

**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 19-012**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
AMENDING THE COUNCIL'S OPERATING MANUAL REGARDING  
TELEPHONIC PARTICIPATION, RE-ORGANIZING SECTIONS,  
CLARIFYING LANGUAGE, AND ADDING APPENDICES FOR CITY  
CODE EXCERPTS.

WHEREAS, Over the years sections of the Council Operating Manual have been amended but weren't carried through into other sections or were inserted in such a way that created some discontinuity over time; and

WHEREAS, Ordinance 19-05(A) amends HCC 2.08.100-2.08.120 regarding telephonic participation and those sections are also included in the Council Operating Manual; and

WHEREAS, Two large sections of city code are included in the body of the Council Operating Manual and have been moved to appendices to improve the readability and make it easier to amend the manual when those sections of code are amended; and

WHEREAS, Some sections have been reorganized so topics are located in one place in the manual for ease of reference; and

WHEREAS, Some paragraphs have been deleted because they are no longer relevant or processes have changed over time; and

WHEREAS, Language is included to allow the City Clerk to amend code sections in the Council Operating Manual after they are adopted by ordinance without having to bring the manual back for amendment by resolution; and

WHEREAS, All other amendments to the operating manual will still be required to come before Council by resolution for approval; and

WHEREAS, The amendments are identified in Attachment A through strike outs for items to be deleted and bold underline for new language or language that has been moved.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council amends the Council Operating Manual regarding telephonic participation, re-organizing sections, clarifying language, and adding appendices for City Code excerpts.

43 PASSED AND ADOPTED by the Homer City Council this 25<sup>th</sup> day of February, 2019.

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CITY OF HOMER

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HEATH SMITH, MAYOR PRO TEMPORE

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52 ATTEST:

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MELISSA JACOBSEN, MMC, CITY CLERK

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58 Fiscal note: N/A

1 **POLICIES OF THE HOMER CITY COUNCIL (Attachment A)**

2  
3 In 1983 the Homer City Council directed that policy directives be drafted to promote routine  
4 handling of various categorical business practices. Personnel policies were amended in  
5 accordance with policy directives dealing specifically with personnel matters and are found  
6 in the City of Homer Personnel Regulations Manual. The balance of these policies are as  
7 follows and will be updated regularly.

8  
9 **General Statements**

10  
11 The City of Homer is a first class general law city incorporated March 31, 1964. Homer has a  
12 City Manager form of government.

13  
14 Mayor and Council are elected officials. The Mayor is not a member of the Council and may  
15 vote only in the case of a tie vote.

16  
17 The Mayor of the City of Homer presides over meetings of the City Council, has the power to  
18 veto action of the Council (which may be overridden with a 2/3 vote of the Council), and acts  
19 in an official capacity ~~to~~ **through** the City Clerk.

20  
21 The City Council is a body of six elected officials empowered by State Statute and Homer City  
22 Code to represent the citizenry in decisions on their behalf. Four members of the Council  
23 constitute a majority for quorum and voting purposes.

24  
25 **Policy Directives**

26  
27 Council Relations with Employees & Department Heads:

28  
29 "The Council acts as a whole, not as individuals, when interacting with employees regarding  
30 City business."

31  
32 Council Relation with City Attorney

33  
34 "Contact with the Attorney by individual Councilmembers is expected to be judicious, always  
35 considering the fiscal impact. Specific information requested from the City Attorney by an  
36 individual must be in writing to the City Attorney and copied to each Councilmember. Legal  
37 opinions on sensitive, controversial, or potentially costly matters will be brought before the  
38 full Council for action and should be in written form whenever possible. "Legal Opinions" are  
39 defined as paper products and not intended to include advice/information provided verbally.  
40 Legal opinions will be given to all members at the same time it is given to the individual  
41 member."  
42

43 "When more than one solicited legal opinion exists on the same subject, the City Attorney's  
44 opinion overrides."

45

46 Council Conduct - Statement of Mayor and Council on Behalf of the City of Homer

47

48 "Statements of the Mayor and Council on behalf of the City are based on consensus and  
49 resolve of the Council body and substantiated by official record."

50

51 Councilmember/Mayor Absences

52

53 "Every effort should be made to give advance notice of absences. Absences should be  
54 coordinated in order to provide the highest possible attendance at Council Meetings."

55

56 City Council and Commission and Board Minutes

57

58 "It is a general consensus that the official record of proceedings, the minutes of City Council  
59 and Commission meetings, will be in the "action" format which state clearly the subject  
60 considered and the action. Points made in deliberation shall be reflected only. Individual  
61 comments of the Council, Commissions and Board are summarized under "Council  
62 Comments", "Commission Comments" or "Board Comments". Statements for the record are  
63 prefaced with a directive that the comment "is for the record." Public Comments, Public  
64 Testimony on Public Hearing Items and Audience Comments shall reflect the subject of the  
65 comment or testimony, whether the commenter/testifier is for or against the subject of  
66 his/her comments/testimony and shall reflect, in synopsis format, any historical perspective.  
67 (Reso 06-115(A), 08/28/06).

68

69 Public Comment/Testimony and Audience Comment Time Limits for City Council,  
70 Commission, and Board Meetings

71

72 The meeting chairperson shall note for the audience's benefit that there is a three minute  
73 time limit each time there is a place in the agenda for public comment/testimony or audience  
74 comments. Any individual wishing to address the City Council or any of its Advisory Bodies  
75 shall adhere to a three minute time limit. It is the responsibility of the Chair to announce  
76 under Public Comments, Public testimony on public hearing items and Audience Comments  
77 that there is a 3 minute time limit. Time limits may be adjusted by the 2 minutes up or down  
78 with the concurrence of the body in special circumstances only such as agenda content and  
79 public attendance. (Reso 06-115(A), 08/28/06).

80

81 City Council and Commission, Board Agenda Guidelines

82

83 ~~Agenda and Meeting Conduct Guidelines are as illustrated in Section 6.~~

84

85 City Council Meetings

86

87 It is the policy of the City Council to avoid holding regular or special meetings on State and  
88 Federal holidays. It is the custom of the Homer City Council to cancel the second regular  
89 meeting in December.

90

91 Mayor Pro Tem

92

93 ~~HCC 2.08.080~~. At the first meeting of the Council following certification of the municipal  
94 election each year, there shall be appointed a Mayor Pro Tempore, by majority vote of  
95 Council, to act as Mayor during the Mayor's temporary absence or disability. **HCC 2.08.080**

96

97 The Mayor Pro Tem shall, in the absence of the Mayor, act as Mayor of the City of Homer as  
98 though they themselves had taken the Oath of Office of Mayor with all duties, responsibilities  
99 and power of the Office of the Mayor for the City of Homer, including agenda deadline and  
100 review, appointments to boards and commissions, Mayoral Proclamations and Recognitions,  
101 and other duties of the Mayor.

102

103 The Mayor Pro Tem, when acting in that capacity, does not lose the privilege or duty to  
104 discuss and vote as Councilmember.

105

106 **In the event both the Mayor and Mayor Pro Tem are unable to preside, the most senior**  
107 **member will serve as the Presiding Officer and assume the duties as identified for Mayor**  
108 **Pro Tem.**

109

110 Appointment to Board & Commissions

111

112 ~~City Advisory board and commission appointments are made by the Mayor upon~~  
113 ~~confirmation by the Council. **Members of Boards and Commissions are appointed by the**~~  
114 **Mayor and confirmed by City Council. (AS 29.20.320(b)** ~~The Mayor will notify Council of~~  
115 ~~vacancy and appointment at the next regular meeting if not sooner. Data information sheets~~

116

117 **Applications for appointment to board and commissions** will be on file in the City Clerk's  
118 office for those considered for appointment. The Mayor will submit a list the names of those  
119 considered to the City Council. Representation of a wide community cross-section is  
120 desirable on the commissions and boards. Replacements for vacancies may be  
121 recommended by the appropriate Commission or Board.

122

123 Appointment of a City representative on a board, commission, etc., that is not advisory to the  
124 City is made by the Council. ~~Economic Development Commissioners are nominated by the~~  
125 ~~Mayor and confirmed by the Council for appointment.~~

126

127 Orientation of New Councilmembers

128

129 "A general orientation to municipal government, Council conduct and expectations will take  
130 place in close proximity to being sworn into office." The Mayor is responsible for providing  
131 the orientation program.

132

133 Release of Telephone, Mailing Address and Location of City Council and Commissions

134

135 "It is the policy of the City of Homer to release all available information on any official unless  
136 otherwise directed by the individual official."

137

138 New Liquor License Applications

139

140 "~~All applications for new liquor licenses will be subject first to a public hearing, duly notified  
141 and that issuance of the license may be protested for cause pursuant to AS 4.11.480."~~

142

143 Fiscal Notes

144

145 ~~December 10, 1990 via, to begin January 1, 1991~~ Every action item on Council's Agenda is to  
146 include both negative and/or positive financial impact. If a fiscal note is not required or not  
147 applicable the action item is to be so marked. (Memorandum 90-239)

148

149 Use of City Letterhead

150

151 "~~Any letter being sent out from the Council, using City letterhead, should first come before  
152 the Council."~~ **Councilmembers should not distribute letters independently on City  
153 letterhead. Letters sent on behalf of the City Council must come before the Council for  
154 review and approval.**

155

156 Political Endorsement

157

158 "The Homer City Council takes no position in the endorsement of any political race." "Since  
159 the Mayor is not a member of the voting body and is an elected official, there is nothing to  
160 prohibit his using his title to endorse a political candidate."

161

162 Lobbying Activities

163

164 Pursuant to, the City Manager will create and deliver to Councilmembers' and the Mayor's  
165 mailboxes an initial list of legislation and issues important to the City. (Reso 96-10)

166

167 Each Council member and the Mayor will choose the issue(s) and the bill(s) s/he wishes to be  
168 responsible for and will indicate how much time s/he is willing to spend on those items.

169

170 Where necessary, City Council will develop formal, written positions on issues to be voted on  
171 outside the CIP list.

172

173 When working with a contract lobbyist or lobbying on behalf of the City, the Mayor, City  
174 Manager and Council will be guided by the above-mentioned process. Toward the end of the  
175 session, when legislation moves quickly, the City Manager, Mayor or Council members  
176 responsible for specific issues may draft a position document and send it to the appropriate  
177 players. In that case, a hard copy of the transmittal will be distributed to Council, Mayor, and  
178 City Manager immediately thereafter in their mailboxes, with a copy placed in Council  
179 packets under Announcements/Presentations/~~Borough and Commission~~ Reports, thereby  
180 ensuring public involvement. (Reso 06-54, 05/22/06).

181

182 Upon returning from travel on City business, including lobbying trips or other trips made on  
183 behalf of the City, the City Manager, Council members and Mayor will file written reports for  
184 inclusion in the next Council meeting packet under Announcements/Presentations/~~Borough  
185 and Commission~~ Reports using the attached format. ~~Each entry describing the activity and  
186 subject(s) discussed will be followed by a recommendation. In this way, Councilmembers,  
187 the Mayor, or the City Manager following up will have a clear direction to follow.~~ (Reso 00-08,  
188 1/10/00; Reso 06-54, 05/22/06).

189

190 Each Councilmember, the Mayor, and City Manager are expected to share his/her lobbying  
191 activities with the public in oral and written form under the agenda section marked  
192 Announcements/Presentations/~~Borough and Commission~~ Reports. (Reso 06-54, 05/22/06).

193

194 Travel Report Narratives are required for all travel and will be included under  
195 ~~Announcements/Presentations/Borough and Commission Reports.~~ Finance verifies expenses  
196 and prepares check, less advance, (if applicable) after receipt of check request from City  
197 Clerk. (Reso 00-08, 01/10/00; Reso 95-78(A), 10/07/95).

198

#### 199 Committee of the Whole

200

201 ~~The Committee of the Whole may meet prior to every Regular Council Meeting at 5:00 p.m. to  
202 not run past 5:50 p.m.~~

203

204 ~~This is a device to enable the full Council to give detailed consideration to a matter under  
205 conditions of freedom approximating those of a committee. The results of any votes taken  
206 are not the final action of the Council and are recommendations.~~

207

208 ~~The Mayor shall be the presiding officer.~~

209

210 ~~No text may be altered in any agenda item for Council's Regular meeting; however,~~

211 amendments may be recommended.

212

213 ~~The agenda shall be noticed the same as a Council's Regular meeting. Only those matters on~~  
214 ~~the noticed agenda shall be considered; however, other items not on the Council's Regular~~  
215 ~~meeting agenda may be considered if the agenda item is received by the City Clerk no later~~  
216 ~~than the Wednesday prior to the meeting. "Old business" shall be added to the Committee of~~  
217 ~~the Whole agenda and shall be those items that are not on Council's Regular Meeting agenda~~  
218 ~~and that were not discussed at the previous Committee of the Whole meeting due to~~  
219 ~~insufficient time. (Reso 09-116(A), 11/23/09; Reso 03-118 08/25/03; Reso 01-24, 04/09/01; Reso~~  
220 ~~01-08(S), 02/26/01).~~

221

## 222 **AMENDMENTS TO THE COUNCIL OPERATING MANUAL**

223

224 **Amendments to City Code that are adopted by Ordinance and are referenced in this**  
225 **manual and in the Appendices will be updated by the City Clerk and will not be required**  
226 **approved by resolution. All other amendments to the Council Operating Manual will be**  
227 **approved by resolution.**

228

229

## **PROCEDURES**

230

### **GENERAL INFORMATION - (HOW TO'S)**

231

232 Introduction: Robert's Rules, Homer City Code (HCC) and Alaska State Statues (AS) govern  
233 powers and operations of the Council. Title 29 specifically deals with municipalities;  
234 however, other State Statutes can affect specific subjects of consideration. The following is a  
235 quick reference for Councilmembers confronted with the first exposure as an elected  
236 government official.

237

### 238 **ABSENCES** (To be excused from meeting)

239

240 By-laws for Council procedure provides that unexcused absences from three consecutive  
241 meetings is adequate basis for declaring the seat vacant. Notification of intent to be absent  
242 is the primary prerequisite to being excused.

243

244 Notification of future absences can be made at any Council meeting under Comments of the  
245 Council.

246

247 Notification of absence between meetings is accomplished by advising the Mayor, City Clerk  
248 or City Manager.

249

250 During opening remarks, the Mayor, or designated presiding officers declares the status of  
251 any absence for the record.

