Unit No. 710, Phase 1, Tax Parcel No. 177 010 82 CO 05; Forrester Family Trust, 710 Quiet Creek Dr., and mailing address PO Box 371, Homer, Alaska 99603-0371, and its successors and assigns;

Unit No. 924, Phase 2, Tax Parcel No. 177 010 82 CO 06; Robert L. Ammerman and Gail M. Ammerman, husband and wife, tenants by the entirety, 924 Quiet Creek Dr., and mailing address 924 Quiet Creek Dr., Homer, Alaska 99603-8229, and their heirs, successors and assigns;

Unit No. 926, Phase 2, Tax Parcel No. 177 010 82 CO 07; Nikora Leo and Beverley Trust, 926 Quiet Creek Dr., and mailing address 119 Mission Hills Dr. Rancho Mirage, CA 92270-1476, and its successors and assigns;

New  
2016

Unit No. 928, Phase 2, Tax Parcel No. 177 010 82 CO 08; Federal National Mortgage, 928 Quiet Creek Dr., and mailing address PO Box 650043, Dallas Texas 75265, its successors and assigns;

NOW FRANK & BARBARA  
Williams  
11835 Gregory Rd  
ANCH, AK 99516

Unit No. 930, Phase 2, Tax Parcel No. 177 010 82 CO 09; Neal Family Limited Partnership, 930 Quiet Creek Dr., and mailing address 5800 Lakewood Ranch Blvd. N, Lakewood Ranch, FL 34240-8479, and its successors and assigns;

C. MICHAEL HOUGH - Attorney At Law - 3731 Ben Walters Lane - Sta. 2 - Homer - Alaska - 99603 - Tel: (907) 235-8184 - Fax: (907) 235-2420  
STATUTORY WARRANTY DEED PAGE 2 OF 4



Unit No. 932, Phase 2, Tax Parcel No. 177 010 82 CO 10, Davidhizar Family Trust, 932 Quiet Creek Dr., and mailing address 51 Knoll Circle, Soldotna, Alaska 99669-7352, and its successors and assigns; *1240 CHINOOK DR KENAI, ALASKA 99611*

Unit No. 812, Phase 3, Tax Parcel No. 177 010 82 CO 11, David L. Fuller and Joan A. Fuller, husband and wife, tenants by the entirety, 812 Quiet Creek Dr., and mailing address PO Box 837, Goodland, FL 34140-0837, and their heirs, successors and assigns;

Unit No. 814, Phase 3, Tax Parcel No. 177 010 82 CO 12, Good Shepherd Leasing Corp, 814 Quiet Creek Dr., and mailing address 10065 Cortez Blvd. Weeki Wachee, FL 34613-6389, and its successors and assigns;

Unit No. 816, Phase 4, Tax Parcel No. 177 010 82 CO 13, Beery Trust, 816 Quiet Creek Dr., and mailing address PO Box 195, Exeter, CA 93221-0195, and its successors and assigns;

Unit No. 818, Phase 4, Tax Parcel No. 177 010 82 CO 14, Alaska USA Federal Credit Union, 818 Quiet Creek Dr., and mailing address 4000 Credit Union Dr., Anchorage, AK 99503-6636, and its successors and assigns.

*New 2016*

*Gail & John Zidalis  
818 Quiet Creek Dr.  
Homer*

Unit No. 820, Phase 4, Tax Parcel No. 177 010 82 CO 15, Alaska USA Federal Credit Union, 820 Quiet Creek Dr., and mailing address 4000 Credit Union Dr., Anchorage, AK 99503-6636, and its successors and assigns.

*New 2016*

*LINDA MONSARRAT  
PO BOX 477  
HOMER  
AK.  
99603*

DATED this 31<sup>st</sup> day of March, 2015.

QUIET CREEK COMMUNITY ASSOCIATION INC.

