

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/
Mayor

RESOLUTION 19-012(S)

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, AND AMENDING POLICY DIRECTIVES UNDER COUNCIL CONDUCT STATEMENT OF MAYOR AND COUNCIL AND PUBLIC COMMENT/TESTIMONY TIME LIMITS .

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; and

43 WHEREAS, Council Conduct - Statement of Mayor and Council on Behalf of the City of
44 Homer is amended to read "Statements of City Policy made by the Mayor or a Councilmember
45 must be based on consensus and resolve of the Council body and substantiated by official
46 record"; and

47
48 WHEREAS, Public Comment/Testimony and Audience Comment Time Limits for City
49 Council, Commission, and Board Meetings is amended to read "The Presiding Officer shall note
50 for the audience's benefit that there is a three minute time limit each time there is a place in
51 the agenda for public comment/testimony or audience comments. Any individual wishing to
52 address the City Council or any of its Advisory Bodies shall adhere to a three minute time
53 limit. The Time limit may be adjusted by the 2 minutes up or down by the Presiding Officer
54 provided there is no objection by the body."

55
56 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council amends the Council
57 Operating Manual regarding telephonic participation, re-organizing sections, clarifying
58 language, and adding appendices for City Code excerpts, and amending policy directives
59 under council conduct statement of mayor and council and public comment/testimony time
60 limits.

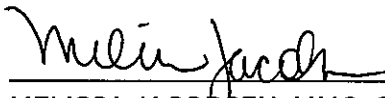
61
62 PASSED AND ADOPTED by the Homer City Council this 26 day of March, 2019.

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64
65 CITY OF HOMER

66
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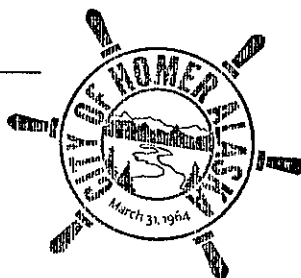
68
69 KEN CASTNER, MAYOR

70 ATTEST:

71
72 

73
74 MELISSA JACOBSEN, MMC, CITY CLERK

75
76 Fiscal note: N/A



1 **POLICIES OF THE HOMER CITY COUNCIL (Attachment A) (Amended 03/27/19)**
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 e~~ 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 1st 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.

463
464 l. Vacancies. An elected municipal office is vacated under the following conditions and upon
465 the declaration of vacancy by the Council. The Council shall declare an elective office vacant
466 when the person elected:

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

481
482 m. Salaries of Elected Officials.

- 483 1. The Mayor and each Council Member shall be paid a stipend of \$75.00 for each
484 council-meeting-day in which the person participates in person, or \$50.00 per council-
485 meeting-day in which a majority of the person's participation time is telephonic. A
486 council-meeting-day is any calendar day in which the person participates in any one
487 or more of the following:
 - 488 a. A scheduled and publicly noticed meeting of the City Council, including
489 without limitation a regular meeting, special meeting, committee of the whole
490 meeting and meeting in executive session.
 - 491 b. A scheduled and publicly noticed meeting of the Board of Adjustment, Board
492 of Ethics, or other board or commission that is composed of the Mayor and
493 Council Members.
 - 494 c. Training or continuing education programs, and work sessions, that are
495 required by law or commonly recognized best practice to perform the duties of
496 Mayor or Council Member.

497
498 The City shall not spend any funds for elected officials' membership in the Public Employees
499 Retirement System. An elected official may not receive any other compensation for service to
500 the City unless specifically authorized to do so by ordinance. Per diem payments or
501 reimbursements for expenses are not compensation under this section.

502
503 [Ord. 17-01, 2017; Ord. 15-01(A), 2015; Ord. 10-51(A), 2011; Ord. 10-45, 2010; Ord. 09-54 § 1,
504 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

511 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

519 2. **APPROVAL OF THE AGENDA**

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

532 3. **MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS**

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

539

540 No prior arrangement is required. The public may have unrestricted access to the
541 City Council for comments regarding matters already on the agenda with the
542 exception of matters listed under Public Hearings or questions on presentations
543 given under Visitors section of the agenda; these should be held until Comments of
544 the Audience. Those giving testimony are requested to preface remarks with their
545 name & address for the record. The Mayor will announce ~~provide time limitations~~
546 ~~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
735		MEETING ROOM

736
737 **REGULAR MEETING**
738 **AGENDA**

- 739
- 740 1. CALL TO ORDER
 - 741 2. APPROVAL OF AGENDA
 - 742 3. MAYORAL RECOGNITIONS AND MAYORAL PROCLAMATIONS
 - 743 4. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA.
744 (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. 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

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1. Tentative and Preliminary agenda items, type of enactment and subject only, need to be to the City Clerk by Thursday of the week proceeding Council packet week.
2. The final packet ready document needs to be to the City Clerk as soon as possible prior to 11:00 a.m. on the Wednesday prior to the Council meeting for packet review.
3. Any late agenda item not meeting the tentative agenda deadline and/or not meeting the packet deadline shall be discussed with the Mayor by the submitter, if a Councilmember.
4. All other late items, unless of an immediate nature shall be placed on the next tentative agenda.

Agenda

1. Agenda closes at 11:00 a.m., Wednesday preceding the meeting. Allowances will be made for holidays. (Reso 03-81, 05/27/03).
2. The City Manager, Mayor and City Clerk review the agenda at **before** 11:00 a.m. on Wednesday, preceding the meeting. (Reso 03-81, 05/27/03).
3. Informational packets are available for pick up and on the City's website usually on Thursdays at 5:00 p.m. but no later than 5:00 p.m. on the Friday preceding the regular meeting. Packets will be posted on the City's website and placed in the Council's mail boxes if requested.
4. Items may be added or removed from the agenda by unanimous consent of the Council.

Special City Council Meeting

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

Emergency City Council Meeting

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

Worksessions, Special Meetings, and Executive Sessions

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 addition 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 Committee of the Whole is the Mayor and Council's opportunity to ask questions of**
862 **City Department Heads and Division Directors regarding department issues on the**
863 **regular agenda.**

864

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

873

874 **CODE OF ETHICS**

875 **PURPOSE.**

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

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

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

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

896 **DEFINITIONS.**

897 As used in this section.

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

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

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

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

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

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

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

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

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

933 **PROHIBITED ACTS.**

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

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

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

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

953 appointed by the

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

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

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

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

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

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

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

984 1. A meal;

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

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

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

- 989 5. An occasional non-pecuniary gift insignificant in value;
990 6. Any gift which would have been offered or given to him if he were not an official.

991 Use of City Property. No official may request or permit the use of city vehicles, equipment,
992 materials or property for non-city purpose, including but not limited to private financial gain,
993 unless that use is available to the general public on the same terms or unless specifically
994 authorized by the city council.