252



253 Councilmembers may state objections to absences either when authorization for an absence  
254 is required by a Councilmember or declared excused by the Mayor. HCC 2.08.040(l)(5).

255  
256 **TELECONFERENCE (To participate telephonically)**

257  
258 Mayor and Councilmembers may participate may attend a maximum of three meetings  
259 telephonically during the twelve month period commencing November 1<sup>st</sup> of each year, with  
260 the exception of executive sessions and hearings on an ethics charge.

261  
262 Mayor or Councilmembers shall notify the City Clerk at least 5 days prior to the scheduled  
263 time for the meeting their request to participate telephonically. The City Clerk will notify the  
264 Mayor and Councilmembers of the request three days prior to the scheduled meeting time.

265  
266 **Procedures regarding telephonic participation are attached in Appendix A and in HCC**  
267 **2.08.100-2.08.120.**

268  
269 **EXECUTIVE SESSION - Call for...**

270  
271 State law pertaining to public agency meetings is applied in the absence of specific City  
272 Code. AS 44.62.310(c)(1)-(3) state legal reason for executive sessions. The law is as follows:

- 273  
274 "The following excepted subjects may be discussed in an executive session:
- 275 (1) Matters, the immediate knowledge of which would clearly have an adverse effect  
276 upon the finances of the government unit;
  - 277 (2) Subjects that tend to prejudice the reputation and character of any person,  
278 provided the person may request a public discussion;
  - 279 (3) Matters which by law, municipal charter, or ordinances are required to be  
280 confidential."
  - 281 (4) Confidential records, matters involving consideration of government records,  
282 that by law are not subject to public disclosure. HCC 2.80.030
  - 283 (5) Attorney-client privilege.
  - 284 (6) Exemption for adjudicatory deliberations and decision-making.
  - 285 (7) Organizational votes.
- 286

287 On the Council's Agenda only the Statute number and section are required to be listed as the  
288 reason for Executive Session. The issue to be discussed is to be listed in parenthesis after the  
289 reason for executive session.

290  
291 This section is not applicable to quasi-judicial bodies, i.e. Boards of Adjustment.

292  
293 A regular or special meeting may be recessed or adjourned to executive session. Future times  
294 for executive sessions may be set by motion. A duly constituted, called meeting with a

295 quorum present is required for consideration of an executive session motion. Vote on the  
296 motion is taken by roll call.

297

298 Any Councilmember, the Mayor or City Manager may place consideration of an executive  
299 session on the agenda. When placed before agenda closing, the question is decided by 2/3  
300 vote. Request falls under the By-Law requiring unanimous consent for additions or deletions  
301 to the agenda.

302

303 During Executive Session:

304 (1) Stick to the issue

305 (2) No action; limited exceptions

306 (3) Decision-making in ad judicatory proceeding

307

308 Reconvene in public, make a statement, and take action if necessary. (Reso 03-140, 10/27/03;  
309 Reso 01-61, 09/10/01).

310

311 **CONFLICT OF INTEREST** - When to Express

312

313 Council business may present a conflict. It is important to recognize and state the conflict,  
314 immediately disqualifying yourself from participation. A conflict of interest is considered to  
315 exist when the Councilmember has a substantial financial interest in the matter under  
316 consideration. A Councilmember may move to disqualify another member if he does not  
317 disqualify himself. It is recognized that from time to time local government officials cannot  
318 avoid the circumstance of conflict of interest or appearance thereof. How these possible  
319 conflicts are handled is of prime importance to the official and the municipality.

320

321 Key Steps are 1) notification of substantial financial interest which then leads to 2) Mayor or  
322 Presiding Officer determination of whether financial interest is substantial.

323

324 Example: City Council Agenda Item - "Resolution to create an improvement district." A  
325 potential conflict may exist, for instance, when a Councilmember owns property in an area  
326 for which improvements would increase the value or development potential of the land.

327

328 (Notification): Councilmember Landowner states he/she is a property owner in the proposed  
329 improvement district for which improvements would increase the value or may occur when  
330 the proposed utilities are in place.

331

332 (Determination of Substantial Interest and Action): "I own property in this proposed  
333 improvement. I, therefore request to be excused from participating in discussion of or voting  
334 on this matter."

335

336 To abstain from voting without giving notice may be a disservice to the other

337 Councilmembers. An abstention counts as a negative vote (Robert's Rules of Order).

338

339 **All procedures regarding conflict of interest and code of ethics are attached in Appendix B**  
340 **and in HCC Chapter 1.18 Conflicts of Interest, Partiality.**

341

342 **STANDARD OPERATING PROCEDURE - Motions**

343

344 Public Comment/Testimony and Audience Comment Time Limits for City Council,  
345 Commission, and Board Meetings

346

347 The ~~meeting chairperson~~ **Presiding Officer** shall note for the audience's benefit that there is  
348 a three minute time limit each time there is a place in the agenda for public  
349 comment/testimony or audience comments. Any individual wishing to address the City  
350 Council or any of its Advisory Bodies shall adhere to a three minute time limit. It is the  
351 responsibility of the ~~Chair~~ **Presiding Officer** to announce under Public Comments, Public  
352 testimony on public hearing items and Audience Comments that there is a 3 minute time  
353 limit. Time limits may be adjusted by the 2 minutes up or down with the concurrence of the  
354 body in special circumstances only such as agenda content and public attendance. (Reso 06-  
355 115(A), 08/28/06).

356

357 Liquor Licenses - Application for new, renewal, or transfer of the liquor licenses within the  
358 City are reviewed by the Council. The Alcoholic Beverage Control Board allows municipalities  
359 the opportunity to protest all such applications before their final consideration and  
360 disposition. Status of taxes is checked with the Borough and comment is solicited from the  
361 Homer Department of Public Safety by the City Clerk's Office as standard course of action.  
362 Any negative reports are stated in informational memoranda about the liquor license. Liquor  
363 license applicants are notified of the report given to Council.

364

365 Liquor Licenses are normally placed on the consent agenda, and can be removed for  
366 discussion by any Councilmember. The memoranda from the Clerk will clearly state a  
367 recommendation to "approve", "object" or "voice no objection" to the action on the license.

368

369 **New Liquor License Applications - All applications for new liquor licenses will be subject**  
370 **first to a public hearing, duly notified and that issuance of the license may be protested**  
371 **for cause. AS 4.11.480.**

372

373 Games of Chance and Skill Permit - These permits are not transferable, so applications are  
374 either new or for a renewal. Alaska Department of Revenue issues the permit. All permits  
375 requiring acknowledgment of proof of filing shall be executed upon receipt by the City Clerk's  
376 Office, with a Report Memorandum from the Clerk's Office through the City Manager under  
377 the City Manager's Report. All permits requiring approval by the local government unit, shall  
378 not be executed by the City Clerk until Council has taken action, generally via Consent

379 Agenda at a Regular Meeting. The memoranda from the Clerk will clearly state a  
380 recommendation to "approve", "object" or "voice non objection". A simple motion for  
381 approval or non objection of the permit advances the application to the State for issuance.  
382 Protest is limited to the lack of qualification of the applicant. (Reso 96-110, 12/16/96)

383

384 Vacations of Right-of-Way - AS 29.40.070 governs dedication of right-of-way; vacation  
385 thereof. The Council is allowed thirty days following the decision of the platting board to  
386 veto that decision. No action on the agenda item constitutes approval. To disapprove, the  
387 motion must be to "veto the vacation". This item is generally placed on the Consent Agenda.

388

389 **STATEMENTS/COMMENTS FOR THE RECORD:** Certain statements for the record are SOP; 1)  
390 Councilmember qualifying potential conflict, Council." For other statements to be included  
391 remarks are prefaced by the directive "For the Record...."

392

393 **APPEALS, COUNCIL AS BOARD OF ADJUSTMENT;** Occasionally the City Council convenes as  
394 a Board of Adjustment on appeals from the Planning Commission. HCC 21.91 outlines  
395 requirements and board procedures. Essentially, the Council becomes a quasi-judicial body  
396 when hearing appeals. Discussion of appeals' subject matter with circumstance. Evidence  
397 and testimony should be weighted on its own merit and only as it is presented in written or  
398 oral form. No effort should be made to discuss the matter with staff or the parties involved.

399

400

## **HOMER CITY COUNCIL**

401

### **BYLAWS**

402

403 The following bylaws shall govern the procedures of the City Council of the City:

404

405 a. To abide by existing Alaska State laws pertaining to cities of the first class.

406

407 b. To abide by the current edition of Robert's Rules of Order insofar as this treatise is  
408 consistent with these bylaws, other provisions of the Homer City Code, or unwritten standing  
409 rules adopted by the City Council. In all other cases, bylaws, the code or the standing rule  
410 shall prevail.

411

412 c. The Council's agenda format specified in the City of Homer City Council Operating Manual,  
413 as the same may be amended from time to time, is incorporated herein by reference.

414

1. The manual may be revised with Council approval;

415

2. A copy of the manual shall be available to the public during regular business hours  
416 at the Homer City Hall and be available during City Council meetings.

417

418 d. Regular Meetings.

419

1. Second and fourth Mondays of each month at 6:00 p.m., unless otherwise provided  
420 by two-thirds vote of the City Council;

- 421 2. The agenda shall be provided to each Council member 36 hours prior to meeting, by  
422 City Clerk;  
423 3. Adding items to or removing items from the agenda will be by unanimous consent  
424 of the Council;  
425 4. Public notice of a regular meeting shall be made as provided in Chapter 1.14 HCC.  
426

427 e. Special Meetings.

- 428 1. Called by Mayor or majority of the Council;  
429 2. If a majority of members are given at least 36 hours' oral or written notice and  
430 reasonable efforts are made to notify all members, a special meeting may be held at  
431 the call of the presiding officer or at least one-third of the members;  
432 3. Agenda shall be as per subsection (c) of this section;  
433 4. Public notice of a special meeting shall be made as provided in Chapter 1.14 HCC.  
434

435 f. Emergency Meetings.

- 436 1. By unanimous consent of quorum;  
437 2. Required justifiable reason;  
438 3. Informal agenda – limited to emergency;  
439 4. Public notice shall be made as provided in Chapter 1.14 HCC.  
440

441 g. Teleconference participation in meetings may be authorized pursuant to HCC 2.08.100  
442 through 2.08.120.  
443

444 h. Quorum – Voting. Four Council members shall constitute a quorum. Four affirmative votes  
445 are required for the passage of an ordinance, resolution, or motion. A member of the Council  
446 acting as Mayor Pro Tem shall not lose his vote as the result of serving in such office. The  
447 Mayor is not a Council member and may vote only in the case of a tie. The final vote on each  
448 ordinance, resolution, or substantive motion may be a roll call vote or may be done in  
449 accordance with subsection (k) of this section (see AS 29.20.160(c)(d)).  
450

451 i. Motions to Reconsider. A member of the Council who voted with the prevailing side on any  
452 issue may move to reconsider the Council's action at the same meeting or at the next regular  
453 meeting of the body. Notice of reconsideration shall be given to the Mayor or City Clerk within  
454 48 hours from the time the original action was taken.  
455

456 j. Abstentions. All Council members present shall vote unless abstention is required by law  
457 (AS 29.20.160(d)).  
458

459 k. Consensus. The Council may, from time to time, express its opinion or preference  
460 concerning a subject brought before it to consideration. The statement, representing the will  
461 of the body and a meeting of the minds of the members, may be given by the presiding officer  
462 as the consensus of the body as to that subject without taking a motion and roll call vote.

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l. Vacancies. An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the Council. The Council shall declare an elective office vacant when the person elected:

1. Fails to qualify or take office within 30 days after his election or appointment;
2. Resigns and his resignation is accepted;
3. Is physically or mentally unable to perform the duties of the office as determined by two-thirds vote of the Council;
4. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the Council concur in expelling the person elected;
5. Misses three consecutive regular meetings unless excused;
6. Is convicted of a felony or of an offense involving a violation of the oath of office;
7. Is convicted of a violation of AS 15.13 concerning Alaska Public Offices Commission reporting requirements;
8. No longer physically resides in the municipality and the City Council by two-thirds vote declares the seat vacant; and
9. Is physically absent from the municipality for 90 consecutive days unless excused by the City Council.

m. Salaries of Elected Officials.

1. The Mayor and each Council Member shall be paid a stipend of \$75.00 for each council-meeting-day in which the person participates in person, or \$50.00 per council-meeting-day in which a majority of the person's participation time is telephonic. A council-meeting-day is any calendar day in which the person participates in any one or more of the following:

- a. A scheduled and publicly noticed meeting of the City Council, including without limitation a regular meeting, special meeting, committee of the whole meeting and meeting in executive session.
- b. A scheduled and publicly noticed meeting of the Board of Adjustment, Board of Ethics, or other board or commission that is composed of the Mayor and Council Members.
- c. Training or continuing education programs, and work sessions, that are required by law or commonly recognized best practice to perform the duties of Mayor or Council Member.

The City shall not spend any funds for elected officials' membership in the Public Employees Retirement System. An elected official may not receive any other compensation for service to the City unless specifically authorized to do so by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section.

[Ord. 17-01, 2017; Ord. 15-01(A), 2015; Ord. 10-51(A), 2011; Ord. 10-45, 2010; Ord. 09-54 § 1, 2009; Ord. 07-45(A)(S) § 4, 2007; Ord. 05-58(S)(A), 2005; Ord. 03-48(A), 2003; Ord. 01-30, 2001;

505 Ord. 99-17(A) § 2, 1999; Ord. 96-07(S)(A) § 1, 1996; Ord. 95-16(S), 1995; Ord. 92-28(S), 1992;  
506 Ord. 91-12, 1991; Ord. 90-22, 1990. Code 1981 § 1.24.040].

507

508

509

## **CITY COUNCIL AGENDA & MEETING CONDUCT GUIDELINES**

510

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

512

513 HCC 2.08.040(h) (Bylaws)

514 Four council members (quorum) is required.

515

516 Pledge of Allegiance will be said for all Regular and

517 Special Meetings.

518

### **2. APPROVAL OF THE AGENDA**

519

520

521 The agenda closes at 11:00 a.m., Wednesday before the Council meeting. HCC

522 2.08.040(d)(3) requires unanimous consent of the Council to add (or remove)

523 business items from the agenda. Tentative agenda items, type of enactment and

524 subject only, need to be to the City Clerk by Thursday of the week proceeding

525 Council packet week. The final packet ready document(s) need to be to the City

526 Clerk as soon as possible prior to 11:00 a.m. on the Wednesday for packet review.

527 Any late agenda item not meeting the tentative agenda deadline and/or not

528 meeting the packet deadline shall be discussed with the Mayor by the submitter if a

529 Councilmember. All other late items, unless of an immediate nature, shall be

530 placed on the next tentative agenda. (Reso 03-84, 2003; Reso 03-81, 2003).