*Karen R. Berg-Forrester*  
KAREN R. BERG-FORRESTER, VICE PRESIDENT  
Quiet Creek Community Association, Inc.







copy

**CORRECTIVE STATUTORY WARRANTY DEED**

This Corrective Statutory Warranty Deed corrects, replaces and substitutes for that Statutory Warranty Deed dated September 24, 2014, recorded December 30, 2014 as instrument # 2014-003740-0, in the Homer Recording District, Third Judicial District, State of Alaska involving the real property set forth below, as follows:

QUIET CREEK COMMUNITY ASSOCIATION, INC., an Alaska non-profit corporation, whose address is PO Box 1623, Homer, AK 99603, established as the governing association of the Quiet Creek Community Homeowners, according to AS 34.08 the Uniform Common Interest Ownership Act, by Declaration recorded in the Homer Recording District of Alaska on October 27, 2004 as Instrument No. 2004-005284-0, and as amended by Amendment No.6, affirms and directs that no further development of the common interest property, described below, shall occur and that the community of homeowners shall remain at a total of 15 units with no changes to the allocated interests, that being 6.6666 percent per unit of record.

THEREFORE, QUIET CREEK COMMUNITY ASSOCIATION INC., does convey and warrant all of that certain real property described herein, the common interest property, to the owners of the fifteen (15) units of record, with 6.6666 percent of the common interest property to each the owners of each unit, as Grantees, as tenants in common, and to Grantees' heirs, successors and assigns, as follows:

SUBJECT TO all reservations, restrictions, encumbrances, easements, and amendments to the declarations of record, the following described property in Homer, Alaska:

Tract A-One (A1), BARNETT SUBDIVISION, QUIET CREEK  
ADD'N 2014, according to Plat No. 2014-23, in the Homer Recording  
District, Third Judicial District, State of Alaska, EXCEPTING  
THEREFROM:

All of QUIET CREEK COMMUNITY, LLC, Phase 1, Plat 2005-45  
All of QUIET CREEK COMMUNITY, LLC, Phase 2, Plat 2006-75  
All of QUIET CREEK COMMUNITY, LLC, Phase 3, Plat 2007-88  
All of QUIET CREEK COMMUNITY, LLC, Phase 4, Plat 2009-11

C. MICHAEL HOUGH - Attorney At Law - 3733 Ben Wallery Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 235-8184 - Fax: (907) 235-2420

**STATUTORY WARRANTY DEED****PAGE 1 OF 4**

(Amended), all within the Homer Recording District, State of Alaska.

GRANTEES:

Unit No. 702, Phase 1, Tax Parcel No. 177 010 82 CO 01; David J. Gower and Sheri A. Gower, husband and wife, tenants by the entirety, 702 Quiet Creek Dr. and mailing address 56659 E. End Rd., Homer, Alaska 99603-9572, and their heirs, successors and assigns;

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Unit No. 706, Phase 1, Tax Parcel No. 177 010 82 CO 03; Griffith, Mary Ann, 706 Quiet Creek Dr., and mailing address 706 Quiet Creek Dr., Homer, Alaska 99603-8228, and her heirs, successors and assigns;

Unit No. 708, Phase 1, Tax Parcel No. 177 010 82 CO 04; William E. Frank and Gail S. Frank, husband and wife, tenants by the entirety, 708 Quiet Creek Dr. and mailing address PO Box 1749, Rockport, TX 78381-1749, and their heirs, successors and assigns;

Unit No. 710, Phase 1, Tax Parcel No. 177 010 82 CO 05; Forrester Family Trust, 710 Quiet Creek Dr., and mailing address PO Box 371, Homer, Alaska 99603-0371, and its successors and assigns;

Unit No. 924, Phase 2, Tax Parcel No. 177 010 82 CO 06, Robert L. Ammerman and Guil M. Ammerman, husband and wife, tenants by the entirety, 924 Quiet Creek Dr., and mailing address 924 Quiet Creek Dr., Homer, Alaska 99603-8229, and their heirs, successors and assigns;

Unit No. 926, Phase 2, Tax Parcel No. 177 010 82 CO 07, Nikora Leo and Beverley Trust, 926 Quiet Creek Dr., and mailing address 119 Mission Hills Dr., Rancho Mirage, CA 92270-1476, and its successors and assigns;