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

1000 Political Activity, Limitation on City Government. The city may prepare and disseminate
1001 general, objective information about the issues to be voted on in local elections. Such
1002 material shall be devoid of biased statements or slant and, where appropriate, may contain
1003 pro and con statements of equal weight and value.

1004 Influencing Another Council Member's Vote. A city council member may not attempt to
1005 influence another council member's vote or position on a particular item through contact
1006 with a city council member's employer or by threatening financial harm to another city
1007 council member.

1008

1009 **BUSINESS DEALINGS WITH CITY.**

1010

1011 Before a city official or an organization or entity in which the official has a financial interest,
1012 engages in business with the city, the official shall file with the city clerk a statement, under
1013 oath, setting forth the nature of such business dealings and his interest therein, not less than
1014 ten days before the date when official action may be taken by the council or by any officer,
1015 commission or other agency of the city upon the matter involved. If all other provisions of this
1016 section are complied with, the statement shall be sufficient for continuing transactions of a
1017 similar or like nature for one year from the date of its filing. However, if an official has violated
1018 any of the provisions of this section, he shall be precluded from dealing with the city on that
1019 particular matter.

1020 Upon taking office, or upon subsequently acquiring the interest, and official shall file with the
1021 city clerk a statement disclosing any financial interests of the official in an organization
1022 engaging in business with the city.

1023

1024 **PUBLIC DISCLOSURE.**

1025

1026 a. Each city official must annually file a conflict of interest disclosure using forms

1027 substantially the same as the following selected schedules from the Alaska Public Offices
1028 Commission Public Official Financial Disclosure Statement: Schedules B (business interests),
1029 C (real property interests / rent to own), E (the portion relating to natural resource leases
1030 only), F (government contracts and leases) and G (close economic associations). The city
1031 clerk shall provide the forms to each city official. The city clerk may make such alterations to
1032 the forms as may be necessary to make them applicable to the city and city officials.

1033 b. The annual disclosures must be filed by November 1 each year. A newly appointed
1034 official must file a disclosure within 30 days of taking office. Each candidate for elected city
1035 office must file a disclosure at the time he or she files a declaration of candidacy, except an
1036 incumbent seeking reelection with a current disclosure on file. Refusal or failure of a
1037 candidate to file the required disclosure before the end of the time period for filing
1038 declarations of candidacy shall require that the candidate's declaration of candidacy be
1039 rejected and the candidate disqualified.

1040 c. The disclosures must be true, correct and complete and shall be signed under
1041 oath or affirmation, or certified to be true under penalty of perjury.

1042 d. The disclosures shall be filed with the city clerk and shall be open to public
1043 inspection and copying at the office of the city clerk. The disclosures will not be sent to the
1044 Alaska Public Offices Commission. (Ord 07-35(A-2), 10/23/07).

1045
1046 **All procedures regarding code of ethics are attached in Appendix C and in HCC Chapter 1.19**
1047 **Board of Ethics.**

1048

1049 **NOTICE**

1050 ADDRESSING THE CITY COUNCIL

1051
1052 In order to address the City Council, please:

- 1053
- 1054 1. Mayor will call for public comments as appropriate on the agenda.
 - 1055 1056 2. Take the public testimony place in front of the Council table, print your name on the sign in sheet, also
1057 address and indicating whether you are a resident of the City.
 - 1058 1059 3. Address the Council as a body.

1060
1061 PUBLIC COMMENTS

1062
1063 There are four places on the agenda where citizens may address the Council.

- 1064
- 1065 1. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**, Item 3. This item is on the agenda so
1066 you may speak on any item on the agenda, unless the matter is listed under Public Hearings or Visitors.
1067 The Mayor will provide time limitations on presentations based on the volume of business before the
1068 Council. Changes to the agenda occur just before this item, so if any item is removed you may not
1069 address it here; if an item is added, you may. When in doubt, clarify with the Chair. (Mayor or Mayor Pro
1070 Tem)
 - 1071 1072 2. **PUBLIC HEARINGS**, Item 9. Public Testimony is taken on any of the matters listed under the public
1073 hearing portion of the agenda. Agendas and public hearing information are available at the table in
1074 back of the Council Chamber. Public Hearing testimony may be time limited by the Mayor.
 - 1075 1076 3. **VISITORS**, Item 7. This place is for presentations previously arranged with the City Clerk, approved by the
1077 Mayor and listed on the agenda. Comments on a visitor's presentation by the audience is restricted to
1078 Item 15, Comments of the Audience.
 - 1079 1080 4. **COMMENTS OF THE AUDIENCE**, Item 15. You may address the Council regarding any matter at this point.
1081 The Mayor may time limit remarks.

1082
1083 **TIME LIMITATIONS:** Public comments are limited to no more than 3 minutes per person, per issue unless
1084 authorization to speak longer is granted by Council action. The Mayor may limit the time for public comments,
1085 public testimony and Audience Comments. In the interest of time, it may be desirable to have one
1086 spokesperson for special interest groups making a statement to the Council.

1087 **WRITTEN MATERIAL TO COUNCIL:** Written material presented to Council on the night of the meeting should
1088 also be given to the City Clerk to be added to the record.

1089 **RECORDING:** This meeting is being recorded and amplified. Please speak up so that a clear recording of your
1090 comments can be made and others can hear you.

1091 **BOARD OF ADJUSTMENT** HCC 21.93.510(a) restricts the Council when sitting as a Board of Adjustment from
1092 considering allegations of new evidence or changed circumstances and shall make its decision based solely on
1093 the record as prepared by the Clerk.

1094
1095 THANK YOU, YOUR INPUT IS VALUABLE.

RESOURCE MATERIALS

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

- ~~A.~~ Homer City Code
- ~~B.~~ City of Homer Personnel Regulations
- ~~C.~~ Alaska Statutes, Title 29
- ~~D.~~ ~~Elected Officials Handbook~~
- ~~E.~~ D. City of Homer Directory
- ~~F.~~ E. Comprehensive Plan
- ~~G.~~ F. City of Homer Procurement Policy
- ~~H.~~ G. Current Calendar Year - Line Item Budget
- ~~I.~~ H. Parliamentary Procedure at a Glance
- ~~J.~~ I. Five Year Capital Improvement Plan
- ~~K.~~ J. Comprehensive Financial Statement
- ~~L.~~ K. A.M.L. Elected Officials Handbook
- ~~M.~~ L. COUNCIL'S OPERATING MANUAL, NEWEST VERSION

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

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

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

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

1142 request copies from the City Clerks Office.