531

### **3. MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS**

532

533

534 Mayoral recognitions and mayoral proclamations must be approved by the Mayor.

535 A request must be made timely for inclusion in the City Council packet. Official

536 action of the City Council is not taken under this agenda item. (Reso 16-122, 2016).

537

538

539

540

541

542

543

544

545

546

### **4. PUBLIC COMMENTS REGARDING ITEMS ALREADY ON THE AGENDA**

No prior arrangement is required. The public may have unrestricted access to the

City Council for comments regarding matters already on the agenda with the

exception of matters listed under Public Hearings or questions on presentations

given under Visitors section of the agenda; these should be held until Comments of

the Audience. Those giving testimony are requested to preface remarks with their

name & address for the record. The Mayor will announce ~~provide time limitations~~

~~on presentations based on the volume of business before the Council.~~ **that there is**

547 **a 3 minute time limit. Time limits may be adjusted by the 2 minutes up or**  
548 **down with the concurrence of the body in special circumstances only such as**  
549 **agenda content and public attendance.** No official action will be taken by the  
550 Council under this business item. Any comments regarding Board of Adjustment  
551 hearings must be on procedure only. No comments that contain any argument or  
552 new evidence are acceptable and are subject to being cut short by the Mayor  
553 and/or Council.

554  
555 **5. RECONSIDERATION**

556  
557 When a Councilmember has issued notice of reconsideration on an item, the  
558 reconsideration is acted upon at this point in the meeting. The Item to be  
559 reconsidered is placed under Pending Business, Ordinances or Resolutions -  
560 depending on the item.

561  
562 **6. CONSENT AGENDA**

563  
564 The following business items are appropriate for the consent agenda. These items  
565 are acted upon by one motion for approval of the Consent Agenda. If discussion is  
566 requested on an item that item may be removed from the Consent Agenda and  
567 placed on the Regular Agenda.

- 568  
569 1) Minutes approval  
570 2) Liquor license renewals and transfers  
571 3) Any gaming permit requiring approval of the local government unit.  
572 4) Confirmation of Commission & Board Appointments  
573 5) Resolutions (of a general nature required for normal business operations of the  
574 City)  
575 6) Requests to hold Executive Session. (Executive Session will typically be  
576 conducted at the end of business, just prior to Audience Comments, unless the  
577 Mayor calls for the Executive Session to be held at another point in the agenda.)  
578 (Reso 03-140, 10/27/03).  
579 7) Change Orders  
580 8) Travel Authorization (Reso 00-08, 1/10/00).  
581 9) Ordinance introduction and first reading and setting the public hearing date  
582 and second reading date. (Reso 00-82, 8/28/00).

583  
584 The Mayor or any Councilmember, whether a/the sponsor or not, may remove an  
585 item and place that item on the Regular Agenda during the Tentative Agenda  
586 period and up until the printing and distribution of the packet. The City Clerk shall  
587 notify the sponsor(s) of said change. The Mayor and Council shall have agendas  
588 with blank lines under Consent Agenda, Ordinances, New Business and Resolutions



589 for the purposes of keeping track of changes to the Consent Agenda, Ordinances,  
590 New Business and Resolutions.

591  
592 This format shall be utilized as much as it reasonable for the Standing Committees,  
593 Committees, Task Forces and the like. (Reso 06-132, 09/25/06).

594

595 7. **VISITOR(S)**

596

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

602

603 8. **ANNOUNCEMENTS/PRESENTATIONS/ ~~BOROUGH, COMMISSION, & COMMITTEE~~**  
604 **REPORTS**

605

606 Announcements are made from the council table (Council Members, Mayor or City  
607 Manager). The Chair may be provided written information in advance of the  
608 meeting to announce for non-Councilmembers, at the Chair's discretion. **Reports**  
609 **may include, but are not limited to, Kenai Peninsula Borough Assembly report,**  
610 **Advisory Body reports, Worksession and Committee of the Whole reports,**  
611 **Mayor's report, Travel reports** ~~may also be presented at this time.~~ No action by  
612 Council will be made here, although the Council may request a matter brought to  
613 their attention in a report be placed on an agenda for a future meeting. ~~Travel~~  
614 ~~Narrative Reports.~~ (Reso 00-08, 1/10/00).

615

616 9. **PUBLIC HEARINGS**

617

618 This agenda item is intended to provide for formal hearing testimony regarding  
619 ordinances, resolutions, or ~~as directed by the Chair or majority of City Council~~ **other**  
620 **items as outlined in Homer City Code.** Those giving testimony are requested to  
621 preface remarks with their name and address ~~for the record~~ **if they are residents of**  
622 **the City or outside city limits.**

623

624 Public Hearing testimony ~~may be time limited by the Chair.~~ **is limited to 3 minutes.**  
625 **Time limits may be adjusted by the 2 minutes up or down with the concurrence**  
626 **of the body in special circumstances only such as agenda content and public**  
627 **attendance.** Council may make inquiries of those giving testimony. After the public  
628 has finished testifying the City Council may take final action, including amendments,  
629 on an Ordinance, provided that the public has been notified that such action may  
630 occur at this time and shall follow the other procedures as outlined under Item 9.

631 (Reso 01-36, 06/11/01; Ord 01-18, 06/12/01).

632

633 10. **ORDINANCES**

634

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

642

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

645

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

648

649 11. **CITY MANAGER'S REPORT**

650

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

655

656 12. **PENDING BUSINESS**

657

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

663

664 13. **NEW BUSINESS**

665

666 The same provisions as under pending business apply here.

667

668 14. **RESOLUTIONS**

669

670 A City Council Member, Mayor, ~~or~~ City Manager or the City Clerk ~~can~~ may direct that  
671 submit a resolution appear to be placed on the agenda for Council consideration.

672

Notation of sponsor ~~can~~ shall appear on the face of the resolution. Formal action of

673 the Council will be by roll call vote. HCC 2.08.040(h).  
674 Sponsors, authors, Directed by Council or staff may be placed at the top of the  
675 Resolution.  
676

677 ~~Council Training & Informational Materials~~  
678

679 ~~Deleted from the Packet by Council consensus and signing of a Memorandum by the~~  
680 ~~Councilmembers on June 8, 1992. Also noted was that b Backup up materials of any~~  
681 kind are not required in consecutive packets provided a reference sheet is submitted  
682 with the item denoting the backup materials previously submitted.  
683

684 15. **COMMENTS OF THE AUDIENCE**  
685

686 Members of the audience may address the City Council at will on any subject whether  
687 or not on the agenda. The Mayor ~~may time limit remarks~~ **will announce that there**  
688 **is a 3 minute time limit. Time limits may be adjusted by the 2 minutes up or**  
689 **down with the concurrence of the body in special circumstances only such as**  
690 **agenda content and public attendance.**  
691

692 16. **COMMENTS OF THE CITY ATTORNEY**  
693

694 Reserved for Comments of the City Attorney. Action of the Council is not taken here.  
695

696 17. **COMMENTS OF THE CITY CLERK**  
697

698 Reserved for comments of the City Clerk. Action of the City Council is not taken here.  
699

700 18. **COMMENTS OF THE MANAGER**  
701

702 Reserved for comments of the City Manager. Action of the City Council is not taken  
703 here.  
704

705 19. **COMMENTS OF THE MAYOR**  
706

707 Reserved for comments, reports, or notification of the Mayor. No Council action is  
708 taken here.  
709

710 20. **COMMENTS OF THE COUNCIL**  
711

712 Each Council Member may comment regarding any subject whether or not on the  
713 agenda. This is an appropriate place to note or bring to the attention of the Mayor,  
714 Council and Administration any miscellaneous business or point of interest.

715 Miscellaneous announcements, notifications of absence from future Council  
716 meetings, and requests for items to appear on the agenda, are other areas  
717 appropriately covered.

718  
719 Notice of reconsideration may be given, re: 2.08.040(i).

720

721 **21. ADJOURNMENT/NOTICE OF NEXT REGULAR MEETING**

722

723 Meetings will be concluded by or recessed by midnight, unless Council votes to  
724 suspend the rules. The balance of any business will be held over until call of the  
725 Chair. Notice of the next regular, and/or special meeting will appear on the agenda  
726 following "adjournment". (Reso 18-082 & 18-083, Reso 10-73, 09/13/10; Reso 00-82,  
727 08/28/00; Reso 00-08, 01/10/00; Reso 98-58, 07/13/98).

728

729 The Regular Agenda format for all advisory bodies of the City Council shall utilize the  
730 following basic agenda format:

731

732 NAME OF BODY	DATE OF MEETING
733 PHYSICAL LOCATION OF MEETING	DAY OF WEEK AND TIME
734 HOMER, ALASKA	OF MEETING
	MEETING ROOM

735

736

737

REGULAR MEETING  
AGENDA

738

739

740

- 741 1. CALL TO ORDER
- 742 2. APPROVAL OF AGENDA
- 743 3. MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS
- 744 4. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA.  
(3 MINUTE TIME LIMIT)
- 745 5. RECONSIDERATION
- 746 6. APPROVAL OF MINUTES or CONSENT AGENDA
- 747 7. VISITORS (Chair set time limit not to exceed 20 minutes) (Public may not  
748 comment on the visitor or the visitor's topic until audience comments.) No action  
749 may be taken at this time.
- 750 8. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS  
751 (Chair set time limit not to exceed 5 minutes.)
- 752 9. PUBLIC HEARING (3 MINUTE TIME LIMIT)
- 753 10. PLAT CONSIDERATION (Planning Commission only)
- 754 11. PENDING BUSINESS or COMMISSION BUSINESS
- 755 12. INFORMATIONAL MATERIALS  
756 (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY MAY BE DISCUSSED  
757 ONLY)
- 758 13. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS,

- 759 THEY MAY BE DISCUSSED ONLY)  
760 14. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)  
761 15. COMMENTS OF THE CITY STAFF (not required) (Staff report may be at this time  
762 in the agenda.)  
763 16. COMMENTS OF THE COUNCILMEMBER (If one is assigned)  
764 17. COMMENTS OF THE CHAIR (May be combined with COMMENTS OF THE  
765 COMMISSION/BOARD since the Chair is a member of the Commission/Board.)  
766 18. COMMENTS OF THE COMMISSION  
767 19. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR \_\_\_\_\_ note  
768 any worksessions, special meetings, committee meetings etc. All meetings  
769 scheduled to be held in the Homer City Hall Cowles Council Chambers located at  
770 491 E. Pioneer Avenue, Homer, Alaska. (Sometimes the meeting is scheduled for  
771 the Conference Room)

772

773 Contact info for the department constructing the agenda. Example: City Clerk's Office,  
774 [clerk@ci.homer.ak.us](mailto:clerk@ci.homer.ak.us). 235-3130.

775

776 Audience Participation - Audience comments are acceptable when invited by a  
777 Councilmember or the Mayor. Audience comments as an agenda item is provided so that  
778 anyone wishing to speak to the Council may do so without prior arrangement. The Mayor may  
779 limit the time for "Comments Upon Matters Already on the Agenda or Audience Comments."  
780 Comments are generally limited to 3 minutes per person unless authorization to speak  
781 longer is granted by Council action. (Reso 06-54, 05/22/06).

782

783 BASIC TIME LIMIT (Public Comments, Public Hearing Testimony and Audience Comments.)  
784 Comments are limited to three minutes per person per issue unless authorization to speak  
785 longer is granted by Council action. In the interest of time, the Council has found it necessary  
786 to place a time limit. It may be desirable to have one spokesperson for special interest  
787 groups making a statement to the Council. (Reso 06-54, 05/22/06).

788

789 Any person making personal, impertinent, threatening or slanderous remarks or who shall  
790 become boisterous while addressing the Council, shall be forthwith, by the presiding officer  
791 barred from further audience at the meeting before the Council, unless permission to  
792 continue be granted by a majority vote of the Council.

793

794 ~~This is item m. of the Council's ByLaws.~~ Any Councilmember may rise to a Point of Order  
795 regarding this issue.

796

## 797 **GENERAL AGENDA AND PACKET DISTRIBUTION INFORMATION**

798

### 799 **Regular City Council Meetings**

800

801 Tentative Agendas

802

803 1. Tentative and Preliminary agenda items, type of enactment and subject only, need to be to  
804 the City Clerk by Thursday of the week proceeding Council packet week.

805

806 2. The final packet ready document needs to be to the City Clerk as soon as possible prior to  
807 11:00 a.m. on the Wednesday prior to the Council meeting for packet review.

808

809 3. Any late agenda item not meeting the tentative agenda deadline and/or not meeting the  
810 packet deadline shall be discussed with the Mayor by the submitter, if a Councilmember.

811

812 4. All other late items, unless of an immediate nature shall be placed on the next tentative  
agenda.

813

814 Agenda

815

816 1. Agenda closes at 11:00 a.m., Wednesday preceding the meeting. Allowances will be  
817 made for holidays. (Reso 03-81, 05/27/03).

818

819 2. The City Manager, Mayor and City Clerk review the agenda at 11:00 a.m. on Wednesday,  
820 preceding the meeting. (Reso 03-81, 05/27/03).

821

822 3. Informational packets are available for pick up and on the City's website usually on  
823 Thursdays at 5:00 p.m. but no later than 5:00 p.m. on the Friday preceding the regular  
824 meeting. Packets will be posted on the City's website and placed in the Council's mail boxes  
825 if requested.

826

827 4. Items may be added or removed from the agenda by unanimous consent of the Council.

828

829 **Special City Council Meeting**

830

831 Called and agendas established by the Mayor or four (2/3) City Councilmembers. Adequate  
832 notice must be given to provide for materials preparation and delivery of meeting notice  
833 thirty-six (36) hours prior to the meeting.

834

835 **Emergency City Council Meeting**

836

837 By unanimous consent of quorum, four Councilmembers, requires justifiable reason, informal  
838 agenda - limited to emergency, public notice as soon as possible and repeated at least two  
839 times prior to meeting.