Unit No. 928, Phase 2, Tax Parcel No. 177 010 82 CO 08, Federal National Mortgage, 928 Quiet Creek Dr., and mailing address PO Box 650043, Dallas Texas 75265, its successors and assigns;

Unit No. 930, Phase 2, Tax Parcel No. 177 010 82 CO 09, Neal Family Limited Partnership, 930 Quiet Creek Dr., and mailing address 5800 Lakewood Ranch Blvd. N, Lakewood Ranch, FL 34240-8479, and its successors and assigns;

C. MICHAEL HODGICH - Attorney At Law - 3333 Ben Waters Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 235-8184 - Fax: (907) 235-2470

STATUTORY WARRANTY DEED

PAGE 2 OF 4



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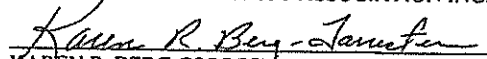
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Unit No. 820, Phase 4, Tax Parcel No. 177 010 82 CO 15, Alaska USA Federal Credit Union, 820 Quiet Creek Dr., and mailing address 4000 Credit Union Dr., Anchorage , AK 99503-6636, and its successors and assigns.

DATED this 31<sup>st</sup> day of March, 2015.

QUIET CREEK COMMUNITY ASSOCIATION INC.

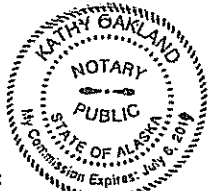
  
KAREN R. BERG-FORRESTER, VICE PRESIDENT  
Quiet Creek Community Association, Inc.



STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT )ss.

This foregoing instrument was acknowledged before me this 31<sup>st</sup> day of March 2015, by Karen R. Berg-Forrester, authorized signatory and Vice President of Quiet Creek Community Association, Inc., who signed on behalf of the of the Quiet Creek Community Association, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



Kathy Oakland  
Notary Public for Alaska  
My Commission Expires: 7-6-17

Return to:  
Quiet Creek Community Association  
PO Box 1623  
Homer, Alaska 99603

THIS INSTRUMENT IS BEING RECORDED BY  
KACHEMAK BAY TITLE AGENCY INC., AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN  
EXAMINED AS TO ITS EFFECT, IF ANY, ON THE  
TITLE OF THE ESTATE HEREIN

C. MICHAEL DOUGH - Attorney At Law - 3731 Ben Walters Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 235-8100 - Fax: (907) 235-2470  
STATUTORY WARRANTY DEED PAGE 4 OF 4



4 of 4

2015-000816-0



*Copy  
Sent  
2 Nov  
TAX Re:HS*

**CORRECTIVE STATUTORY WARRANTY DEED**

This Corrective Statutory Warranty Deed corrects, replaces and substitutes for that Statutory Warranty Deed dated September 24, 2014, recorded December 30, 2014 as instrument # 2014-003740-0, in the Homer Recording District, Third Judicial District, State of Alaska involving the real property set forth below, as follows:

QUIET CREEK COMMUNITY ASSOCIATION, INC., an Alaska non-profit corporation, whose address is PO Box 1623, Homer, AK 99603, established as the governing association of the Quiet Creek Community Homeowners, according to AS 34.08 the Uniform Common Interest Ownership Act, by Declaration recorded in the Homer Recording District of Alaska on October 27, 2004 as Instrument No. 2004-005284-0, and as amended by Amendment No.6, affirms and directs that no further development of the common interest property, described below, shall occur and that the community of homeowners shall remain at a total of 15 units with no changes to the allocated interests, that being 6.6666 percent per unit of record.