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**Homer City Council
Tablet Usage Policy**

1. Purpose

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

2. Ownership

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

3. License Agreements

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

4. Liability

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

- 1183 b. The City of Homer is not liable for any inappropriate material sent by and/or
1184 stored on tablets issued under this policy outside of the scope of use expected
1185 by a city official.
1186

1187 **5. Email Usage**

- 1188 a. The recipient of a device under this policy agrees to conduct all email
1189 communications which are stored on this device through their assigned City
1190 email account. All emails sent through the City’s email system are archived
1191 and retained by the City in a manner consistent with the City’s Record
1192 Retention Policy.
1193 b. Syncing personal email accounts to the issued device, other than the
1194 recipient’s assigned City email account, is prohibited.
1195

1196 **6. Acceptable Use**

- 1197 a. The City of Homer only authorizes use of its tablets in a manner that supports
1198 the recipient’s role as an elected official of the City.
1199 b. The device may only be used for limited personal use; that does not interfere
1200 with the ability of the device to be used for official intended purposes.
1201 c. Use of the tablet for any political use including but not limited to campaigning
1202 is expressly forbidden.
1203

1204 **7. Privacy**

- 1205 a. All communications made via devices covered under this policy are subject to
1206 disclosure under the Open Records Act or for litigation purposes unless a
1207 privilege or exception exists that justify withholding the records.
1208

1209 **8. Installation of applications**

- 1210 a. The installation of applications is limited to applications that are consistent
1211 with the terms listed in this policy and are available through the tablet’s
1212 application store.
1213 b. Applications will only be licensed and installed by the Information Technology
1214 Manager and his staff.
1215 c. Modification of the tablet’s operating system to allow installation of
1216 applications not approved by the manufacturer and/or not available through
1217 the “application store” is prohibited.
1218 d. Applications for personal use that do not interfere with city use may be
1219 allowed by the IT Manager on a case by case basis.
1220

1221 **9. Care of the Device**

- 1222 a. Recipients are responsible for the general care of the device issued under this
1223 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)

1273 APPENDIX A

1274

1275 2.08.100 Teleconference participation in meetings.

1276

1277 a. This section through HCC 2.08.120 govern the telephonic participation of the Mayor and
1278 members of the Council at all meetings of the City Council, including all other bodies that are
1279 comprised of the Mayor and members of the Council, such as, but not limited to, the Board of
1280 Adjustment and an Ethics Board.

1281

1282 b. The preferred procedure for City Council meetings is that the Mayor and all Council
1283 members should be physically present at the designated time and location within the City for
1284 the meeting. However, physical presence may be waived and the Mayor and any member(s)
1285 may participate in a Council meeting by teleconference, subject to the procedures and
1286 limitations provided in this section through HCC 2.08.120.

1287

1288 c. A person participating by teleconference shall, while actually on the teleconference, be
1289 deemed to be present at the meeting for all purposes. The person shall make every effort to
1290 participate in the entire meeting.

1291

1292 d. If the Mayor participates telephonically, the Mayor may vote telephonically to break a tie as
1293 permitted in HCC 2.08.040(h), but the Mayor Pro Tem, or the senior Council member in the
1294 Mayor Pro Tem's absence, shall preside over and perform all other functions of the Mayor at
1295 the meeting.

1296

1297 e. "Teleconferencing" means a means used for remote participation by an official for a
1298 meeting of the City Council which must enable the remote official, for the duration of the
1299 meeting, to clearly hear the Mayor, all Council members, the City Clerk and public testimony
1300 and to be clearly heard by the Mayor, all Council members, the City Clerk and the public in
1301 attendance. [Ord. 19-05(A) § 1, 2019; Ord. 16-58(A) § 1, 2017; Ord. 07-45(A)(S) § 1, 2007. Code
1302 1981 § 1.24.100].

1303

1304 2.08.110 Teleconference procedures.

1305

1306 a. A Mayor or Council member who cannot be physically present for a regularly scheduled
1307 Council meeting shall notify the City Clerk at least five days prior to the scheduled time for
1308 the meeting of his or her request to participate in the meeting by telephonic means of
1309 communication.

1310

1311 b. Three days prior to the scheduled time for the Council meeting, the City Clerk shall notify
1312 the Mayor and Council of the person's request to participate by teleconference.

1313

1314 c. At the commencement of the Council meeting a telephonic connection will be established

1315 with the person or persons intending to participate telephonically. After a telephonic
1316 connection is established the Mayor shall call for a vote of the Council on whether the
1317 person(s) may or may not participate by telephone. Prior to the vote, the Mayor or Council
1318 members may make such inquiries as necessary to make a decision. Only the Council
1319 members physically present may vote on the question. If a person participates in the meeting
1320 telephonically without a ruling from the Council, it shall be deemed to be with the approval of
1321 such participation by the Council, and all actions taken by the Council with the participation
1322 of all such persons are valid.

1323
1324 If telephonic participation is interrupted due to poor connectivity that hinders the active
1325 participation of a member in the meeting the Mayor will request a brief recess to allow the
1326 person an attempt to reestablish a connection. If the person cannot reestablish a clear
1327 connection after a recess, the Mayor shall call for a vote of the Council on whether to
1328 terminate telephonic participation. Prior to the vote, the Mayor or Council members may
1329 make such inquiries as necessary to make a decision. If a majority of the Council votes to
1330 terminate telephonic participation, the record will indicate such and the member
1331 participating telephonically shall not be called upon to comment or vote. The Council's
1332 determination is final and not subject to veto or appeal.

1333
1334 d. Subsections (a) and (b) of this section do not apply to special meetings or emergency
1335 meetings of the City Council called under HCC 1.14.030 and 1.14.050. A Council member or
1336 Mayor who requests to participate in a special or emergency meeting of the City Council must
1337 notify the City Clerk before the time scheduled for the start of the meeting. The Clerk will
1338 notify the Mayor and Council no later than the commencement of the meeting. After a
1339 telephonic connection is established with the person or persons requesting to participate
1340 telephonically, a ruling shall be made on the person's participation in the meeting as
1341 provided in subsection (c) of this section.

1342
1343 e. The means used for a teleconference meeting of the City Council must enable each
1344 member appearing telephonically to clearly hear the Mayor, all other Council members, and
1345 public testimony at the meeting as well as be clearly heard by all other Council members and
1346 members of the public in attendance.

1347
1348 f. The City Clerk shall note in the journal of the proceedings of the City Council all members
1349 appearing telephonically.

1350
1351 g. To the extent practicable, materials to be considered by the Council shall be made
1352 available to those attending by teleconference. [Ord. 19-05(A) § 1, 2019; Ord. 07-45(A)(S) § 2,
1353 2007. Code 1981 § 1.24.110].

1354
1355 2.08.120 Teleconference – Limitations.

1356

1357 a. All Council members and the Mayor should make all reasonable effort to be physically
1358 present for every meeting. Teleconference procedures may not be used as a regular means of
1359 attendance at meetings.

