

MEMORANDUM 19-117

TO: Mayor and Council Members
City of Homer

CC: Katie Koester, City Manager
Melissa Jacobsen, City Clerk

FROM: Holly C. Wells, with input and concurrence with Sponsor Donna Aderhold

DATE: September 3, 2019

FILE NO. 506,742.27

RE: ORDINANCE 19-019(S-2): Introduction to Changes and Amendments to Ordinance 19-019(S)

Sponsor Donna Aderhold has placed before Council Ordinance 19-19(S-2), which incorporates amendments adopted by Council at its August 24, 2019 regular meeting as well as comments and recommendations made by the Homer Planning Commission. Council's adopted amendments ensure that the City water system is only made available to outside jurisdictions when required by law or past conduct or when a water main adjacent to the extraterritorial property already exists.

Additional revisions to the Ordinance have been made as a result of direction given to the Sponsor or arising from the Sponsor's review and consideration of recommendations from the Homer Planning Commission. Less substantive revisions were made to clarify and simplify Ordinance language in light of the adopted and the proposed revisions.

More specifically, additional revisions include:

- 1) Line 51, add the word "City" before "water service" to clarify that the cost information required applies to the cost of City water service. This seems obvious but its in the City's best interest to foreclose any room for mis-interpretation.
- 2) Line 59, remove the word "permitting" because the conduct required to be lawful, in the City's interest and in furtherance of public health and welfare, is the actual connection rather than the act of granting authority to connect.
- 3) Insert No. 7 on lines 62-64, which requires a resolution from the Homer Planning Commission affirming that the proposed extraterritorial connection fully complies and meets the goals of the City Comprehensive Plan. The purpose of this added requirement is to incorporate the Planning Commission's recommendations that considerations

regarding annexation and the Comprehensive plan are incorporated into the process and the ordinance. While these types of considerations are often included in “Whereas” clauses, such clauses are not law. Instead, incorporating the requirement into the text of the ordinance ensures that the Commission’s recommendations are memorialized and given due consideration.

4) Lines 60-69 were revised to effectuate the intent of Councilmember Lord’s proposed amendment while ensuring the language remains precise.

5) Remove lines 94-96, which required the property owner to consent to and confirm the City has full authority to regulate any use of the property impacting the City-owned Water System. While City Council retains the ability to regulate uses and conduct that will have an impact on the Water System, the removal of this provision completely permits Council to ensure that such authority is narrowly tailored to the specific use of the Water System at issue.