THEREFORE, QUIET CREEK COMMUNITY ASSOCIATION INC., does convey and warrant all of that certain real property described herein, the common interest property, to the owners of the fifteen (15) units of record, with 6.6666 percent of the common interest property to each the owners of each unit, as Grantees, as tenants in common, and to Grantees' heirs, successors and assigns, as follows:

SUBJECT TO all reservations, restrictions, encumbrances, easements, and amendments to the declarations of record, the following described property in Homer, Alaska:

Tract A-One (A1), BARNETT SUBDIVISION, QUIET CREEK ADD'N 2014, according to Plat No. 2014-23, in the Homer Recording District, Third Judicial District, State of Alaska, EXCEPTING THEREFROM:

- All of QUIET CREEK COMMUNITY, LLC, Phase 1, Plat 2005-45
- All of QUIET CREEK COMMUNITY, LLC, Phase 2, Plat 2006-75
- All of QUIET CREEK COMMUNITY, LLC, Phase 3, Plat 2007-88
- All of QUIET CREEK COMMUNITY, LLC, Phase 4, Plat 2009-11

C RECORDER, HOMER - 400 North Al Law - 2721 Bow Windward Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 735-4184 - Fax: (907) 735-2120

STATUTORY WARRANTY DEED

PAGE 1 OF 4

(Amended), all within the Homer Recording District, State of Alaska.

**GRANTEES:**

Unit No. 702, Phase 1, Tax Parcel No. 177 010 82 CO 01; David J. Gower and Sheri A. Gower, husband and wife, tenants by the entirety, 702 Quiet Creek Dr. and mailing address 56659 E. End Rd., Homer, Alaska 99603-9572, and their heirs, successors and assigns;

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Unit No. 706, Phase 1, Tax Parcel No. 177 010 82 CO 03; Griffith, Mary Ann, 706 Quiet Creek Dr., and mailing address 706 Quiet Creek Dr., Homer, Alaska 99603-8228, and her heirs, successors and assigns;

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Unit No. 710, Phase 1, Tax Parcel No. 177 010 82 CO 05; Forrester Family Trust, 710 Quiet Creek Dr., and mailing address PO Box 371, Homer, Alaska 99603-0371, and its successors and assigns;

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C. MICHAEL HOUGH - Attorney At Law - 3733 Red Walkers Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 235-1184 - Fax: (907) 235-2470

STATUTORY WARRANTY DEED

PAGE 2 OF 4



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Unit No. 820, Phase 4, Tax Parcel No. 177 010 82 CO 15, Alaska USA Federal Credit Union, 820 Quiet Creek Dr., and mailing address 4000 Credit Union Dr., Anchorage , AK 99503-6636, and its successors and assigns.

DATED this 31<sup>st</sup> day of March, 2015.

QUIET CREEK COMMUNITY ASSOCIATION INC.

Karen R. Berg-Forrester  
KAREN R. BERG-FORRESTER, VICE PRESIDENT  
Quiet Creek Community Association, Inc.



STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT )ss.

This foregoing instrument was acknowledged before me this 31<sup>st</sup> day of March 2015, by Karen R. Berg-Forrester, authorized signatory and Vice President of Quiet Creek Community Association, Inc., who signed on behalf of the of the Quiet Creek Community Association, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



Kathy Oakland  
Notary Public for Alaska  
My Commission Expires: 7-6-17

Return to:  
Quiet Creek Community Association  
PO Box 1623  
Homer, Alaska 99603

THIS INSTRUMENT IS BEING RECORDED BY  
KACHEMAK BAY TITLE AGENCY INC., AS AN  
ACCOMMODATION ONLY. IT HAS NOT BEEN  
EXAMINED AS TO ITS EFFECT, IF ANY, ON THE  
TITLE OF THE ESTATE HEREIN

C. MICHAEL HOUGH - Attorney At Law - 3733 Ben Wallres Lane - Ste. 2 - Homer - Alaska - 99603 - Tel: (907) 235-9184 - Fax: (907) 235-2470  
STATUTORY WARRANTY DEED PAGE 4 OF 4