1360
1361 b. Participation by teleconference may be denied whenever the physical presence of the
1362 individual is considered essential to effective participation in the meeting or to the proper
1363 conduct of the business to be addressed at the meeting.

1364
1365 c. If teleconferencing is denied the individual will be listed as absent.

1366
1367 d. Each Council member and the Mayor may attend a maximum of three City Council
1368 meetings by teleconference during the 12-month period commencing November 1st each
1369 year. If a member participates in any part of a regularly scheduled meeting telephonically, it
1370 will count towards their maximum allowable telephonic participations.

1371
1372 e. Each Council member and the Mayor may attend additional teleconferences as a special
1373 exception if expressly approved for good cause in each instance by a vote of the Council.
1374 Good cause may include, but is not limited to, absence required for work-related travel or
1375 medical care needed for the individual or the individual's immediate family.

1376
1377 f. No Council member or the Mayor shall attend by telephonic means:

- 1378
1379 1. An executive session of the City Council.
1380 2. A hearing on an ethics charge under Chapter 1.18 HCC. [Ord. 19-05(A) § 1, 2019; Ord. 07-
1381 45(A)(S) § 3, 2007. Code 1981 § 1.24.120].

1382
1383 APPENDIX B.

1384
1385 ~~Homer City Code 1.18 reads as follows: (MOVE TO APPENDIX)~~

1386
1387 1.18.010 Purpose.

1388 a. The proper functioning of democratic government requires ethical behavior by public
1389 officials. Ethics involves the commitment to take individual responsibility in creating a
1390 government that has the trust and respect of its citizens. The purpose of this chapter is to set
1391 reasonable standards of conduct for City officials and the City Manager so that the public may
1392 be assured that its trust in such persons is well placed and that the City officials and the City
1393 Manager themselves are aware of the standards of conduct demanded.

1394
1395 b. However, recognizing that Homer is a small community, with a limited number of people
1396 interested in serving as community leaders, it is not the intent of this chapter to set
1397 unreasonable barriers that will serve only to deter aspirants from public service.

1398

1399 c. This chapter also defines conflict of interest and partiality, the standards stating when and
1400 to whom it applies, and the procedures for declaration and the proper action of the body
1401 when possible conflicts and partiality arise.

1402
1403 d. This chapter is also intended to establish a process which will ensure that complaints or
1404 inquiries regarding the conduct of City officials and the City Manager are resolved in the
1405 shortest practicable time in order to protect the rights of the public at large and the rights of
1406 the City and the City Manager.

1407
1408 e. The City Council intends this code to be interpreted to promote fair, honest, and impartial
1409 dealings with members of the public, to ensure proper use of City resources, and to avoid
1410 conflicts of interest.

1411
1412 f. This chapter does not create or prevent a private cause of action against any person, City
1413 official, or the City Manager. [Ord. 08-24(S-2)(A), 2008].

1414
1415 1.18.020 Definitions.

1416
1417 As used in this chapter and unless otherwise provided or the context otherwise requires, the
1418 following terms shall have the meanings set forth in this section:

1419
1420 “Applicant” means any person that is applying for an official action by any official, employee,
1421 or body of the City including but not limited to:

- 1422 1. Any person authorized to act for the applicant;
1423 2. If the applicant is an organization, any person who has an ownership interest in the
1424 organization or serves as an officer, director or manager of the organization.

1425
1426 “Body of the City” means the City Council and the boards, commissions, committees and task
1427 forces appointed by the City Council or the Mayor.

1428
1429 “City Manager” means the person who is hired by the City Council to manage the City of
1430 Homer.

1431
1432 “City official” means a person who holds elective office under the ordinances of the City, or
1433 who is a member of a board or commission whose appointment is subject to confirmation by
1434 the City Council.

1435
1436 “Financial interest” means:

- 1437 1. An interest currently held by that person or an immediate family member including:
1438 a. Involvement or ownership in a business; or
1439 b. Property ownership, or a professional or private relationship, that is a source
1440 of income, or from which, or as a result of which, a person receives a financial

1441 benefit; or
1442 c. An affiliation with an organization in which the person holds a position of
1443 management, or is an officer, director, trustee, employee, or the like.
1444
1445 2. Financial interest does not include:
1446 a. Affiliation as unpaid volunteer with a legally recognized nonprofit organization; or
1447 b. Financial interests of a type which are generally possessed in common with all
1448 other citizens or a large class of citizens.
1449
1450 “Gratuity” means a thing having value given voluntarily or beyond lawful obligation.
1451
1452 “Hired consultants and contractors” means a person or organization hired by the City as an
1453 independent contractor and not as an employee.
1454
1455 “Immediate family member” means:
1456 1. The spouse of the person;
1457 2. A life partner or person cohabiting with the person;
1458 3. A child, including a stepchild and an adoptive child, of the person;
1459 4. A parent, sibling, or grandparent of the person; and
1460 5. A parent or sibling of the person’s spouse.
1461
1462 “Impartial” means acting in a manner that the City official believes is in the public’s best
1463 interest and not acting to benefit a financial or personal interest of the City official.
1464
1465 “Large class of citizens” means a substantially large group of citizens as decided by official
1466 decision of the City Council made prior to the official action in question.
1467
1468 “Large class of citizens” does not include:
1469 1. A single profession, regardless of the number of persons.
1470 2. An individual business or organization regardless of the number of citizens it
1471 contains.
1472
1473 “Official action” means a recommendation, decision, approval, disapproval, vote, or other
1474 similar action, including inaction (when it is the equivalent of decision to take negative
1475 action), made while serving in the capacity of City official or City Manager, whether such
1476 action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.
1477
1478 “Organization” means any business, corporation, partnership, firm, company, trust,
1479 association, or other entity, whether organized for profit or nonprofit.
1480
1481 “Partiality” applies only in quasi-judicial proceedings and means:
1482 1. The ability of a member of the quasi-judicial body to make an impartial decision is

1483 actually impaired; or
1484 2. The circumstances are such that reasonable persons would conclude the ability of
1485 the member to make an impartial decision is impaired and includes, but is not limited
1486 to, instances in which:
1487 a. The member has a personal bias or prejudice for or against a party to the
1488 proceeding including a party's lawyer;
1489 b. The member or an immediate family member is a party, material witness to
1490 the proceeding or represents a party in the proceeding.

1491
1492 "Person" means a natural person or an organization.

1493
1494 "Political activity" means any act for the purpose of influencing the nomination or election of
1495 any person to public office, or for the purpose of influencing the outcome of any ballot
1496 proposition or question. Informing the public about a ballot proposition or question without
1497 attempting to influence the outcome of the ballot proposition or question is not political
1498 activity.