840

841 **Worksessions, Special Meetings, and Executive Sessions**

842

843 May be called at any time, including beginning at 4:00 p.m. and ending not later than 5:50  
844 p.m. before a Regular Council Meeting, with proper notice to the public. The agenda and  
845 packet information may be handed out at the worksession depending on the nature of the  
846 session. No formal action may be taken. May be called by Mayor or four Councilmembers.  
847 Public notice requirements are relaxed but should be at least broadcast as soon as possible  
848 and repeated at least two additional times prior to the session. Reference: HCC 1.14.

849

### 850 **Committee of the Whole**

851

852 **The Committee of the Whole may meet prior to every Regular Council Meeting beginning**  
853 **at 5:00 p.m. and ending not later than 5:50 p.m. when scheduled worksessions do not**  
854 **exceed 4:50 p.m. This is a device to enable the full Council to give detailed consideration**  
855 **to a matter under conditions of freedom approximating those of a committee. The**  
856 **results of any votes taken are not the final action of the Council and are**  
857 **recommendations. The Mayor shall be the presiding officer. No text may be altered in**  
858 **any agenda item for Council's Regular meeting; however, amendments may be**  
859 **recommended.**

860

861 **The agenda shall be noticed the same as a Council's Regular meeting. Only those**  
862 **matters on the noticed agenda shall be considered; however, other items not on the**  
863 **Council's Regular meeting agenda may be considered if the agenda item is received by**  
864 **the City Clerk no later than the Wednesday prior to the meeting. "Old business" shall be**  
865 **added to the Committee of the Whole agenda and shall be those items that are not on**  
866 **Council's Regular Meeting agenda and that were not discussed at the previous**  
867 **Committee of the Whole meeting due to insufficient time. (Reso 09-116(A), 11/23/09;**  
868 **Reso 03-118(A), 08/25/03; Reso 01-24, 04/09/01; Reso 01-08(S), 02/26/01).**

869

### 870 **CODE OF ETHICS**

#### 871 **PURPOSE.**

872 The proper functioning of democratic government requires ethical behavior by public  
873 officials. Ethics involves the commitment to take individual responsibility in creating a  
874 government that has the trust and respect of its citizens. The purpose of this section is to set  
875 reasonable standards of conduct for elected city officials and appointed advisory  
876 commissioners and boardmembers so that the public may be assured that its trust in such  
877 persons is well placed and that the officials themselves are aware of the standards of conduct  
878 demanded of persons in like office.

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

882 This section is also intended to establish a process which will ensure that complaints or  
883 inquiries regarding the conduct of elected city officials and appointed advisory  
884 commissioners and boardmembers are resolved in the shortest practicable time in order to  
885 protect the rights of the public at large and the rights of the elected or official, or appointed  
886 advisory commissioners and boardmembers.

887 The Council intends this code to be interpreted to promote fair, honest, and impartial  
888 dealings with members of the public, to ensure proper use of city resources, and to avoid  
889 conflicts of interest. It is the intent of the Council that nothing in this section be interpreted to  
890 create a private cause of action against an elected official or appointed advisory  
891 commissioner or boardmember.

892 **DEFINITIONS.**

893 As used in this section.

894 "Engaging in business" or "engage in business" means submitting a written or oral proposal  
895 or bid to supply goods, services or other things of value, or furnishing goods, services or other  
896 things of value, for consideration or otherwise entering into any contract or transaction with  
897 the city including but not limited to the lease, sale, exchange or transfer of real or personal  
898 property.

899 "Financial interest" means a direct or indirect pecuniary or material benefit accruing to a city  
900 official or appointed advisory commissioner or boardmember as a result of a contract or  
901 transaction by or with the city except for such contract or transactions which by their terms  
902 and by substance of their provisions confer the opportunity and right to realize the accrual of  
903 similar benefits to all other persons and/or property similarly situated. A financial interest  
904 does not include city paid remuneration for official duties. A person has a financial interest in  
905 a decision if a substantial possibility exists that a financial interest of that person might vary  
906 with the outcome of the decision. A financial interest of an official includes:

- 907 1. Any financial interest of a member of that person's immediate family;  
908 2. Any financial interest in an entity in which that person or a member of his immediate family  
909 has an ownership interest, or is a director, officer or employee;  
910 3. Any financial interest of a person or entity with whom the official, or a member of his  
911 immediate family or an entity described in subparagraph 2 of this subsection has or is likely  
912 to acquire a contractual relationship relating to the transaction in question.

913 "Gratuity" means a thing having value given voluntarily or beyond lawful obligation.

914 "Immediate family" of a person means anyone related to that person by blood or current  
915 marriage, or adoption in a degree up to and including the fourth degree of consanguinity or  
916 affinity, or any relative or non-relative who lives in that person's household.



917 "City official" or "official" means the Mayor, Councilmember, advisory Commissioner or  
918 Boardmember under the ordinances of the city, or who is a member of a committee or task  
919 force of the city.

920 "Official act" or "action" means any legislative, administrative, appointive or discretionary  
921 act of any officer of the city or any committee or commission thereof.

922 "Organization" means any corporation, partnership, firm or association, whether organized  
923 for profit or non-profit.

924 "Political activity" means any act for the purpose of influencing the nomination or election of  
925 any person to public office, or for the purpose of influencing the outcome of any ballot  
926 proposition or question. Informing the public about a ballot proposition or question without  
927 attempting to influence the outcome of the ballot proposition or question is not political  
928 activity.

929 **PROHIBITED ACTS.**

930 Official Action. A city official shall not participate in any official action in which he has a  
931 financial interest. An official who is a voting member of the council, a commission, or other  
932 agency shall identify any financial conflicts of interest in accordance with (the ordinance  
933 regarding conflict of interest).

934 Business Prohibition. No official may engage in business with the city when that person has  
935 had substantial involvement in planning, recommending or otherwise supporting the project  
936 or transaction in issue. No official shall attempt to influence the city's selection of any bid or  
937 proposal, or the city's conduct of business, in which the official has a financial interest. Newly  
938 elected or appointed officials who have pre-existing contracts with the city may fulfill the  
939 terms and conditions of such contracts without penalty.

940 Use of Office for Personal Gain. No official shall seek or hold office or position for the purpose  
941 of obtaining anything of value for himself, his immediate family or a business that he owns or  
942 in which he holds an interest or for any matter in which he has a financial interest. This  
943 prohibition shall not apply to the receipt of authorized remuneration for the office or  
944 position.

945 Inappropriate Use of Office Title/Authority. No official, elected or appointed, shall use the  
946 implied authority of their position for the purposes of unduly influencing the decisions of  
947 others, or promoting a personal interest within the community. Councilmembers will refrain  
948 from using their title except when duly representing the city in that capacity. Unless duly  
949 appointed by the

950 Mayor and/or Council to represent the interests of the full council, councilmembers shall  
951 refrain from implying their representation of the whole by the use of their title.

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

959 Confidential Information. No official may disclose information he knows to be confidential  
960 concerning the property, government, or affairs of the city unless authorized or required by  
961 law to do so.

962 Outside Activities. An official may not engage in business or accept employment with, or  
963 render services for, a person other than the city or hold an office or position where that  
964 activity or position is incompatible with the proper discharge of his city duties or would tend  
965 to impair his independence of judgment in performing his city duties. This prohibition shall  
966 include but not be limited to the following activities:

967 1. A person who holds an appointed city office shall not be eligible for employment with the  
968 city, during their term of office, in the department that the appointed commission has  
969 jurisdiction over until one year has elapsed following the term of appointment. An exception  
970 may be made with the approval of the city council.

971 2. A person who holds or has held an elective city office shall not be eligible for appointment  
972 to an office or for employment with the city until one year has elapsed following the term for  
973 which he was elected or appointed. An exception may be made with the approval of the city  
974 council.

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

980 1. A meal;

981 2. Discounts or prizes that are generally available to the public or large sections thereof;

982 3. Gifts presented by employers in recognition of meritorious service or other civic or public  
983 awards;

984 4. A candidate for public office accepting campaign contributions;

985 5. An occasional non-pecuniary gift insignificant in value;

986 6. Any gift which would have been offered or given to him if he were not an official.

987 Use of City Property. No official may request or permit the use of city vehicles, equipment,

988 materials or property for non-city purpose, including but not limited to private financial gain,  
989 unless that use is available to the general public on the same terms or unless specifically  
990 authorized by the city council.

991 Political Activities, Limitations of Individuals. Appointed officials may not take an active part  
992 in a political campaign or other matter to be brought before the voters when on duty.  
993 Nothing herein shall be construed as preventing appointed officials from exercising their  
994 voting franchise, contributing to a campaign or candidate of their choice, or expressing their  
995 political views when not on duty or otherwise conspicuously representing the city.

996 Political Activity, Limitation on City Government. The city may prepare and disseminate  
997 general, objective information about the issues to be voted on in local elections. Such  
998 material shall be devoid of biased statements or slant and, where appropriate, may contain  
999 pro and con statements of equal weight and value.

1000 Influencing Another Council Member's Vote. A city council member may not attempt to  
1001 influence another council member's vote or position on a particular item through contact  
1002 with a city council member's employer or by threatening financial harm to another city  
1003 council member.

1004

1005 **BUSINESS DEALINGS WITH CITY.**

1006

1007 Before a city official or an organization or entity in which the official has a financial interest,  
1008 engages in business with the city, the official shall file with the city clerk a statement, under  
1009 oath, setting forth the nature of such business dealings and his interest therein, not less than  
1010 ten days before the date when official action may be taken by the council or by any officer,  
1011 commission or other agency of the city upon the matter involved. If all other provisions of this  
1012 section are complied with, the statement shall be sufficient for continuing transactions of a  
1013 similar or like nature for one year from the date of its filing. However, if an official has violated  
1014 any of the provisions of this section, he shall be precluded from dealing with the city on that  
1015 particular matter.

1016 Upon taking office, or upon subsequently acquiring the interest, and official shall file with the  
1017 city clerk a statement disclosing any financial interests of the official in an organization  
1018 engaging in business with the city.

1019

1020 **PUBLIC DISCLOSURE.**

1021

1022 a. Each city official must annually file a conflict of interest disclosure using forms  
1023 substantially the same as the following selected schedules from the Alaska Public Offices  
1024 Commission Public Official Financial Disclosure Statement: Schedules B (business interests),  
1025 C (real property interests / rent to own), E (the portion relating to natural resource leases  
1026 only), F (government contracts and leases) and G (close economic associations). The city

1027 clerk shall provide the forms to each city official. The city clerk may make such alterations to  
1028 the forms as may be necessary to make them applicable to the city and city officials.

1029 b. The annual disclosures must be filed by November 1 each year. A newly appointed  
1030 official must file a disclosure within 30 days of taking office. Each candidate for elected city  
1031 office must file a disclosure at the time he or she files a declaration of candidacy, except an  
1032 incumbent seeking reelection with a current disclosure on file. Refusal or failure of a  
1033 candidate to file the required disclosure before the end of the time period for filing  
1034 declarations of candidacy shall require that the candidate's declaration of candidacy be  
1035 rejected and the candidate disqualified.

1036 c. The disclosures must be true, correct and complete and shall be signed under  
1037 oath or affirmation, or certified to be true under penalty of perjury.

1038 d. The disclosures shall be filed with the city clerk and shall be open to public  
1039 inspection and copying at the office of the city clerk. The disclosures will not be sent to the  
1040 Alaska Public Offices Commission. (Ord 07-35(A-2), 10/23/07).

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1042 **All procedures regarding code of ethics are attached in Appendix C and in HCC Chapter 1.19**  
1043 **Board of Ethics.**

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## NOTICE

### ADDRESSING THE CITY COUNCIL

In order to address the City Council, please:

1. Mayor will call for public comments as appropriate on the agenda.
2. Take the public testimony place in front of the Council table, print your name on the sign in sheet, also address and indicating whether you are a resident of the City.
3. Address the Council as a body.

### PUBLIC COMMENTS

There are four places on the agenda where citizens may address the Council.

1. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**, Item 3. This item is on the agenda so you may speak on any item on the agenda, unless the matter is listed under Public Hearings or Visitors. The Mayor will provide time limitations on presentations based on the volume of business before the Council. Changes to the agenda occur just before this item, so if any item is removed you may not address it here; if an item is added, you may. When in doubt, clarify with the Chair. (Mayor or Mayor Pro Tem)
2. **PUBLIC HEARINGS**, Item 9. Public Testimony is taken on any of the matters listed under the public hearing portion of the agenda. Agendas and public hearing information are available at the table in back of the Council Chamber. Public Hearing testimony may be time limited by the Mayor.
3. **VISITORS**, Item 7. This place is for presentations previously arranged with the City Clerk, approved by the Mayor and listed on the agenda. Comments on a visitor's presentation by the audience is restricted to Item 15, Comments of the Audience.
4. **COMMENTS OF THE AUDIENCE**, Item 15. You may address the Council regarding any matter at this point. The Mayor may time limit remarks.

**TIME LIMITATIONS:** Public comments are limited to no more than 3 minutes per person, per issue unless authorization to speak longer is granted by Council action. The Mayor may limit the time for public comments, public testimony and Audience Comments. In the interest of time, it may be desirable to have one spokesperson for special interest groups making a statement to the Council.

**WRITTEN MATERIAL TO COUNCIL:** Written material presented to Council on the night of the meeting should also be given to the City Clerk to be added to the record.

**RECORDING:** This meeting is being recorded and amplified. Please speak up so that a clear recording of your comments can be made and others can hear you.

**BOARD OF ADJUSTMENT** HCC 21.93.510(a) restricts the Council when sitting as a Board of Adjustment from considering allegations of new evidence or changed circumstances and shall make its decision based solely on the record as prepared by the Clerk.

THANK YOU, YOUR INPUT IS VALUABLE.