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2015-000816-0



# NEW BUSINESS



# RESOLUTIONS



**CITY OF HOMER  
HOMER, ALASKA**

City Manager/  
Port and Harbor Director

**RESOLUTION 16-090**

A RESOLUTION OF THE HOMER CITY COUNCIL AWARDING THE CONTRACT FOR THE CITY-OWNED DREDGE MATERIALS 2016 TO A FIRM TO BE NAMED IN AN AMOUNT TO BE DISCLOSED AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, In accordance with the Procurement Policy the Invitation to Bid was advertised in the Homer News on August 4 and 11, 2016, sent to two in-state plans rooms, and posted on the Clerk's home page; and

WHEREAS, Bids were due on August 18, 2016 and \_\_\_\_\_ bids were received; and

WHEREAS, Bids were opened and the firm of \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_, was determined to be the low responsive bidder and found to be qualified to complete the work; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, approves the contract award for the City-Owned Dredge Materials 2016 to the firm of \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_, in the amount of \$ \_\_\_\_\_ and authorizes the City Manager to execute the appropriate documents.

PASSED AND ADOPTED by the Homer City Council this 22<sup>nd</sup> day of August, 2016.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

43 ATTEST:

44

45

46 \_\_\_\_\_

47 JO JOHNSON, MMC, CITY CLERK

48

49 Fiscal Note: Acct. No. 400-0600, \$\_\_\_\_\_.

**INVITATION TO BID**  
**By the City of Homer, Alaska**  
**For City-Owned 2016 Dredge Materials**

JUL 27 2016



Sealed bids for the **City-owned 2016 Dredge Materials** will be received at the Office of the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603 until **2:00 p.m. Thursday, August 18, 2016** at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for receipt of the bid shall not be considered. All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.

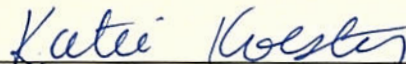
Description and location of dredge materials, and bidding instructions and information are available online at <http://www.cityofhomer-ak.gov/rfps>, or at the following address: Office of the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603; phone number (907) 235-3130.

The City of Homer is seeking bids from firms or individuals that are interested in purchasing and removing dredge materials for use on or off the Homer Spit from the City of Homer's dredging program. All bidders are expected to carefully examine the materials description, location, bidding instructions and terms before submitting a bid. Submission of a bid will be considered prima facie evidence that the bidder has carefully examined this information and is totally satisfied as to the restrictions on use of the material and any and all terms of this Invitation to Bid. Please direct all questions regarding the materials and logistics to: Bryan Hawkins, Port Director/Harbormaster, 4311 Freight Dock Road, Homer, AK 99603; phone number (907) 235-3160.

The City of Homer reserves the right to accept or reject any or all bids, to waive irregularities or informalities in the bids, and to award these dredge materials to the highest single bidder or combination of bidders.

Dated this 27<sup>th</sup> day of July, 2016.

**CITY OF HOMER**



Katie Koester, City Manager

Publish: Homer News – August 4, 11, 2016

Fiscal Note: 400-0600-5227





**INVITATION TO BID REQUIREMENTS**  
**By the City of Homer, Alaska**  
**For City-Owned 2016 Dredge Materials**

The City of Homer is seeking bids from firms or individuals that are interested in purchasing and removing dredge materials for use on or off the Homer Spit from the City of Homer's dredging program. All bidders are expected to carefully examine the materials description, location, bidding instructions and terms before submitting a bid. Submission of a bid will be considered prima facie evidence that the bidder has carefully examined this information and is totally satisfied as to the restrictions on use of the material and any and all terms of this Invitation to Bid.

The bid shall include a dredge material application and written narrative describing everything necessary for the removal and haul-away of purchased materials, including but not limited to labor, materials and equipment, and to include any final grading if successful bidders' excavation of materials goes below the land grade in any spot. Dredged materials must be removed by Wednesday, August 31, 2016. Committed materials that are left after this date will be offered to the next highest bidder.

The City of Homer reserves the right to accept or reject any or all bids, to waive irregularities or informalities in the bids, and to award these dredge materials to the highest single bidder or combination of bidders.