1499
1500 "Subject of the action" means anything under consideration for official action including but
1501 not limited to:

- 1502 1. Appointments to any office or position of employment;
- 1503 2. Any contract, project, property, or transaction subject to the action;
- 1504 3. A platting, vacation or subdivision action;
- 1505 4. An application for or other consideration of a license, permit, appeal, approval,
1506 exception, variance, or other entitlement;
- 1507 5. A rezoning; and
- 1508 6. Appeals and quasi-judicial proceedings.

1509
1510 "Substantial financial interest" means a financial interest that would result in a pecuniary
1511 gain or loss exceeding \$1,000 in a single transaction or more than \$5,000 in the aggregate in
1512 12 consecutive months. [Ord. 08-24(S-2)(A), 2008].

1513
1514 1.18.025 Scope and duration.

1515 a. Except as otherwise provided in this chapter, this chapter applies to the conduct of City
1516 officials and the City Manager.

1517
1518 b. Enforcement proceedings may be commenced and continue to completion after a person
1519 is no longer a City official or City Manager for conduct that occurred during the time the
1520 person was serving or engaged in such a capacity for the City. [Ord. 08-24(S-2)(A), 2008].

1521
1522 1.18.030 Standards and prohibited acts.

1523 a. City officials, the City Manager, and City hired consultants and contractors, while acting in
1524 such capacity, shall not knowingly make false statements to influence official action.

1525
1526 b. Official Action. No City official or the City Manager shall participate in any official action in
1527 which:
1528 1. The person is the applicant, a party or has a substantial financial interest in the
1529 subject of the official action.
1530 2. Within a period of one year after the action the person will have a substantial
1531 financial interest in the subject of the official action.
1532 3. The person resides or owns land within a 300-foot periphery of any property that is
1533 the subject of any action.
1534 4. The person does or will recognize a substantial financial interest as a result of the
1535 action.
1536 5. Exceptions.
1537 a. This subsection does not prohibit a person from acquiring a substantial
1538 financial interest in the subject of the action after the longer of 12 months after
1539 the official action is approved, or 12 months after the person's term or
1540 employment ends.
1541 b. This section does not prohibit any gain or loss that would generally be in
1542 common with all other citizens or a large class of citizens.
1543 c. This section does not prohibit any gain or loss that would generally be in
1544 common with other property owners on property that is further than 300 feet from the
1545 periphery of any property that is the subject of an action.
1546
1547 c. City officials and the City Manager acting in the course of their official duties are allowed to
1548 participate in official actions on behalf of the City or when the City itself is the applicant or
1549 subject of the action.
1550
1551 d. Undue Influence. No City official or the City Manager shall attempt to influence the City's
1552 selection of any bid or proposal, or the City's conduct of business, in which the City official or
1553 the City Manager has a substantial financial interest. This subsection does not prohibit a City
1554 official or the City Manager from being an applicant while holding City office or City position,
1555 if the person takes no official action concerning his or her own application. A City official or
1556 City Manager may give testimony and make appearances before City bodies on his or her own
1557 behalf.
1558
1559 e. Participation in Appointments. No City official shall participate in, vote on, or attempt to
1560 influence the selection of an appointee to any board, commission or committee (1) having
1561 authority to take official action on any pending matter or application in which that official
1562 has a substantial financial interest or (2) if that official has a substantial financial interest
1563 with a nominee for the appointment.
1564
1565 f. No official shall participate in, vote on, or attempt to influence the selection of an
1566 appointee to the Homer Advisory Planning Commission if that official has, or could

1567 reasonably be expected to have within one year after the date of the appointment:
1568 1. A rezoning, quasi-judicial or platting action pending before the Commission; or
1569 2. An application that would require approval by a quasi-judicial or platting action of
1570 the Commission.

1571
1572 In the case of the reappointment of an incumbent to another term, the prohibition above also
1573 applies to an official who had such a matter pending before the Homer Advisory Planning
1574 Commission within one year before the date of the reappointment. The Board of Ethics may,
1575 upon written request, grant an exception to this one-year period when it determines the
1576 public interest does not require continuing enforcement of the prohibition.

1577
1578 g. Use of Office for Personal Gain. No City official or the City Manager shall seek office or
1579 position or use their office or position for the purpose of obtaining anything of value for
1580 themselves, an immediate family member or a business that they own or in which they hold
1581 an interest, or for the purpose of influencing any matter in which they have a financial
1582 interest. This subsection does not prohibit the receipt of authorized remuneration for the
1583 office or position.

1584
1585 h. Inappropriate Use of Office Title or Authority. No City official or the City Manager shall use
1586 the implied authority of office or position for the purposes of unduly influencing the decisions
1587 of others, or promoting a personal interest within the community. City officials and the City
1588 Manager will refrain from using their title except when duly representing the City in an
1589 authorized capacity. Unless duly appointed by the Mayor or Council to represent the interests
1590 of the full Council, Council members shall refrain from implying their representation of the
1591 whole by the use of their title.

1592
1593 i. Representing Private Interests. No City official shall, for compensation, represent or assist
1594 those representing private business or personal interests before the City Council,
1595 administration, or any City board, commission or agency. Nothing herein shall prevent an
1596 official from making verbal or written inquiries on behalf of constituents or the general public
1597 to elements of City government or from requesting explanations or additional information on
1598 behalf of such constituents. No official may solicit or accept a benefit or anything of value
1599 from any person for having performed this service.

1600
1601 j. Confidential Information. No City official or the City Manager may disclose information they
1602 know to be confidential concerning employees of the City, City property, City government, or
1603 other City affairs, including but not limited to confidential information disclosed during an
1604 executive session, unless authorized or required by law to do so.

1605
1606 k. Outside Activities. A City official or the City Manager may not engage in business or accept
1607 employment with, or render services for, a person other than the City or hold any office or
1608 position where that activity, office, or position is incompatible with the proper discharge of

1609 the official's or City Manager's City duties or would tend to impair the official's or the City
1610 Manager's independence of judgment in performing City duties. This prohibition shall include
1611 but not be limited to the following activities:

1612 1. A person who holds an appointed City office on a board or commission shall not be
1613 eligible for employment with the City in the department related to the board or
1614 commission during the official's term of office and until one year has elapsed
1615 following the period of service. An exception may be made on a case-by-case basis
1616 with the express authorization of the City Council.

1617 2. A person who holds or has held an elective City office shall not be eligible for
1618 appointment to an office or for employment with the City during the official's period
1619 of service and until one year has elapsed following the period of service. An exception
1620 may be made on a case-by-case basis with the express authorization of the City
1621 Council.