RESOURCE MATERIALS

1096

1097

1098 ~~After a Councilmember has been sworn in the City Clerk's Office will issue the following items~~  
1099 ~~of reference to them:~~

1100

1101 A. Homer City Code

1102

1103 B. City of Homer Personnel Regulations

1104

1105 C. Alaska Statutes, Title 29

1106

1107 ~~D. Elected Officials Handbook~~

1108

1109 ~~E. D.~~ City of Homer Directory

1110

1111 ~~F. E.~~ Comprehensive Plan

1112

1113 ~~G. F.~~ City of Homer Procurement Policy

1114

1115 ~~H. G.~~ Current Calendar Year - Line Item Budget

1116

1117 ~~I. H.~~ Parliamentary Procedure at a Glance

1118

1119 ~~J. I.~~ Five Year Capital Improvement Plan

1120

1121 ~~K. J.~~ Comprehensive Financial Statement

1122

1123 ~~L. K.~~ A.M.L. Elected Officials Handbook

1124

1125 ~~M. L.~~ COUNCIL'S OPERATING MANUAL, NEWEST VERSION

1126

1127 ~~N. M.~~ ~~OPEN MEETINGS ACT BOOKLET, BY GORDON TANS~~ **LEGAL ISSUES FACING THE**  
1128 **HOMER CITY COUNCIL AND HOMER'S COMMISSIONS AND BOARDS, BY HOLLY**  
1129 **WELLS**

1130

1131 ~~Upon expiration of term, please return these items to the City Clerk's Office so they may be~~  
1132 ~~updated and re-issued to the newly elected official.~~

1133

1134 ~~A wealth of resource information, reports, studies, and city historical information is available~~  
1135 ~~at the City Hall Library. Contact the City Clerk's Office for assistance.~~

1136

1137 **Resource materials are available on the City of Homer webpage. Councilmembers may**

1138 request copies from the City Clerks Office.

1139  
1140  
1141 **Homer City Council**  
1142 **Tablet Usage Policy**  
1143

1144 **1. Purpose**

- 1145 a. The City of Homer recognizes that the use of digital communications has  
1146 become necessary to conduct official business. This policy strives to ensure  
1147 that the Mayor and Council Members are able to be issued a device which will  
1148 enable them to utilize digital communications in a manner consistent with  
1149 their role as an elected official and applicable law.  
1150

1151 **2. Ownership**

- 1152 a. One tablet computer and accessory package (tablet) will be issued to the  
1153 Mayor and each member of Council. Tablets issued under this policy will  
1154 remain the property of the City of Homer. The Mayor and members of Council  
1155 will have no ownership, interest, or right to title of the tablet.  
1156 b. Each recipient issued a tablet is responsible for the security and care of that  
1157 tablet, regardless of where the tablet is used.  
1158 c. All tablets will be covered by a hardware warranty and supplemental support  
1159 plan through the manufacturer or a third party. The exact details of the  
1160 coverage and remaining term will be outlined on the equipment receipt form.  
1161 d. Upon vacating elected or appointed seat, each tablet recipient will ensure that  
1162 their tablet is returned to the City Clerk, who will ensure that the tablet  
1163 reimaged and will reissue the unit to the next holder of that seat.  
1164

1165 **3. License Agreements**

- 1166 a. The City of Homer is the sole licensee of the software included with the tablet.  
1167 Any copying, modification, merging, or distribution of the software by the  
1168 recipient, including written documentation, is prohibited. The recipient is  
1169 responsible for complying with any and all hardware, software and service  
1170 provider licensing agreements, terms of use, and applicable state and federal  
1171 copyright and other intellectual property protections. Violation of any such  
1172 licenses, terms, or laws shall constitute a violation of this policy.  
1173

1174 **4. Liability**

- 1175 a. Recipients are responsible for all material sent by and/or stored on the tablet  
1176 issued to them which they will knowingly and intentionally send or  
1177 store/install. Recipients accept responsibility for keeping their tablet free from  
1178 all inappropriate or dangerous files.

1179                   b. The City of Homer is not liable for any inappropriate material sent by and/or  
1180                   stored on tablets issued under this policy outside of the scope of use expected  
1181                   by a city official.  
1182

1183                   **5. Email Usage**

1184                   a. The recipient of a device under this policy agrees to conduct all email  
1185                   communications which are stored on this device through their assigned City  
1186                   email account. All emails sent through the City’s email system are archived  
1187                   and retained by the City in a manner consistent with the City’s Record  
1188                   Retention Policy.

1189                   b. Syncing personal email accounts to the issued device, other than the  
1190                   recipient’s assigned City email account, is prohibited.  
1191

1192                   **6. Acceptable Use**

1193                   a. The City of Homer only authorizes use of its tablets in a manner that supports  
1194                   the recipient’s role as an elected official of the City.

1195                   b. The device may only be used for limited personal use; that does not interfere  
1196                   with the ability of the device to be used for official intended purposes.

1197                   c. Use of the tablet for any political use including but not limited to campaigning  
1198                   is expressly forbidden.  
1199

1200                   **7. Privacy**

1201                   a. All communications made via devices covered under this policy are subject to  
1202                   disclosure under the Open Records Act or for litigation purposes unless a  
1203                   privilege or exception exists that justify withholding the records.  
1204

1205                   **8. Installation of applications**

1206                   a. The installation of applications is limited to applications that are consistent  
1207                   with the terms listed in this policy and are available through the tablet’s  
1208                   application store.

1209                   b. Applications will only be licensed and installed by the Information Technology  
1210                   Manager and his staff.

1211                   c. Modification of the tablet’s operating system to allow installation of  
1212                   applications not approved by the manufacturer and/or not available through  
1213                   the “application store” is prohibited.

1214                   d. Applications for personal use that do not interfere with city use may be  
1215                   allowed by the IT Manager on a case by case basis.  
1216

1217                   **9. Care of the Device**

1218                   a. Recipients are responsible for the general care of the device issued under this  
1219                   policy. The tablet must remain free of any writing, drawing, stickers, or labels



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that are not property of the City. Only a clean microfiber cloth, like what is used to clean eyewear, should be used when cleaning the screen.

**10. Loss and Damage**

- a. Recipients of tablets under this policy are encouraged to keep the device safe and in good working order. If a user demonstrates extreme negligence with a device, or loses a replacement device within 18 months of being issued a replacement, then he or she shall be financially responsible for the cost of the replacement.
- b. Loss of or damage to a City of Homer tablet and/or accessory must be reported immediately to City staff.
- c. Recipients must not modify, upgrade, or attempt to repair tablets and/or accessories issued under this policy without the express permission of the City of Homer Information Technology Manager. All repairs must be made through the provided protection plan. Repairs not covered by the supplied protection plan which are determined to be caused by negligence, shall be covered by the recipient. (Reso 13-035(A), 04/08/13).

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**Homer City Council  
Off-site Equipment Receipt**

I \_\_\_\_\_ agree and understand that I have received the below listed equipment in good working order.  
I acknowledge having received, read, and understood the Homer City Council Tablet Use Policy.  
I agree that this equipment will be used solely for the conduct of City business, and in accordance with any and all Homer City Council policies, and applicable laws.  
I will return the equipment in good working order, with allowance for normal wear and tear.  
I understand that I must provide an inventory of all City of Homer provided equipment used off-site annually, and sign another equipment receipt for same.

Manufacturer	Model	Serial Number	Remarks

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Equipment Recipient)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Information Technology Manager)

1269 APPENDIX A

1270

1271 2.08.100 Teleconference participation in meetings.

1272

1273 a. This section through HCC 2.08.120 govern the telephonic participation of the Mayor and  
1274 members of the Council at all meetings of the City Council, including all other bodies that are  
1275 comprised of the Mayor and members of the Council, such as, but not limited to, the Board of  
1276 Adjustment and an Ethics Board.

1277

1278 b. The preferred procedure for City Council meetings is that the Mayor and all Council  
1279 members should be physically present at the designated time and location within the City for  
1280 the meeting. However, physical presence may be waived and the Mayor and any member(s)  
1281 may participate in a Council meeting by teleconference, subject to the procedures and  
1282 limitations provided in this section through HCC 2.08.120.

1283

1284 c. A person participating by teleconference shall, while actually on the teleconference, be  
1285 deemed to be present at the meeting for all purposes. The person shall make every effort to  
1286 participate in the entire meeting.

1287

1288 d. If the Mayor participates telephonically, the Mayor may vote telephonically to break a tie as  
1289 permitted in HCC 2.08.040(h), but the Mayor Pro Tem, or the senior Council member in the  
1290 Mayor Pro Tem's absence, shall preside over and perform all other functions of the Mayor at  
1291 the meeting.

1292

1293 e. "Teleconferencing" means a means used for remote participation by an official for a  
1294 meeting of the City Council which must enable the remote official, for the duration of the  
1295 meeting, to clearly hear the Mayor, all Council members, the City Clerk and public testimony  
1296 and to be clearly heard by the Mayor, all Council members, the City Clerk and the public in  
1297 attendance. [Ord. 19-05(A) § 1, 2019; Ord. 16-58(A) § 1, 2017; Ord. 07-45(A)(S) § 1, 2007. Code  
1298 1981 § 1.24.100].

1299

1300 2.08.110 Teleconference procedures.

1301

1302 a. A Mayor or Council member who cannot be physically present for a regularly scheduled  
1303 Council meeting shall notify the City Clerk at least five days prior to the scheduled time for  
1304 the meeting of his or her request to participate in the meeting by telephonic means of  
1305 communication.

1306

1307 b. Three days prior to the scheduled time for the Council meeting, the City Clerk shall notify  
1308 the Mayor and Council of the person's request to participate by teleconference.

1309

1310 c. At the commencement of the Council meeting a telephonic connection will be established

1311 with the person or persons intending to participate telephonically. After a telephonic  
1312 connection is established the Mayor shall call for a vote of the Council on whether the  
1313 person(s) may or may not participate by telephone. Prior to the vote, the Mayor or Council  
1314 members may make such inquiries as necessary to make a decision. Only the Council  
1315 members physically present may vote on the question. If a person participates in the meeting  
1316 telephonically without a ruling from the Council, it shall be deemed to be with the approval of  
1317 such participation by the Council, and all actions taken by the Council with the participation  
1318 of all such persons are valid.

1319

1320 If telephonic participation is interrupted due to poor connectivity that hinders the active  
1321 participation of a member in the meeting the Mayor will request a brief recess to allow the  
1322 person an attempt to reestablish a connection. If the person cannot reestablish a clear  
1323 connection after a recess, the Mayor shall call for a vote of the Council on whether to  
1324 terminate telephonic participation. Prior to the vote, the Mayor or Council members may  
1325 make such inquiries as necessary to make a decision. If a majority of the Council votes to  
1326 terminate telephonic participation, the record will indicate such and the member  
1327 participating telephonically shall not be called upon to comment or vote. The Council's  
1328 determination is final and not subject to veto or appeal.

1329

1330 d. Subsections (a) and (b) of this section do not apply to special meetings or emergency  
1331 meetings of the City Council called under HCC 1.14.030 and 1.14.050. A Council member or  
1332 Mayor who requests to participate in a special or emergency meeting of the City Council must  
1333 notify the City Clerk before the time scheduled for the start of the meeting. The Clerk will  
1334 notify the Mayor and Council no later than the commencement of the meeting. After a  
1335 telephonic connection is established with the person or persons requesting to participate  
1336 telephonically, a ruling shall be made on the person's participation in the meeting as  
1337 provided in subsection (c) of this section.

1338

1339 e. The means used for a teleconference meeting of the City Council must enable each  
1340 member appearing telephonically to clearly hear the Mayor, all other Council members, and  
1341 public testimony at the meeting as well as be clearly heard by all other Council members and  
1342 members of the public in attendance.

1343

1344 f. The City Clerk shall note in the journal of the proceedings of the City Council all members  
1345 appearing telephonically.

1346

1347 g. To the extent practicable, materials to be considered by the Council shall be made  
1348 available to those attending by teleconference. [Ord. 19-05(A) § 1, 2019; Ord. 07-45(A)(S) § 2,  
1349 2007. Code 1981 § 1.24.110].

1350

1351 2.08.120 Teleconference – Limitations.

1352

1353 a. All Council members and the Mayor should make all reasonable effort to be physically  
1354 present for every meeting. Teleconference procedures may not be used as a regular means of  
1355 attendance at meetings.

1356

1357 b. Participation by teleconference may be denied whenever the physical presence of the  
1358 individual is considered essential to effective participation in the meeting or to the proper  
1359 conduct of the business to be addressed at the meeting.

1360

1361 c. If teleconferencing is denied the individual will be listed as absent.

1362

1363 d. Each Council member and the Mayor may attend a maximum of three City Council  
1364 meetings by teleconference during the 12-month period commencing November 1st each  
1365 year. If a member participates in any part of a regularly scheduled meeting telephonically, it  
1366 will count towards their maximum allowable telephonic participations.

1367

1368 e. Each Council member and the Mayor may attend additional teleconferences as a special  
1369 exception if expressly approved for good cause in each instance by a vote of the Council.  
1370 Good cause may include, but is not limited to, absence required for work-related travel or  
1371 medical care needed for the individual or the individual's immediate family.

1372

1373 f. No Council member or the Mayor shall attend by telephonic means:

1374

1375 1. An executive session of the City Council.

1376 2. A hearing on an ethics charge under Chapter 1.18 HCC. [Ord. 19-05(A) § 1, 2019; Ord. 07-  
1377 45(A)(S) § 3, 2007. Code 1981 § 1.24.120].

1378

1379 APPENDIX B.

1380

1381 ~~Homer City Code 1.18 reads as follows: (MOVE TO APPENDIX)~~

1382

1383 1.18.010 Purpose.

1384 a. The proper functioning of democratic government requires ethical behavior by public  
1385 officials. Ethics involves the commitment to take individual responsibility in creating a  
1386 government that has the trust and respect of its citizens. The purpose of this chapter is to set  
1387 reasonable standards of conduct for City officials and the City Manager so that the public may  
1388 be assured that its trust in such persons is well placed and that the City officials and the City  
1389 Manager themselves are aware of the standards of conduct demanded.

1390

1391 b. However, recognizing that Homer is a small community, with a limited number of people  
1392 interested in serving as community leaders, it is not the intent of this chapter to set  
1393 unreasonable barriers that will serve only to deter aspirants from public service.

1394

1395 c. This chapter also defines conflict of interest and partiality, the standards stating when and  
1396 to whom it applies, and the procedures for declaration and the proper action of the body  
1397 when possible conflicts and partiality arise.

1398  
1399 d. This chapter is also intended to establish a process which will ensure that complaints or  
1400 inquiries regarding the conduct of City officials and the City Manager are resolved in the  
1401 shortest practicable time in order to protect the rights of the public at large and the rights of  
1402 the City and the City Manager.