**A. MATERIALS DESCRIPTION, LOCATION, & COST**

Approximately 7,000 cubic yards of dredge materials combined will be sold, and consists of silt and sediment that would be suitable as base fill for raising the grade of low areas or for beach replenishment. This material can be viewed where it is stockpiled at the dewatering site located on Homer Spit Road across from the AMHS Ferry Terminal.

Dredge material bids must be for a minimum of 100 cubic yards. Minimum acceptable bid price per cubic yard is \$5.00. Bids may be for the minimum (100 yards) or for the maximum amount (7,000 yards) in their written narrative.

Successful bidders are required to pay for all awarded dredge materials in advance at the Port and Harbor Office. Successful bidders must contact the on-duty Harbor Officer when commencing a load-out of purchased materials, and again when last load is removed. Successful bidders are encouraged not to excavate below adjacent land grade during load-out and removal of purchased materials. If below grade excavation does occur, the bidder responsible will restore this area to grade immediately after materials are removed.

**B. PRIORITY & RESTRICTIONS ON USE**

Dredged materials from the Homer Harbor operations are managed under Homer City Code 19.12. Listed under HCC19.12.050, Exceptions, the City may provide the use and disposal of dredge materials in the following order of priority:

- #1 -Replacement of material removed from City beaches by storms or erosion.
- #2 -Fill to improve City Port and Harbor facilities on the Homer Spit.
- #3 -Sale for use as fill on privately owned or leased property on the Homer Spit.
- #4 -Emergency repairs of erosion.
- #5 -Sale for use as fill material at locations off the Homer Spit. Uses that will be in City limits, these code requirements apply:
  - i. Fill may not be used within 20 feet of wetlands, nor to fill wetlands as shown on the Kenai

- Peninsula Borough website.
- ii. The final slope of the fill shall not exceed 50% or 1:2 which is a one foot rise to a two foot run.
  - iii. Fill may not be placed closer than five (5) feet from the side or rear lot lines of a parcel.
  - iv. A Grading Plan is required and must be approved by the City Planning Office prior to fill placement where fill depth is greater than 3 ft over 25% or more of the lot.
  - v. A Slope Development Plan is required prior to fill placement on lot(s) with an average slope greater than 15%.
  - vi. A Development Activity Plan must be submitted to the City's Planning Office prior to placement of more than 1,000 cubic yards of fill material on a lot.
  - vii. A Stormwater Plan must be submitted to the City's Planning Office prior to placement of more than 10,000 cubic yards of fill material on a lot. A Stormwater Plan requires an engineer's stamp of approval and a \$200 review fee, per lot.

### C. BIDDING GENERAL REQUIREMENTS

Description and location of dredge materials, and bidding instructions and information are available online at <http://www.cityofhomer-ak.gov/rfps>, or at the Office of the City Clerk, 491 E. Pioneer Avenue, Homer, Alaska 99603. **All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.** Interested firms or individuals should submit bids using the following instructions for their bid to be opened:

- Only one bid for each potential fill location, printed legibly on a dredge material application
- Only one bid per envelope
- Bid application must be in an opaque envelope
- Bid envelopes must be sealed
- The following information must be printed on the outside of the envelope:
  - Bidder's Name and Address
  - "City of Homer 2016 ITB Dredge Materials"
- Sealed bids may be mailed or hand-delivered to:  
City of Homer  
Office of the City Clerk  
491 E. Pioneer Avenue  
Homer, Alaska 99603

Sealed bids shall be received at the Office of the City Clerk **no later than 2:00 p.m. Thursday, August 18, 2016**, at which time they will be publicly opened and read. The time of receipt will be determined by the City Clerk's time stamp. Bids received after the time fixed for receipt of the bid shall not be considered. The City Clerk's Office does not provide envelopes for bidders to put their completed bid forms in, nor will the Clerk's Office Staff write bidders information on the envelope on behalf of the bidder.

Please direct bid submission questions to Jo Johnson, City Clerk, at (907) 235-3130. Please direct technical questions regarding dredge materials or hauling logistics to the Port and Harbor Office in writing at [bhawkins@ci.homer.ak.us](mailto:bhawkins@ci.homer.ak.us), or to 4311 Freight Dock Road, Homer, AK 99603.

