

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

3 Mayor

4 **ORDINANCE 16-48**
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 2.04.030 TO PERMIT CITY
8 EMPLOYEES AND THE CITY MANAGER TO MAKE LOCAL OFFICE
9 CAMPAIGN CONTRIBUTIONS AND AMENDING HCC 1.18.030 TO
10 ADD HCC 1.18.030(q), WHICH INCORPORATES HCC 2.04.030, AND
11 ITS PROHIBITION AGAINST COUNCIL MEMBER INFLUENCE AND
12 DIRECTION OF CITY EMPLOYEES AND THE CITY MANAGER, INTO
13 THE HOMER ETHICS CODE.
14

15 WHEREAS, The purpose of the Homer Ethics Code is, in part, to set reasonable
16 standards of conduct for City of Homer (“City”) employees, officers, and officials and ensure
17 that these employees, officers, and officials are aware of the standards of conduct demanded
18 of them; and
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20 WHEREAS, HCC 2.04.030 prohibits certain acts and conduct by City officials, the City
21 Manager, and City employees but is located in a section of the Code applying to the City
22 Manager and thus easily missed by City officials and employees; and
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24 WHEREAS, It is in the City’s best interest to incorporate HCC 2.04.030 by reference into
25 the Homer Ethics Code, thereby increasing City official and employee awareness of the
26 prohibitions imposed by HCC 2.04.030; and
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28 WHEREAS, It is also in the City’s best interest to permit City employees and the City
29 Manager to make campaign contributions to candidates for elected positions within the
30 municipal government.
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32 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
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34 Section 1. Homer City Code Chapter 2.04 entitled “City Manager” is amended to read
35 as follows:
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	Chapter 2.04
	City Manager
39	2.04.010 Appointment.
40	2.04.020 Duties and powers.
41	2.04.030 Interference in administration and elections.
42	2.04.040 Ineligible persons.

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

43 2.04.010 Appointment.

44 a. The City Manager shall be appointed by the City Council as provided for
45 under the statutes of the State of Alaska.

46 b. The City Manager shall annually appoint, subject to City Council
47 confirmation, an acting City Manager who shall assume the duties and powers
48 of the City Manager in his or her absence. The City Council may revoke the
49 confirmation at any time.

50

51 2.04.020 Duties and powers.

52 The duties and powers of the City Manager shall be as follows:

53 a. He or she is the executive and administrative officer of the City.

54 b. He or she shall administer the affairs of all City departments.

55 c. He or she shall devote his or her time to the discharge of his or her official
56 duties, attend all meetings of the Council unless excused therefrom by the
57 Mayor or Council, and keep the Council advised at all times of the affairs and
58 needs of the City.

59 d. He or she shall make recommendations to the Council as he or she
60 considers expedient or necessary and once a year he or she shall present a
61 detailed statement of what he or she has done during the year covered by the
62 report.

63 e. He or she shall prepare and recommend to the Council an annual budget.

64 f. He or she shall execute and enforce ordinances and resolutions of the City,
65 administer all contracts entered into by the City and see that provisions of all
66 franchises, permits, leases, and privileges granted by the City are observed.

67 g. He or she shall appoint and remove the heads of all departments, boards,
68 bureaus and all other officers and employees of the City, except the City
69 Attorney, who shall be appointed by and serve at the pleasure of the Council,
70 and he or she shall have supervision and control over them and their work with
71 power to transfer an employee from one department to the other. He or she
72 shall supervise all other City departments to the end of obtaining the utmost
73 efficiency in each of them.

74 h. He or she shall supervise the operation of all public utilities owned and
75 operated by the City and shall have general supervision of all City-owned
76 property.

77 i. He or she shall act as purchasing agent for all City departments, subject to
78 provisions of the annual budget. All purchases shall be made by requisition
79 approved by him or her.

80 j. He or she shall take part in and may enter into all discussions by the City
81 Council but shall have no vote.

82 k. Before assuming office he or she shall take an oath to faithfully discharge
83 the duties of his or her office and furnish a bond in such sum as the Council by
84 resolution shall require. Cost of such bond shall be paid by the City.

Added language Deleted language ~~stricken through.~~

85 2.04.030 Interference in administration ~~and elections.~~

86 No member of the Council shall directly or indirectly, by suggestion or
87 otherwise, attempt to influence or coerce the Manager in the making of any
88 appointment or removal of any officer or employee or in the purchase of supplies, or
89 attempt to exact any promise relative to any appointment from any candidate for
90 Manager; or discuss directly or indirectly with him **or her** the matter of any specific
91 appointment to any City office or employment, or to give orders directly to any officer
92 or employee or to deal with the Manager individually and not by the Council as a body.
93 Nothing in this section shall be construed, however, as prohibiting the Council while in
94 open session from fully and freely discussing with or suggesting to the Manager
95 anything pertaining to City affairs or the interests of the City. ~~Neither the Manager nor~~
96 ~~any person in the employ of the City shall take part in securing or contributing any~~
97 ~~money toward the nomination or election of any candidate for a municipal office.~~

98
99 2.04.040 Ineligible persons.

100 No person related to the Manager by consanguinity or affinity within the third
101 degree shall hold any appointive office or employment with the City except by
102 approval of the Council.

103
104 Section 2. Homer City Code Chapter 1.18.030 is amended to add HCC 1.18.030(q) and
105 to read as follows:

106
107 1.18.030 Standards and prohibited acts.

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

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

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

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

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

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

121 5. Exceptions.

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

Added language. Deleted language ~~stricken through.~~

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

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

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

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

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

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

154 1. A rezoning, quasi-judicial or platting action pending before the
155 Commission; or

156 2. An application that would require approval by a quasi-judicial or
157 platting action of the Commission.

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

164 g. Use of Office for Personal Gain. No City official or the City Manager shall seek
165 office or position or use their office or position for the purpose of obtaining
166 anything of value for himself **or herself**, an immediate family member or a
167 business that he **or she** owns or in which **he or she** holds an interest, or for the

Deleted language stricken through.

168 purpose of influencing any matter in which he **or she** has a financial interest.
169 This subsection does not prohibit the receipt of authorized remuneration for
170 the office or position.

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

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

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

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

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

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

Added language. Deleted language ~~stricken through~~.

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

- 216 1. A meal of reasonable value;
- 217 2. Discounts or prizes that are generally available to the public or large
218 sections thereof;
- 219 3. Gifts presented by an employer to its employees in recognition of
220 meritorious service, or civic or public awards;
- 221 4. A lawful campaign contribution made to a candidate for public office;
- 222 5. An occasional nonpecuniary gift insignificant in value;
- 223 6. Any gift which would have been offered or given to him **or her** if he **or**
224 **she** were not a City official or the City Manager.

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

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

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

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

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

247 **q. No City Council member may be in violation of HCC 2.04.030.**

248
249 Section 3. This ordinance shall be of a permanent and general character and shall be
250 included in the City code.

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

252 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
253 _____, 2016.

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CITY OF HOMER

MARY E. WYTHE, MAYOR

260 ATTEST:

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263

JO JOHNSON, MMC, CITY CLERK

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266
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268 YES:

269 NO:

270 ABSTAIN:

271 ABSENT:

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273
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275 First Reading:

276 Public Hearing:

277 Second Reading:

278 Effective Date:

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280 Reviewed and approved as to form.

281

283 Mary K. Koester, City Manager

284

285 Date: _____

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288 Fiscal Note: NA

Holly C. Wells, City Attorney

Date: _____