1403  
1404 e. The City Council intends this code to be interpreted to promote fair, honest, and impartial  
1405 dealings with members of the public, to ensure proper use of City resources, and to avoid  
1406 conflicts of interest.

1407  
1408 f. This chapter does not create or prevent a private cause of action against any person, City  
1409 official, or the City Manager. [Ord. 08-24(S-2)(A), 2008].

1410  
1411 1.18.020 Definitions.

1412  
1413 As used in this chapter and unless otherwise provided or the context otherwise requires, the  
1414 following terms shall have the meanings set forth in this section:

1415  
1416 “Applicant” means any person that is applying for an official action by any official, employee,  
1417 or body of the City including but not limited to:

- 1418       1. Any person authorized to act for the applicant;  
1419       2. If the applicant is an organization, any person who has an ownership interest in the  
1420 organization or serves as an officer, director or manager of the organization.

1421  
1422 “Body of the City” means the City Council and the boards, commissions, committees and task  
1423 forces appointed by the City Council or the Mayor.

1424  
1425 “City Manager” means the person who is hired by the City Council to manage the City of  
1426 Homer.

1427  
1428 “City official” means a person who holds elective office under the ordinances of the City, or  
1429 who is a member of a board or commission whose appointment is subject to confirmation by  
1430 the City Council.

1431  
1432 “Financial interest” means:

- 1433       1. An interest currently held by that person or an immediate family member including:  
1434           a. Involvement or ownership in a business; or  
1435           b. Property ownership, or a professional or private relationship, that is a source  
1436 of income, or from which, or as a result of which, a person receives a financial

1437 benefit; or  
1438 c. An affiliation with an organization in which the person holds a position of  
1439 management, or is an officer, director, trustee, employee, or the like.  
1440  
1441 2. Financial interest does not include:  
1442 a. Affiliation as unpaid volunteer with a legally recognized nonprofit organization; or  
1443 b. Financial interests of a type which are generally possessed in common with all  
1444 other citizens or a large class of citizens.  
1445  
1446 “Gratuity” means a thing having value given voluntarily or beyond lawful obligation.  
1447  
1448 “Hired consultants and contractors” means a person or organization hired by the City as an  
1449 independent contractor and not as an employee.  
1450  
1451 “Immediate family member” means:  
1452 1. The spouse of the person;  
1453 2. A life partner or person cohabiting with the person;  
1454 3. A child, including a stepchild and an adoptive child, of the person;  
1455 4. A parent, sibling, or grandparent of the person; and  
1456 5. A parent or sibling of the person’s spouse.  
1457  
1458 “Impartial” means acting in a manner that the City official believes is in the public’s best  
1459 interest and not acting to benefit a financial or personal interest of the City official.  
1460  
1461 “Large class of citizens” means a substantially large group of citizens as decided by official  
1462 decision of the City Council made prior to the official action in question.  
1463  
1464 “Large class of citizens” does not include:  
1465 1. A single profession, regardless of the number of persons.  
1466 2. An individual business or organization regardless of the number of citizens it  
1467 contains.  
1468  
1469 “Official action” means a recommendation, decision, approval, disapproval, vote, or other  
1470 similar action, including inaction (when it is the equivalent of decision to take negative  
1471 action), made while serving in the capacity of City official or City Manager, whether such  
1472 action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.  
1473  
1474 “Organization” means any business, corporation, partnership, firm, company, trust,  
1475 association, or other entity, whether organized for profit or nonprofit.  
1476  
1477 “Partiality” applies only in quasi-judicial proceedings and means:  
1478 1. The ability of a member of the quasi-judicial body to make an impartial decision is

1479 actually impaired; or  
1480 2. The circumstances are such that reasonable persons would conclude the ability of  
1481 the member to make an impartial decision is impaired and includes, but is not limited  
1482 to, instances in which:  
1483 a. The member has a personal bias or prejudice for or against a party to the  
1484 proceeding including a party's lawyer;  
1485 b. The member or an immediate family member is a party, material witness to  
1486 the proceeding or represents a party in the proceeding.  
1487

1488 "Person" means a natural person or an organization.  
1489

1490 "Political activity" means any act for the purpose of influencing the nomination or election of  
1491 any person to public office, or for the purpose of influencing the outcome of any ballot  
1492 proposition or question. Informing the public about a ballot proposition or question without  
1493 attempting to influence the outcome of the ballot proposition or question is not political  
1494 activity.  
1495

1496 "Subject of the action" means anything under consideration for official action including but  
1497 not limited to:

- 1498 1. Appointments to any office or position of employment;
- 1499 2. Any contract, project, property, or transaction subject to the action;
- 1500 3. A platting, vacation or subdivision action;
- 1501 4. An application for or other consideration of a license, permit, appeal, approval,  
1502 exception, variance, or other entitlement;
- 1503 5. A rezoning; and
- 1504 6. Appeals and quasi-judicial proceedings.  
1505

1506 "Substantial financial interest" means a financial interest that would result in a pecuniary  
1507 gain or loss exceeding \$1,000 in a single transaction or more than \$5,000 in the aggregate in  
1508 12 consecutive months. [Ord. 08-24(S-2)(A), 2008].  
1509

1510 1.18.025 Scope and duration.

1511 a. Except as otherwise provided in this chapter, this chapter applies to the conduct of City  
1512 officials and the City Manager.  
1513

1514 b. Enforcement proceedings may be commenced and continue to completion after a person  
1515 is no longer a City official or City Manager for conduct that occurred during the time the  
1516 person was serving or engaged in such a capacity for the City. [Ord. 08-24(S-2)(A), 2008].  
1517

1518 1.18.030 Standards and prohibited acts.

1519 a. City officials, the City Manager, and City hired consultants and contractors, while acting in  
1520 such capacity, shall not knowingly make false statements to influence official action.



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

1. The person is the applicant, a party or has a substantial financial interest in the subject of the official action.
2. Within a period of one year after the action the person will have a substantial financial interest in the subject of the official action.
3. The person resides or owns land within a 300-foot periphery of any property that is the subject of any action.
4. The person does or will recognize a substantial financial interest as a result of the action.
5. Exceptions.
  - a. This subsection does not prohibit a person from acquiring a substantial financial interest in the subject of the action after the longer of 12 months after the official action is approved, or 12 months after the person's term or employment ends.
  - b. This section does not prohibit any gain or loss that would generally be in common with all other citizens or a large class of citizens.
  - c. This section does not prohibit any gain or loss that would generally be in common with other property owners on property that is further than 300 feet from the periphery of any property that is the subject of an action.

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

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

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

f. No official shall participate in, vote on, or attempt to influence the selection of an appointee to the Homer Advisory Planning Commission if that official has, or could

1563 reasonably be expected to have within one year after the date of the appointment:  
1564 1. A rezoning, quasi-judicial or platting action pending before the Commission; or  
1565 2. An application that would require approval by a quasi-judicial or platting action of  
1566 the Commission.

1567

1568 In the case of the reappointment of an incumbent to another term, the prohibition above also  
1569 applies to an official who had such a matter pending before the Homer Advisory Planning  
1570 Commission within one year before the date of the reappointment. The Board of Ethics may,  
1571 upon written request, grant an exception to this one-year period when it determines the  
1572 public interest does not require continuing enforcement of the prohibition.

1573

1574 g. Use of Office for Personal Gain. No City official or the City Manager shall seek office or  
1575 position or use their office or position for the purpose of obtaining anything of value for  
1576 themselves, an immediate family member or a business that they own or in which they hold  
1577 an interest, or for the purpose of influencing any matter in which they have a financial  
1578 interest. This subsection does not prohibit the receipt of authorized remuneration for the  
1579 office or position.

1580

1581 h. Inappropriate Use of Office Title or Authority. No City official or the City Manager shall use  
1582 the implied authority of office or position for the purposes of unduly influencing the decisions  
1583 of others, or promoting a personal interest within the community. City officials and the City  
1584 Manager will refrain from using their title except when duly representing the City in an  
1585 authorized capacity. Unless duly appointed by the Mayor or Council to represent the interests  
1586 of the full Council, Council members shall refrain from implying their representation of the  
1587 whole by the use of their title.

1588

1589 i. Representing Private Interests. No City official shall, for compensation, represent or assist  
1590 those representing private business or personal interests before the City Council,  
1591 administration, or any City board, commission or agency. Nothing herein shall prevent an  
1592 official from making verbal or written inquiries on behalf of constituents or the general public  
1593 to elements of City government or from requesting explanations or additional information on  
1594 behalf of such constituents. No official may solicit or accept a benefit or anything of value  
1595 from any person for having performed this service.

1596

1597 j. Confidential Information. No City official or the City Manager may disclose information they  
1598 know to be confidential concerning employees of the City, City property, City government, or  
1599 other City affairs, including but not limited to confidential information disclosed during an  
1600 executive session, unless authorized or required by law to do so.

1601

1602 k. Outside Activities. A City official or the City Manager may not engage in business or accept  
1603 employment with, or render services for, a person other than the City or hold any office or  
1604 position where that activity, office, or position is incompatible with the proper discharge of

1605 the official's or City Manager's City duties or would tend to impair the official's or the City  
1606 Manager's independence of judgment in performing City duties. This prohibition shall include  
1607 but not be limited to the following activities:

1608 1. A person who holds an appointed City office on a board or commission shall not be  
1609 eligible for employment with the City in the department related to the board or  
1610 commission during the official's term of office and until one year has elapsed  
1611 following the period of service. An exception may be made on a case-by-case basis  
1612 with the express authorization of the City Council.

1613 2. A person who holds or has held an elective City office shall not be eligible for  
1614 appointment to an office or for employment with the City during the official's period  
1615 of service and until one year has elapsed following the period of service. An exception  
1616 may be made on a case-by-case basis with the express authorization of the City  
1617 Council.

1618  
1619 l. Gratuities. No City official or the City Manager shall accept a gratuity from any person  
1620 engaging in business with the City or having a financial interest in a decision pending with the  
1621 City. No City official or the City Manager shall give a gratuity to another City official for the  
1622 purpose of influencing that person's opinion, judgment, action, decision or exercise of  
1623 discretion as a City official. This subsection does not prohibit accepting:

- 1624 1. A meal of reasonable value;
- 1625 2. Discounts or prizes that are generally available to the public or large sections  
1626 thereof;
- 1627 3. Gifts presented by an employer to its employees in recognition of meritorious  
1628 service, or civic or public awards;
- 1629 4. A lawful campaign contribution made to a candidate for public office;
- 1630 5. An occasional nonpecuniary gift insignificant in value;
- 1631 6. Any gift which would have been offered or given to them if they were not a City  
1632 official or the City Manager.

1633  
1634 m. Use of City Property. No City official, the City Manager, or City hired consultant or  
1635 contractor may use, request or permit the use of City vehicles, equipment, materials or  
1636 property for any non-City purpose, including but not limited to private financial gain, unless  
1637 that use is available to the general public on the same terms or unless specifically authorized  
1638 by the City Council. This subsection does not prohibit de minimis personal use.

1639  
1640 n. Political Activities – Limitations of Individuals. A City official may not take an active part in  
1641 a political campaign or other political activity when on duty. Nothing herein shall be  
1642 construed as preventing such officials from exercising their voting franchise, contributing to a  
1643 campaign or candidate of their choice, or expressing their political views when not on duty or  
1644 otherwise conspicuously representing the City.

1645  
1646 o. Influencing Another City Official's Vote. A City official may not attempt to influence another

1647 City official's vote or position on a particular item through contact with the City official's  
1648 employer or by threatening financial harm to another City official.

1649

1650 p. City officials or the City Manager shall not participate in public testimony before any City  
1651 body in any matter in which they have a substantial financial interest unless:

1652 1. They or the City is the applicant; or

1653 2. They fully and publicly disclose the nature of their interest in the subject of the  
1654 action.

1655

1656 q. No City official may violate HCC 2.04.030.

1657

1658 r. City officials shall act impartially when conducting City business.

1659

1660 s. At all times during performance of their official duties, Council members shall comply with  
1661 the City's workplace safety policies, harassment prevention, and respectful workplace  
1662 polices as set forth in the employee policy manual. [Ord. 18-14(A), 2018; Ord. 16-48(S)(A) § 1,  
1663 2016; Ord. 08-24(S-2)(A), 2008].

1664

1665 1.18.040 Business dealings with City.

1666 a. Not less than 10 days before the date when official action may be taken by the Council or  
1667 by any officer, the City Manager, commission or other agency of the City upon business  
1668 dealings between the City and a City official or an organization in which the City official has a  
1669 substantial financial interest, the City official shall file a statement with the City Clerk. The  
1670 statement shall set forth the nature of such business dealings and the City official's interest  
1671 therein. This statement is only required when the person receives a beneficial substantial  
1672 financial interest. If all other provisions of this chapter are complied with, the statement shall  
1673 be sufficient for continuing transactions of a similar or like nature for one year from the date  
1674 of its filing. However, if an official has violated any of the provisions of this chapter, he shall  
1675 be precluded from engaging in business with the City on that particular matter for one year.

1676

1677 b. Upon taking office or upon subsequently acquiring the interest, an official shall, within 10  
1678 days, file with the City Clerk a statement disclosing any substantial financial interests of the  
1679 official or the City Manager in any existing business with the City, including those of any  
1680 organization in which the official or the City Manager has a substantial financial interest.

1681

1682 c. The City Manager shall not engage in business with the City outside the duties of City  
1683 Manager. [Ord. 18-14(A), 2018; Ord. 08-24(S-2)(A), 2008].

1684

1685 1.18.043 Public disclosure.