### D. BIDDING CONTENTS

To be considered responsive, each sealed bid envelope must include the following:

- A completed Dredge Material Application to the City of Homer for each potential fill location. This form provides the City with the bidder's contact information, their requested amount of dredge materials in cubic yards (minimum of 100cy), their minimum bid price per cubic yard (no less than \$5.00/cy), and information on where the materials are to go to ensure they comply with Planning and Zoning code.

- A written narrative (one page maximum) describing the successful bidder’s material removal plan, including:
  - Persons or company contracted to conduct the hauling
  - Equipment that will be involved
  - Timeline of removal, ensuring all awarded materials are removed by August 31, 2016
  - Plan for restoring the area to grade in the occurrence of below-grade excavation

**E. PROPOSED BID SCHEDULE**

ITB Advertisement	August 4 & 11, 2016 – Homer News
Bids Due	August 18, 2016 at 2:00 pm
Review & Awarding of Bids	August 18, 2016 at 2:00 pm
Removal Deadline	August 31, 2016





# City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road  
Homer, AK 99603

port@cityofhomer-ak.gov  
(p) 907-235-3160  
(f) 907-235-3152

## DREDGE MATERIAL APPLICATION

For the Sale and Use Approval of City of Homer Dredged Materials

Purchaser's Name: \_\_\_\_\_ KPB Sales Tax No. (if applicable): \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Grade Qty. (in cubic yards): \_\_\_\_\_ Date of Purchase: \_\_\_\_\_

Grade Bid Amount \$ \_\_\_\_\_ Marina Acct #: \_\_\_\_\_

### DESTINATION OF FILL: (Please complete one application for each potential fill location)

Owner's Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Cell: \_\_\_\_\_

Physical Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Amount of Fill: \_\_\_\_\_ Describe Purpose of Fill: \_\_\_\_\_

Is Location in Homer City limits?:  Yes  No **If yes, answer the following:** Wetlands per KPB?:  Yes  No

KPB Tax ID #: \_\_\_\_\_ Lot Size (acres): \_\_\_\_\_ Zoning Type: \_\_\_\_\_

Legal Description of Property: \_\_\_\_\_

If you are taking the dredge material OFF the SPIT please review and initial each of the following items. Failure to comply with these standards is a violation of Homer City Code and subject to fines of \$250.00 per day. Contact the Planning Department at 235-3106 for assistance determining if there are designated wetlands and the slope of the property. City staff reserves the right to request more information. Contact the Homer Harbor Office at 235-3160 if you have questions.

\_\_\_\_\_ Fill will not be used within 20 feet of wetlands, nor to fill wetlands as shown on the KPB website.

\_\_\_\_\_ The final slope of the fill will not exceed 50% or 1:2 which is a one foot rise to a two foot run.

\_\_\_\_\_ Fill will not be placed closer than five (5) feet from the side or rear lot lines of a parcel.

\_\_\_\_\_ A Grading Plan is required and must be approved by the City Planning Office prior to fill placement where fill depth is greater than 3 ft. over 25% or more of the lot.

\_\_\_\_\_ A Slope Development Plan is required prior to fill placement on lot(s) with an average slope greater than 15%.

\_\_\_\_\_ A Development Activity Plan must be submitted to the City's Planning Office prior to placement of more than 1,000cy of fill material on a lot.

\_\_\_\_\_ A Stormwater Plan must be submitted to the City's Planning Office prior to placement of more than 10,000cy of fill material on a lot, which requires an engineer's stamp of approval and a \$200 review fee per lot.

\_\_\_\_\_ If you are constructing a new driveway, a Driveway Permit is needed. Contact Public Works at 435-3125.



COMMENTS OF THE AUDIENCE  
COMMENTS OF THE CITY ATTORNEY  
COMMENTS OF THE CITY CLERK  
COMMENTS OF THE CITY MANAGER  
COMMENTS OF THE MAYOR  
COMMENTS OF THE CITY COUNCIL  
ADJOURNMENT