1622
1623 l. Gratuities. No City official or the City Manager shall accept a gratuity from any person
1624 engaging in business with the City or having a financial interest in a decision pending with the
1625 City. No City official or the City Manager shall give a gratuity to another City official for the
1626 purpose of influencing that person's opinion, judgment, action, decision or exercise of
1627 discretion as a City official. This subsection does not prohibit accepting:

- 1628 1. A meal of reasonable value;
1629 2. Discounts or prizes that are generally available to the public or large sections
1630 thereof;
1631 3. Gifts presented by an employer to its employees in recognition of meritorious
1632 service, or civic or public awards;
1633 4. A lawful campaign contribution made to a candidate for public office;
1634 5. An occasional nonpecuniary gift insignificant in value;
1635 6. Any gift which would have been offered or given to them if they were not a City
1636 official or the City Manager.

1637
1638 m. Use of City Property. No City official, the City Manager, or City hired consultant or
1639 contractor may use, request or permit the use of City vehicles, equipment, materials or
1640 property for any non-City purpose, including but not limited to private financial gain, unless
1641 that use is available to the general public on the same terms or unless specifically authorized
1642 by the City Council. This subsection does not prohibit de minimis personal use.

1643
1644 n. Political Activities – Limitations of Individuals. A City official may not take an active part in
1645 a political campaign or other political activity when on duty. Nothing herein shall be
1646 construed as preventing such officials from exercising their voting franchise, contributing to a
1647 campaign or candidate of their choice, or expressing their political views when not on duty or
1648 otherwise conspicuously representing the City.

1649
1650 o. Influencing Another City Official's Vote. A City official may not attempt to influence another

1651 City official's vote or position on a particular item through contact with the City official's
1652 employer or by threatening financial harm to another City official.

1653
1654 p. City officials or the City Manager shall not participate in public testimony before any City
1655 body in any matter in which they have a substantial financial interest unless:

- 1656 1. They or the City is the applicant; or
1657 2. They fully and publicly disclose the nature of their interest in the subject of the
1658 action.

1659
1660 q. No City official may violate HCC 2.04.030.

1661
1662 r. City officials shall act impartially when conducting City business.

1663
1664 s. At all times during performance of their official duties, Council members shall comply with
1665 the City's workplace safety policies, harassment prevention, and respectful workplace
1666 polices as set forth in the employee policy manual. [Ord. 18-14(A), 2018; Ord. 16-48(S)(A) § 1,
1667 2016; Ord. 08-24(S-2)(A), 2008].

1668
1669 1.18.040 Business dealings with City.

1670 a. Not less than 10 days before the date when official action may be taken by the Council or
1671 by any officer, the City Manager, commission or other agency of the City upon business
1672 dealings between the City and a City official or an organization in which the City official has a
1673 substantial financial interest, the City official shall file a statement with the City Clerk. The
1674 statement shall set forth the nature of such business dealings and the City official's interest
1675 therein. This statement is only required when the person receives a beneficial substantial
1676 financial interest. If all other provisions of this chapter are complied with, the statement shall
1677 be sufficient for continuing transactions of a similar or like nature for one year from the date
1678 of its filing. However, if an official has violated any of the provisions of this chapter, he shall
1679 be precluded from engaging in business with the City on that particular matter for one year.

1680
1681 b. Upon taking office or upon subsequently acquiring the interest, an official shall, within 10
1682 days, file with the City Clerk a statement disclosing any substantial financial interests of the
1683 official or the City Manager in any existing business with the City, including those of any
1684 organization in which the official or the City Manager has a substantial financial interest.

1685
1686 c. The City Manager shall not engage in business with the City outside the duties of City
1687 Manager. [Ord. 18-14(A), 2018; Ord. 08-24(S-2)(A), 2008].

1688
1689 1.18.043 Public disclosure.

1690 a. City officials and the City Manager must annually file the following financial interest
1691 disclosure on forms prepared by the City Clerk:

- 1692 1. For each City official and the City Manager the information that is required on the

1693 following selected schedules from the Alaska Public Offices Commission Public
1694 Official Financial Disclosure Statement: Schedules B (business interests), C (real
1695 property interests/rent to own), E (the portion relating to natural resource leases
1696 only), F (government contracts and leases) and G (close economic associations); and
1697 2. For each elected City official a list of each business in which an immediate family
1698 member is a partner, proprietor or employee to the extent not provided in response to
1699 subsection (a)(1) of this section.

1700
1701 b. The financial interest disclosure must be filed by November 1st each year. A newly
1702 appointed official must file a statement within 30 days after taking office. Each candidate for
1703 elected City office must file a disclosure statement at the time he or she files a declaration of
1704 candidacy, except an incumbent seeking reelection with a current disclosure statement on
1705 file. Refusal or failure of a candidate to file the required disclosure statement before the end
1706 of the time period for filing declarations of candidacy shall require that the candidate's
1707 declaration of candidacy be rejected and the candidate disqualified.

1708
1709 c. The disclosure statement must be true, correct and complete and shall be signed under
1710 oath or affirmation, or certified to be true under penalty of perjury. Not filing a statement
1711 within the stipulated period is a violation of this chapter.

1712
1713 d. The disclosure statement shall be filed with the City Clerk and shall be open to public
1714 inspection and copying at the office of the City Clerk. The disclosure statement will not be
1715 sent to the Alaska Public Offices Commission. [Ord. 16-26 § 1, 2016; Ord. 08-24(S-2)(A), 2008].

1716
1717 1.18.045 Procedure for declaring potential conflict of interest – City officials.
1718 a. A City official who has or may have a substantial financial interest in an official action shall
1719 disclose the facts concerning that interest to the body of the City of which the official is a
1720 member prior to the body taking any official action. Any member of the body may raise a
1721 question concerning another member's financial interests, in which case the member in
1722 question shall disclose relevant facts concerning the official's financial interests in the
1723 subject of the action.

1724
1725 b. If the official is a City Council member, the Mayor, or the Mayor Pro Tem in the absence of
1726 the Mayor, shall rule on whether the Council member must be excused from participation or
1727 must vote. The ruling may be immediately overridden by a majority vote of the City Council.
1728 There is no appeal from the action or inaction of the City Council to override or not override
1729 the ruling of the Mayor.

1730
1731 c. If the official is not a City Council member, the official may excuse themselves without a
1732 vote for conflict of interest, otherwise the board, commission, or other body of which the
1733 official is a member shall by majority vote rule on whether the member must be excused from
1734 participation, which must be the ruling when the body determines the official has a

1735 substantial financial interest in the official action. There is no appeal from the ruling of the
1736 body.

1737
1738 d. The official shall abide by the ruling. If the official is not a City Council member, the ruling
1739 applies (without the need for further disclosures and rulings) to all subsequent occasions on
1740 which the same official action comes before the same body, unless there has been a material
1741 change of circumstances. On each such subsequent occasion, the presiding officer shall note
1742 for the minutes that the ruling previously made continues in effect.

1743
1744 e. An official who is ruled to be excused from participation shall leave the official table and
1745 not vote, debate, testify, or otherwise take part in the official action, except an official who is
1746 an applicant may testify on his or her own behalf from the public testimony area.