1686 a. City officials and the City Manager must annually file the following financial interest  
1687 disclosure on forms prepared by the City Clerk:

1688 1. For each City official and the City Manager the information that is required on the

1689 following selected schedules from the Alaska Public Offices Commission Public  
1690 Official Financial Disclosure Statement: Schedules B (business interests), C (real  
1691 property interests/rent to own), E (the portion relating to natural resource leases  
1692 only), F (government contracts and leases) and G (close economic associations); and  
1693 2. For each elected City official a list of each business in which an immediate family  
1694 member is a partner, proprietor or employee to the extent not provided in response to  
1695 subsection (a)(1) of this section.  
1696

1697 b. The financial interest disclosure must be filed by November 1st each year. A newly  
1698 appointed official must file a statement within 30 days after taking office. Each candidate for  
1699 elected City office must file a disclosure statement at the time he or she files a declaration of  
1700 candidacy, except an incumbent seeking reelection with a current disclosure statement on  
1701 file. Refusal or failure of a candidate to file the required disclosure statement before the end  
1702 of the time period for filing declarations of candidacy shall require that the candidate's  
1703 declaration of candidacy be rejected and the candidate disqualified.  
1704

1705 c. The disclosure statement must be true, correct and complete and shall be signed under  
1706 oath or affirmation, or certified to be true under penalty of perjury. Not filing a statement  
1707 within the stipulated period is a violation of this chapter.  
1708

1709 d. The disclosure statement shall be filed with the City Clerk and shall be open to public  
1710 inspection and copying at the office of the City Clerk. The disclosure statement will not be  
1711 sent to the Alaska Public Offices Commission. [Ord. 16-26 § 1, 2016; Ord. 08-24(S-2)(A), 2008].  
1712

1713 1.18.045 Procedure for declaring potential conflict of interest – City officials.

1714 a. A City official who has or may have a substantial financial interest in an official action shall  
1715 disclose the facts concerning that interest to the body of the City of which the official is a  
1716 member prior to the body taking any official action. Any member of the body may raise a  
1717 question concerning another member's financial interests, in which case the member in  
1718 question shall disclose relevant facts concerning the official's financial interests in the  
1719 subject of the action.  
1720

1721 b. If the official is a City Council member, the Mayor, or the Mayor Pro Tem in the absence of  
1722 the Mayor, shall rule on whether the Council member must be excused from participation or  
1723 must vote. The ruling may be immediately overridden by a majority vote of the City Council.  
1724 There is no appeal from the action or inaction of the City Council to override or not override  
1725 the ruling of the Mayor.  
1726

1727 c. If the official is not a City Council member, the official may excuse themselves without a  
1728 vote for conflict of interest, otherwise the board, commission, or other body of which the  
1729 official is a member shall by majority vote rule on whether the member must be excused from  
1730 participation, which must be the ruling when the body determines the official has a

1731 substantial financial interest in the official action. There is no appeal from the ruling of the  
1732 body.

1733

1734 d. The official shall abide by the ruling. If the official is not a City Council member, the ruling  
1735 applies (without the need for further disclosures and rulings) to all subsequent occasions on  
1736 which the same official action comes before the same body, unless there has been a material  
1737 change of circumstances. On each such subsequent occasion, the presiding officer shall note  
1738 for the minutes that the ruling previously made continues in effect.

1739

1740 e. An official who is ruled to be excused from participation shall leave the official table and  
1741 not vote, debate, testify, or otherwise take part in the official action, except an official who is  
1742 an applicant may testify on his or her own behalf from the public testimony area.

1743

1744 f. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be  
1745 made in cases where:

1746 1. By reason of being excused for conflicts of interest the number of members of the  
1747 Council or other body eligible to vote is reduced to less than the minimum number  
1748 required to approve the official action;

1749 2. No other body of the City has jurisdiction and authority to take the official action on  
1750 the matter; and

1751 3. The official action cannot be set aside to a later date, within a reasonable time,  
1752 when the body could obtain the minimum number of members to take action who are  
1753 not excused for conflicts of interest.

1754

1755 When the body determines this exception applies, then all members, except the applicant  
1756 when the applicant is a member of the body, shall participate in the official action. [Ord. 08-  
1757 24(S-2)(A), 2008].

1758

1759 1.18.047 Procedure for declaring potential conflicts of interest – City Manager.

1760 The City Manager who has or may have a substantial financial interest in an official action  
1761 shall disclose the facts concerning the Manager's financial interests to the City Council prior  
1762 to taking any official action. If the City Council determines the Manager has a substantial  
1763 financial interest in the action, the City Council shall excuse the Manager and assign another  
1764 City employee to the matter. [Ord. 08-24(S-2)(A), 2008].

1765

1766 1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.

1767 a. A City official or the City Manager who has partiality concerning a quasi-judicial matter  
1768 shall not advise on matter, adjudicate the matter or serve as a member of a body  
1769 adjudicating the matter.

1770

1771 b. A City official who is a member of a quasi-judicial body and who has or may have partiality  
1772 concerning a matter to be adjudicated shall disclose the facts concerning the official's

1773 possible partiality to the body to the parties to the matter prior to the commencement of  
1774 proceedings by the body. Any member of the body, and any party to a matter before the  
1775 body, may raise a question concerning a member's partiality, in which case the member in  
1776 question shall disclose facts concerning the official's possible partiality in the matter.

1777

1778 c. After such disclosure, the City official may excuse themselves for partiality without a vote of  
1779 the body, otherwise the body (including a body comprised of City Council members when  
1780 serving in a quasi-judicial capacity) shall by majority vote rule on whether the member must  
1781 be excused from participation, which must be the ruling when the body determines the  
1782 official has partiality concerning the matter.

1783

1784 d. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be  
1785 made in cases where:

1786 1. By reason of being excused for partiality the number of members of the Council or  
1787 other body eligible to vote is reduced to less than the minimum number required to  
1788 approve the official action;

1789 2. No other body of the City has jurisdiction and authority to take the official action on  
1790 the matter; and

1791 3. The official action cannot be set aside to a later date, within a reasonable time,  
1792 when the body could obtain the minimum number of members to take action who are  
1793 not excused for partiality.

1794

1795 When the body determines this exception applies, then all members, except the applicant  
1796 when the applicant is a member of the body, shall participate in the official action.

1797

1798 e. The City Manager who has or may have partiality concerning a quasi-judicial matter over  
1799 which the Manager has decision-making authority shall either (1) appoint another City  
1800 employee to make the decision or (2) disclose the facts concerning the possible partiality to  
1801 the City Council and to the parties to the matter prior to taking any official action. If referred  
1802 to the City Council and the City Council determines the Manager has partiality concerning the  
1803 matter, the City Council shall excuse the Manager and cause another City employee to be  
1804 assigned to decide the matter. [Ord. 08-24(S-2)(A), 2008].

1805

1806 1.18.060 Advisory opinions.

1807 a. Where any city official or the City Manager has a doubt as to the applicability of any  
1808 provision of this chapter to a particular situation, or as to the definition of terms used herein,  
1809 he may apply in writing to the city attorney for an advisory opinion. The city official or City  
1810 Manager shall have the opportunity to present his interpretation of the facts at issue and of  
1811 the applicability of provisions of the chapter before such advisory opinion is made. The  
1812 request must clearly state it is a request for an advisory opinion under this section of the  
1813 ethics code.

1814

1815 b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent  
1816 actions concerning the public official who sought the opinion and acted on it in good faith,  
1817 unless material facts were omitted or misstated in the request for the advisory opinion. An  
1818 advisory opinion shall be applicable and binding only to the particular set of facts and  
1819 instances of conduct for which it was requested and shall have no force or effect for purposes  
1820 of general application. Such opinion shall not be binding or admissible in evidence in any  
1821 action initiated by any private citizen. (Ord 08-24(S-2)(A) §1, 2008).

1822  
1823 c. Any act or omission taken by any City Official or the City Manager in their official capacity  
1824 based upon the advice of the City Attorney provided in writing, during a Council or  
1825 Commission meeting or acknowledged by the City Attorney in response to a complaint shall  
1826 not be subject to an ethics complaint under Chapter 1.18 HCC. [Ord. 18-14(A), 2018]

1827  
1828  
1829

1830 1.18.070 Violation and penalty.

1831 Any official who violates any of the provisions of this chapter shall be guilty of a violation  
1832 subject to punishment pursuant to HCC 1.16. (Ord 08-24(S-2)(A) §1, 2008).

1833  
1834

1834 1.18.090 Distribution of Code.

1835 The city clerk shall cause a copy of this chapter to be distributed to each city official elected  
1836 or appointed before entering upon the duties of his office and to the City Manager upon  
1837 employment. (Ord 08-24(S-2)(A) §1, 2008).

1838  
1839

1839 1.18.100 Application of state statutes.

1840 a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the  
1841 application of the Alaska Statutes to any conduct involving bribery or other offenses against  
1842 public administration.

1843

1844 b. All municipal officers as defined by Alaska Statutes Chapter 39.50 are exempt from the  
1845 provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord 08-24(S-  
1846 2)(A) §1, 2008).

1847  
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1849  
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1851 Chapter

1.19

1852 BOARD OF ETHICS – COMPLAINTS

1853

1854 Sections:

1855 1.19.010 Board of Ethics established – General provisions.

1856 1.19.020 Function and authority.

1857 1.19.030 Procedures for violation reporting.



1858 1.19.040 Confidentiality – Initial review.  
1859 1.19.050 Disclosure of complaint of potential violation prohibited.  
1860 1.19.060 Conduct of investigation and standard of proof.  
1861 1.19.070 Deliberations of the Board.  
1862 1.19.080 Decisions on the record.  
1863 1.19.090 Timely completion.  
1864 1.19.100 Sanctions, civil penalties and remedies.  
1865 1.19.110 Board member and hearing officer disclosures.  
1866 1.19.120 Duty of cooperation.  
1867 1.19.130 Settlement of complaints.  
1868 1.19.140 Record of proceedings and public record.  
1869 1.19.150 Limitation period.  
1870  
1871 1.19.010 Board of Ethics established – General provisions.  
1872 a. There is hereby established a Board of Ethics.  
1873  
1874 b. The Board shall be comprised of all members of the City Council and the Mayor. The Mayor,  
1875 or the Mayor Pro Tem in the Mayor’s absence, will serve as presiding officer of the Board. In  
1876 the absence of both, the members of the Board shall elect a presiding officer from among its  
1877 members.  
1878  
1879 c. The City Attorney or other legal counsel for the Board may assist the Board at every stage  
1880 of the proceedings, but shall have no vote.  
1881  
1882 d. A quorum of the Board shall be a majority of all members who are not excused for cause,  
1883 such as being the complainant, the respondent, a witness, having a conflict of interest, or  
1884 other cause for recusal. However, in no event may a quorum be less than three. If no quorum  
1885 of the Board can be established due to conflicts of interest or other cause of recusal, the  
1886 present members of the Board shall direct the Clerk to transfer the complaint to a hearing  
1887 officer.  
1888  
1889 e. Decisions of the Board shall be adopted by a majority of the members who are qualified to  
1890 act on the matter, where a quorum is present.  
1891  
1892 f. Unless the Board delegates such authority to another member or decides that no one shall  
1893 have such authority, and except as provided for hearing officers in subsection (h) of this  
1894 section, the presiding officer shall have authority to make procedural decisions between  
1895 Board meetings on behalf of the Board. Examples of matters that may be decided by such  
1896 delegate include scheduling hearings and other matters, establishing pre-hearing  
1897 requirements and filing deadlines for motions, exhibits, witness lists, hearing briefs, and  
1898 deciding other procedural matters.  
1899

- 1900 g. The presiding officer shall vote on every question, unless required to abstain for cause, and  
1901 shall not have power to veto any action of the Board.  
1902
- 1903 h. A hearing officer designated by the City Clerk under HCC 1.19.030(d) shall have sole  
1904 authority to investigate the complaint they have been retained to hear and to make  
1905 procedural decisions regarding the investigation and hearing of that complaint. Except as  
1906 otherwise provided in HCC 1.19.030, the designated hearing officer shall be the sole decision-  
1907 maker and shall comply with the procedures and requirements of this chapter. [Ord. 18-14(A)  
1908 § 5, 2018].  
1909
- 1910 1.19.020 Function and authority.  
1911 The Board of Ethics or a hearing officer appointed under this chapter has authority to  
1912 perform the following functions:  
1913
- 1914 a. Investigate reported violations of Chapter 1.18 HCC.  
1915
- 1916 b. Hear and decide written complaints of violations of Chapter 1.18 HCC.  
1917
- 1918 c. Hear and decide on requests for exceptions as specified in Chapter 1.18 HCC.  
1919
- 1920 d. Make findings and recommendations concerning sanctions, civil penalties and remedies  
1921 for violations as provided in the code.  
1922
- 1923 e. Adopt recommended policies and procedures governing the Board's conduct of business.  
1924
- 1925 f. Upon application of the complainant, respondent, or at the Board's or hearing officer's  
1926 discretion, compel by subpoena the appearance and sworn testimony, at a specified time  
1927 and place, of a person the Board or hearing officer reasonably believes may be able to  
1928 provide information relating to a matter under investigation by the Board or hearing officer  
1929 or the production of documents, records or other items the Board or hearing officer  
1930 reasonably believes may relate to the matter under consideration.  
1931
- 1932 g. Administer oaths and receive testimony from witnesses appearing before the Board or  
1933 hearing officer.  
1934
- 1935 h. Request City agencies to cooperate with the Board or hearing officer in the exercise of the  
1936 Board's or hearing officer's jurisdiction.  
1937
- 1938 i. Request the advising attorney to seek assistance of the Superior Court to enforce the  
1939 Board's or hearing officer's subpoena.  
1940
- 1941 j. Conduct investigative hearings in executive session, pursuant to notifications alleging

1942 violations of matters within the authority of the Board or hearing officer. [Ord. 18-14(A) § 5,  
1943 2018].

1944

1945 1.19.030 Procedures for violation reporting.

1946 a. Any person who believes that a violation of any portion of Chapter 1.18 HCC has occurred  
1947 may file a written complaint of potential violation with the City Clerk's office.

1948

1949 b. All written complaints of potential violation submitted under this chapter shall be signed  
1950 by the person submitting the complaint. A written complaint of potential violation shall state  
1951 the address and telephone number of the person filing the complaint, identify the  
1952 respondent, and affirm to the best of the person's knowledge and belief the facts alleged in  
1953 the complaint of potential violation signed by the person are true. The person filing the  
1954 complaint of potential violation shall identify the section of Chapter 1.18 HCC the person  
1955 believes was violated, state why the person signing the complaint of potential violation  
1956 believes the facts alleged constitute a violation of that section, and identify any documentary  
1957 or testimonial evidence the person filing the complaint believes is in support of the  
1958 notification of potential violation.

1959

1960 c. Written complaints of potential violations filed with the City Clerk's office shall be reviewed  
1961 in accordance with HCC 1.19.040. Except as otherwise provided in HCC 1.19.040, the Board of  
1962 Ethics shall have sole jurisdiction to decide the merits of the complaint filed under this  
1963 chapter.