1747
1748 f. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be
1749 made in cases where:

1750 1. By reason of being excused for conflicts of interest the number of members of the
1751 Council or other body eligible to vote is reduced to less than the minimum number
1752 required to approve the official action;

1753 2. No other body of the City has jurisdiction and authority to take the official action on
1754 the matter; and

1755 3. The official action cannot be set aside to a later date, within a reasonable time,
1756 when the body could obtain the minimum number of members to take action who are
1757 not excused for conflicts of interest.

1758
1759 When the body determines this exception applies, then all members, except the applicant
1760 when the applicant is a member of the body, shall participate in the official action. [Ord. 08-
1761 24(S-2)(A), 2008].

1762
1763 1.18.047 Procedure for declaring potential conflicts of interest – City Manager.

1764 The City Manager who has or may have a substantial financial interest in an official action
1765 shall disclose the facts concerning the Manager’s financial interests to the City Council prior
1766 to taking any official action. If the City Council determines the Manager has a substantial
1767 financial interest in the action, the City Council shall excuse the Manager and assign another
1768 City employee to the matter. [Ord. 08-24(S-2)(A), 2008].

1769
1770 1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.

1771 a. A City official or the City Manager who has partiality concerning a quasi-judicial matter
1772 shall not advise on matter, adjudicate the matter or serve as a member of a body
1773 adjudicating the matter.

1774
1775 b. A City official who is a member of a quasi-judicial body and who has or may have partiality
1776 concerning a matter to be adjudicated shall disclose the facts concerning the official’s

1777 possible partiality to the body to the parties to the matter prior to the commencement of
1778 proceedings by the body. Any member of the body, and any party to a matter before the
1779 body, may raise a question concerning a member's partiality, in which case the member in
1780 question shall disclose facts concerning the official's possible partiality in the matter.

1781
1782 c. After such disclosure, the City official may excuse themselves for partiality without a vote of
1783 the body, otherwise the body (including a body comprised of City Council members when
1784 serving in a quasi-judicial capacity) shall by majority vote rule on whether the member must
1785 be excused from participation, which must be the ruling when the body determines the
1786 official has partiality concerning the matter.

1787
1788 d. Rule of Necessity. Exceptions to a ruling excusing a member from participation shall be
1789 made in cases where:

- 1790 1. By reason of being excused for partiality the number of members of the Council or
1791 other body eligible to vote is reduced to less than the minimum number required to
1792 approve the official action;
- 1793 2. No other body of the City has jurisdiction and authority to take the official action on
1794 the matter; and
- 1795 3. The official action cannot be set aside to a later date, within a reasonable time,
1796 when the body could obtain the minimum number of members to take action who are
1797 not excused for partiality.

1798
1799 When the body determines this exception applies, then all members, except the applicant
1800 when the applicant is a member of the body, shall participate in the official action.

1801
1802 e. The City Manager who has or may have partiality concerning a quasi-judicial matter over
1803 which the Manager has decision-making authority shall either (1) appoint another City
1804 employee to make the decision or (2) disclose the facts concerning the possible partiality to
1805 the City Council and to the parties to the matter prior to taking any official action. If referred
1806 to the City Council and the City Council determines the Manager has partiality concerning the
1807 matter, the City Council shall excuse the Manager and cause another City employee to be
1808 assigned to decide the matter. [Ord. 08-24(S-2)(A), 2008].

1809
1810 1.18.060 Advisory opinions.

1811 a. Where any city official or the City Manager has a doubt as to the applicability of any
1812 provision of this chapter to a particular situation, or as to the definition of terms used herein,
1813 he may apply in writing to the city attorney for an advisory opinion. The city official or City
1814 Manager shall have the opportunity to present his interpretation of the facts at issue and of
1815 the applicability of provisions of the chapter before such advisory opinion is made. The
1816 request must clearly state it is a request for an advisory opinion under this section of the
1817 ethics code.

1818

1819 b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent
1820 actions concerning the public official who sought the opinion and acted on it in good faith,
1821 unless material facts were omitted or misstated in the request for the advisory opinion. An
1822 advisory opinion shall be applicable and binding only to the particular set of facts and
1823 instances of conduct for which it was requested and shall have no force or effect for purposes
1824 of general application. Such opinion shall not be binding or admissible in evidence in any
1825 action initiated by any private citizen. (Ord 08-24(S-2)(A) §1, 2008).

1826
1827 c. Any act or omission taken by any City Official or the City Manager in their official capacity
1828 based upon the advice of the City Attorney provided in writing, during a Council or
1829 Commission meeting or acknowledged by the City Attorney in response to a complaint shall
1830 not be subject to an ethics complaint under Chapter 1.18 HCC. [Ord. 18-14(A), 2018]

1831
1832
1833
1834 1.18.070 Violation and penalty.
1835 Any official who violates any of the provisions of this chapter shall be guilty of a violation
1836 subject to punishment pursuant to HCC 1.16. (Ord 08-24(S-2)(A) §1, 2008).

1837
1838 1.18.090 Distribution of Code.
1839 The city clerk shall cause a copy of this chapter to be distributed to each city official elected
1840 or appointed before entering upon the duties of his office and to the City Manager upon
1841 employment. (Ord 08-24(S-2)(A) §1, 2008).

1842
1843 1.18.100 Application of state statutes.
1844 a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the
1845 application of the Alaska Statutes to any conduct involving bribery or other offenses against
1846 public administration.

1847
1848 b. All municipal officers as defined by Alaska Statutes Chapter 39.50 are exempt from the
1849 provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord 08-24(S-
1850 2)(A) §1, 2008).

1851
1852
1853
1854
1855 Chapter 1.19
1856 BOARD OF ETHICS – COMPLAINTS

1857
1858 Sections:
1859 1.19.010 Board of Ethics established – General provisions.
1860 1.19.020 Function and authority.
1861 1.19.030 Procedures for violation reporting.