1964

1965 d. The City Clerk shall appoint a hearing officer to decide and investigate properly filed  
1966 written complaints against City Council members or the Mayor. Except as provided in HCC  
1967 1.19.040, the hearing officer shall have sole jurisdiction to decide the merits of a complaint  
1968 under this chapter. [Ord. 18-14(A) § 5, 2018].

1969

1970 1.19.040 Confidentiality – Initial review.

1971 a. Each written complaint of a violation of Chapter 1.18 HCC received by the City Clerk's office  
1972 shall be assigned an identification number, which shall be used in lieu of names when  
1973 referring to the complaint to maintain confidentiality. The City Clerk, City Attorney, and the  
1974 Board or hearing officer shall keep all written complaints of potential violation confidential  
1975 during investigation and the Board's or hearing officer's deliberative process. Complaints of  
1976 potential violation may be disclosed only to the staff member of the City Clerk's office  
1977 providing administrative support to the Board or hearing officer, members of the Board  
1978 except when a hearing officer has been appointed, and legal counsel.

1979

1980 b. Upon receipt of a notification of potential violation, the City Clerk shall review the  
1981 complaint for completeness and inclusion of the information required in HCC 1.19.030(b). If  
1982 the City Clerk determines that the complaint is not complete and lacks information required  
1983 by HCC 1.19.030(b), the City Clerk shall return the complaint and identify in writing the

1984 deficiencies on which the return is based. The City Clerk shall notify the complainant of the  
1985 return and the reasons for it. A person may amend and refile a complaint but a complaint  
1986 filed by the same complainant with the same deficiencies shall not be accepted. The City  
1987 Clerk may recommend to the person filing the complaint that it be amended and refiled.  
1988 Notifications of potential violation returned without further action shall remain confidential.  
1989 c. The City Attorney shall review the sufficiency of the statement of violation in the complaint.  
1990 If the City Attorney determines the facts alleged in the notification of potential violation, even  
1991 if proven, do not constitute a violation, or that the Board or hearing officer lacks jurisdiction  
1992 to address the complaint of potential violation, the City Attorney shall instruct the City Clerk  
1993 to return the complaint and identify in writing the deficiencies on which the return is based.  
1994 The City Clerk shall notify the complainant of the return and the reasons for it. A person may  
1995 amend and refile a complaint but a complaint filed by the same complainant with the same  
1996 deficiencies shall not be accepted. The City Clerk may recommend to the person filing the  
1997 complaint that it be amended and refiled. Notifications of potential violation returned  
1998 without further action shall remain confidential.

1999  
2000 d. If the City Attorney determines the allegations in a complaint of potential violation, if  
2001 proven, may constitute a violation of a matter within the Board or hearing officer's  
2002 jurisdiction, the City Attorney shall provide written notice to the City Clerk.

2003 e. If the City Attorney and City Clerk find the complaint sufficient under this section, the City  
2004 Clerk shall:

- 2005
- 2006 1. Retain a hearing officer as required under HCC 1.19.030(d) and provide that officer  
2007 with a copy of the complaint of potential violation, a copy of the outline of the hearing  
2008 officer process under this chapter, including notice that the respondent may choose  
2009 to hold the proceeding in public and may be represented by legal counsel of  
2010 respondent's choosing and at respondent's own expense; or
  - 2011 2. Provide the Board with a copy of the complaint of potential violation, a copy of the  
2012 outline of the Board's process under this chapter, including notice that the  
2013 respondent may choose to hold the proceeding in public and may be represented by  
2014 legal counsel of respondent's choosing and at respondent's own expense;
  - 2015 3. Give the respondent a copy of the complaint of potential violation, along with a  
2016 copy of the outline of the Board's process under this chapter, including notice that the  
2017 respondent may choose to hold the proceeding in public and may be represented by  
2018 legal counsel of respondent's choosing and at respondent's own expense; and
  - 2019 4. Notify both the person submitting the complaint of potential violation and  
2020 respondent of the date(s) on which each may be requested to meet with the Board or  
2021 hearing officer, present documentary or testimonial evidence, and assist the Board or  
2022 hearing officer in resolving the potential violation. [Ord. 18-14(A) § 5, 2018].

2023  
2024 1.19.050 Disclosure of complaint of potential violation prohibited.

2025 a. A complaint of potential violation of Chapter 1.18 HCC is confidential until the Board or

2026 hearing officer completes a written report for distribution as a public record.

2027

2028 1. No person, including the complainant, shall knowingly disclose to another person,  
2029 or otherwise make public in violation of this chapter, the contents of a complaint of  
2030 potential violation filed with the Board or hearing officer, unless:

2031 a. The respondent elects to proceed in public; or

2032 b. The written report of the Board or hearing officer is electronically published  
2033 by the City Clerk.

2034

2035 2. Breach of confidentiality required by any provision of this chapter is a violation of this  
2036 chapter subject to punishment.

2037

2038 3. A person filing a complaint of potential violation shall keep confidential the fact that the  
2039 person has filed the complaint with the City, as well as the contents of the complaint of  
2040 potential violation. If the Board or hearing officer finds probable cause to believe that the  
2041 person filing the notice of complaint violation has violated confidentiality under this chapter,  
2042 the Board or hearing officer shall immediately dismiss the complaint of violation. Dismissal  
2043 under this subsection does not affect the right of the Board or hearing officer or another  
2044 person to initiate a proceeding on the same factual allegations by filing a complaint of  
2045 potential violation.

2046

2047 4. Public disclosure resulting from corrective action under this chapter is not a violation of  
2048 this section. [Ord. 18-14(A) § 5, 2018].

2049

2050 1.19.060 Conduct of investigation and standard of proof.

2051 The Board's investigation shall be conducted in executive session, unless the respondent  
2052 requests to hold the Board's investigation on the notification of potential violation in public.  
2053 The hearing officer's investigation shall be conducted in a manner to maintain confidentiality  
2054 unless the respondent requests to hold the hearing officer's investigation on the notification  
2055 of potential violation in public.

2056

2057 a. The respondent and the person who filed the notification of potential violation may  
2058 identify other individuals and documents that each would like the Board or hearing officer to  
2059 interview and review.

2060

2061 b. If an individual with information bearing on the notification of potential violation is  
2062 unwilling to come forward with information, the respondent and the person who filed the  
2063 notification of potential violation may each request the Board or hearing officer to subpoena  
2064 the person and any documentary evidence.

2065

2066 c. Persons appearing before the Board or hearing officer may be represented by counsel or  
2067 other person serving in a representative capacity.

2068

2069 d. The Board or hearing officer may question the respondent, the person who filed the  
2070 notification of potential violation, and other persons appearing before the Board or hearing  
2071 officer.

2072

2073 e. The Board or hearing officer may solicit questions and testimony from the person filing the  
2074 notification of potential violation, the respondent and other persons appearing for the  
2075 purpose of providing information to the Board or hearing officer. The Board or hearing officer  
2076 may solicit questions from counsel present to represent persons appearing before the Board  
2077 or hearing officer, but all questions during the Board's or hearing officer's investigation shall  
2078 be posed through and by a member of the Board or the hearing officer. Consistent with due  
2079 process, the Board or hearing officer may limit or prohibit questions suggested to the Board  
2080 or hearing officer by or on behalf of persons appearing before the Board or hearing officer.

2081

2082 f. The standard of proof to be applied by the Board or hearing officer in determining a  
2083 violation under this chapter is proof by a preponderance of the evidence.

2084

2085 g. Technical rules of evidence do not apply, but the findings of the Board shall be based upon  
2086 reliable and relevant information presented to the Board.

2087

2088 h. The Board's or hearing officer's finding of a violation of this chapter must be supported by  
2089 substantial evidence.

2090

2091 i. The Board's or hearing officer's findings shall not be binding in a subsequent sanctions  
2092 proceeding.

2093

2094 j. When the Board's or hearing officer's investigation is conducted in executive session or  
2095 confidentially, the public shall be excluded but an executive session of the Board shall be  
2096 electronically recorded. The recording shall be available for access as a public record after  
2097 publication by the Municipal Clerk of the proposed resolution and settlement. [Ord. 18-14(A)  
2098 § 5, 2018].

2099

2100 1.19.070 Deliberations of the Board.

2101 Deliberations of the Board shall be conducted in executive session.

2102

2103 a. The deliberations of the Board shall not be recorded.

2104

2105 b. The respondent, the person filing the complaint, and their counsel shall be excluded from  
2106 the deliberations. The Board's legal counsel may attend the deliberations.

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2108 c. The Board shall reconvene in open session when deliberations are complete. [Ord. 18-14(A)  
2109 § 5, 2018].

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1.19.080 Decisions on the record.

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

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

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

c. What specific sanctions, corrective actions or referrals, if any, the Board or hearing officer recommends pursuant to HCC 1.19.100.

d. If the Board or hearing officer does not find a violation under Chapter 1.18 HCC, the Board or hearing officer shall prepare a confidential statement of closure listing the complainant and respondent, the assigned identification number, the allegations, the hearing date, and the finding that no allegation was substantiated by the Board or hearing officer in whole or in part, and the date of Board or hearing officer closure. At the sole discretion of the respondent, the Board or hearing officer may release the statement of closure as a public document. [Ord. 18-14(A) § 5, 2018].

1.19.090 Timely completion.

The Board or hearing officer shall complete action on a complaint of potential violation and investigations within 90 days of the filing of the complaint of potential violation. By a majority vote, the Board or hearing officer may extend the completion date for up to an additional 90 days, or longer for good cause shown. [Ord. 18-14(A) § 5, 2018].

1.19.100 Sanctions, civil penalties and remedies.

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

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

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

- 2152 3. A public or private reprimand may be given to the official.  
2153 4. The official may be ordered to refrain from voting, deliberating, or participating in  
2154 any matter in violation of Chapter 1.18 HCC.  
2155 5. The committee assignments of an official may be revoked.  
2156 6. An official's privilege to travel at City expense on City business may be revoked or  
2157 restricted.  
2158 7. A contract, transaction or appointment, which was the subject of an official act or  
2159 action of the City that involved the violation of a provision of Chapter 1.18 HCC, may  
2160 be voided.  
2161 8. The official must forfeit or make restitution of any financial benefit received as a  
2162 consequence of a violation of Chapter 1.18 HCC.  
2163 9. A civil fine of not more than \$1,000 per violation may be imposed. [Ord. 18-14(A) § 5,  
2164 2018].

2165  
2166 1.19.110 Board member and hearing officer disclosures.  
2167 a. When an investigation is convened in executive session to determine whether the  
2168 respondent has violated Chapter 1.18 HCC, the Board members will be requested to disclose  
2169 any conflict of interest, ex parte communications, or other facts that may affect their  
2170 qualification to hear the matter. After such a disclosure, the other members of the Board shall  
2171 determine whether a member shall be excused for cause.  
2172

2173 b. A hearing officer shall disclose any conflict of interest or ex parte communications with the  
2174 complainant or respondent before conducting an investigation or holding a hearing under  
2175 this chapter. The complainant and the respondent have 10 days from the date the written  
2176 disclosure is sent to the parties to file an objection to the hearing officer with the City Clerk.  
2177 Upon receiving an objection, the City Clerk shall appoint a new hearing officer. [Ord. 18-14(A)  
2178 § 5, 2018].

2179  
2180 1.19.120 Duty of cooperation.  
2181 A City official or the City Manager subject to a complaint of a violation shall work  
2182 cooperatively with the City Clerk to establish a hearing date and shall appear at the place and  
2183 time set for the hearing, regardless of the respondent's intentions concerning defense or  
2184 exercise of other rights. Failure to appear, except when failure results from a serious  
2185 condition or event that prevented the respondent's appearance, is a breach of respondent's  
2186 duties under this chapter and in itself may result in a summary finding of violation by the  
2187 Board or hearing officer and imposition of remedies, penalties and disciplinary action under  
2188 HCC 1.19.100. For the purposes of this section, a "serious condition or event" may include a  
2189 serious medical condition, a serious family emergency requiring the presence of the party, a  
2190 death in the family, or other similar cause that prevents the respondent's attendance at the  
2191 hearing. Nothing in this section shall prevent the rescheduling of a hearing for cause upon  
2192 request of the respondent or the complainant. [Ord. 18-14(A) § 5, 2018].  
2193



2194 1.19.130 Settlement of complaints.

2195 a. The respondent in any case accepted for investigation may propose a resolution and  
2196 settlement of the complaint. A proposed resolution and settlement will include the admitted  
2197 violation of Chapter 1.18 HCC; the remedial actions agreed to by the respondent subject to  
2198 the City Council's concurrence; any proposed preventive actions to be undertaken to avoid  
2199 similar violation by respondent or others in the future; and other matters required by the  
2200 Board or hearing officer.

2201  
2202 b. A proposed resolution and settlement are subject to approval by the Board or hearing  
2203 officer and have no effect unless approved by the Board or hearing officer. The Board or  
2204 hearing officer will give the complaining person the opportunity to review and comment on  
2205 the proposed resolution and settlement prior to approving it. Until approved by the Board or  
2206 hearing officer, a proposed resolution and settlement must be kept confidential.

2207 c. The proposed resolution and settlement become public record upon final approval by the  
2208 Board or hearing officer. [Ord. 18-14(A) § 5, 2018].

2209

2210 1.19.140 Record of proceedings and public record.

2211 Permanent records and minutes shall be kept of Board's or hearing officer's proceedings.  
2212 Such minutes shall record the vote of each member upon every question decided in public.  
2213 Every decision or finding shall immediately be filed in the office of the City Clerk, and shall be  
2214 a public record open to inspection by any person. Every finding and recommendation shall be  
2215 directed to the City Council at the earliest possible date. [Ord. 18-14(A) § 5, 2018].

2216

2217 1.19.150 Limitation period.

2218 a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and subject to  
2219 subsection (b) of this section, the Board or hearing officer only may investigate or otherwise  
2220 act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City  
2221 Clerk's office within five years after the date of the alleged violation.

2222

2223 b. After the time limitation in subsection (a) of this section has expired, the Board or hearing  
2224 officer may investigate or otherwise act upon a complaint of a potential violation of Chapter  
2225 1.18 HCC that is received by the City Clerk's office within one year after the date of discovery  
2226 of the alleged violation, but in no case shall this subsection extend the period of limitation in  
2227 subsection (a) of this section by more than three years. [Ord. 18-14(A) § 5, 2018].

2228