1862 1.19.040 Confidentiality – Initial review.
1863 1.19.050 Disclosure of complaint of potential violation prohibited.
1864 1.19.060 Conduct of investigation and standard of proof.
1865 1.19.070 Deliberations of the Board.
1866 1.19.080 Decisions on the record.
1867 1.19.090 Timely completion.
1868 1.19.100 Sanctions, civil penalties and remedies.
1869 1.19.110 Board member and hearing officer disclosures.
1870 1.19.120 Duty of cooperation.
1871 1.19.130 Settlement of complaints.
1872 1.19.140 Record of proceedings and public record.
1873 1.19.150 Limitation period.
1874
1875 1.19.010 Board of Ethics established – General provisions.
1876 a. There is hereby established a Board of Ethics.
1877
1878 b. The Board shall be comprised of all members of the City Council and the Mayor. The Mayor,
1879 or the Mayor Pro Tem in the Mayor’s absence, will serve as presiding officer of the Board. In
1880 the absence of both, the members of the Board shall elect a presiding officer from among its
1881 members.
1882
1883 c. The City Attorney or other legal counsel for the Board may assist the Board at every stage
1884 of the proceedings, but shall have no vote.
1885
1886 d. A quorum of the Board shall be a majority of all members who are not excused for cause,
1887 such as being the complainant, the respondent, a witness, having a conflict of interest, or
1888 other cause for recusal. However, in no event may a quorum be less than three. If no quorum
1889 of the Board can be established due to conflicts of interest or other cause of recusal, the
1890 present members of the Board shall direct the Clerk to transfer the complaint to a hearing
1891 officer.
1892
1893 e. Decisions of the Board shall be adopted by a majority of the members who are qualified to
1894 act on the matter, where a quorum is present.
1895
1896 f. Unless the Board delegates such authority to another member or decides that no one shall
1897 have such authority, and except as provided for hearing officers in subsection (h) of this
1898 section, the presiding officer shall have authority to make procedural decisions between
1899 Board meetings on behalf of the Board. Examples of matters that may be decided by such
1900 delegate include scheduling hearings and other matters, establishing pre-hearing
1901 requirements and filing deadlines for motions, exhibits, witness lists, hearing briefs, and
1902 deciding other procedural matters.
1903

1904 g. The presiding officer shall vote on every question, unless required to abstain for cause, and
1905 shall not have power to veto any action of the Board.

1906
1907 h. A hearing officer designated by the City Clerk under HCC 1.19.030(d) shall have sole
1908 authority to investigate the complaint they have been retained to hear and to make
1909 procedural decisions regarding the investigation and hearing of that complaint. Except as
1910 otherwise provided in HCC 1.19.030, the designated hearing officer shall be the sole decision-
1911 maker and shall comply with the procedures and requirements of this chapter. [Ord. 18-14(A)
1912 § 5, 2018].

1913
1914 1.19.020 Function and authority.
1915 The Board of Ethics or a hearing officer appointed under this chapter has authority to
1916 perform the following functions:

1917
1918 a. Investigate reported violations of Chapter 1.18 HCC.

1919
1920 b. Hear and decide written complaints of violations of Chapter 1.18 HCC.

1921
1922 c. Hear and decide on requests for exceptions as specified in Chapter 1.18 HCC.

1923
1924 d. Make findings and recommendations concerning sanctions, civil penalties and remedies
1925 for violations as provided in the code.

1926
1927 e. Adopt recommended policies and procedures governing the Board's conduct of business.

1928
1929 f. Upon application of the complainant, respondent, or at the Board's or hearing officer's
1930 discretion, compel by subpoena the appearance and sworn testimony, at a specified time
1931 and place, of a person the Board or hearing officer reasonably believes may be able to
1932 provide information relating to a matter under investigation by the Board or hearing officer
1933 or the production of documents, records or other items the Board or hearing officer
1934 reasonably believes may relate to the matter under consideration.

1935
1936 g. Administer oaths and receive testimony from witnesses appearing before the Board or
1937 hearing officer.

1938
1939 h. Request City agencies to cooperate with the Board or hearing officer in the exercise of the
1940 Board's or hearing officer's jurisdiction.

1941
1942 i. Request the advising attorney to seek assistance of the Superior Court to enforce the
1943 Board's or hearing officer's subpoena.

1944
1945 j. Conduct investigative hearings in executive session, pursuant to notifications alleging

1946 violations of matters within the authority of the Board or hearing officer. [Ord. 18-14(A) § 5,
1947 2018].

1948

1949 1.19.030 Procedures for violation reporting.

1950 a. Any person who believes that a violation of any portion of Chapter 1.18 HCC has occurred
1951 may file a written complaint of potential violation with the City Clerk's office.

1952

1953 b. All written complaints of potential violation submitted under this chapter shall be signed
1954 by the person submitting the complaint. A written complaint of potential violation shall state
1955 the address and telephone number of the person filing the complaint, identify the
1956 respondent, and affirm to the best of the person's knowledge and belief the facts alleged in
1957 the complaint of potential violation signed by the person are true. The person filing the
1958 complaint of potential violation shall identify the section of Chapter 1.18 HCC the person
1959 believes was violated, state why the person signing the complaint of potential violation
1960 believes the facts alleged constitute a violation of that section, and identify any documentary
1961 or testimonial evidence the person filing the complaint believes is in support of the
1962 notification of potential violation.

1963

1964 c. Written complaints of potential violations filed with the City Clerk's office shall be reviewed
1965 in accordance with HCC 1.19.040. Except as otherwise provided in HCC 1.19.040, the Board of
1966 Ethics shall have sole jurisdiction to decide the merits of the complaint filed under this
1967 chapter.

1968

1969 d. The City Clerk shall appoint a hearing officer to decide and investigate properly filed
1970 written complaints against City Council members or the Mayor. Except as provided in HCC
1971 1.19.040, the hearing officer shall have sole jurisdiction to decide the merits of a complaint
1972 under this chapter. [Ord. 18-14(A) § 5, 2018].

1973

1974 1.19.040 Confidentiality – Initial review.

1975 a. Each written complaint of a violation of Chapter 1.18 HCC received by the City Clerk's office
1976 shall be assigned an identification number, which shall be used in lieu of names when
1977 referring to the complaint to maintain confidentiality. The City Clerk, City Attorney, and the
1978 Board or hearing officer shall keep all written complaints of potential violation confidential
1979 during investigation and the Board's or hearing officer's deliberative process. Complaints of
1980 potential violation may be disclosed only to the staff member of the City Clerk's office
1981 providing administrative support to the Board or hearing officer, members of the Board
1982 except when a hearing officer has been appointed, and legal counsel.

1983

1984 b. Upon receipt of a notification of potential violation, the City Clerk shall review the
1985 complaint for completeness and inclusion of the information required in HCC 1.19.030(b). If
1986 the City Clerk determines that the complaint is not complete and lacks information required
1987 by HCC 1.19.030(b), the City Clerk shall return the complaint and identify in writing the

1988 deficiencies on which the return is based. The City Clerk shall notify the complainant of the
1989 return and the reasons for it. A person may amend and refile a complaint but a complaint
1990 filed by the same complainant with the same deficiencies shall not be accepted. The City
1991 Clerk may recommend to the person filing the complaint that it be amended and refiled.
1992 Notifications of potential violation returned without further action shall remain confidential.
1993 c. The City Attorney shall review the sufficiency of the statement of violation in the complaint.
1994 If the City Attorney determines the facts alleged in the notification of potential violation, even
1995 if proven, do not constitute a violation, or that the Board or hearing officer lacks jurisdiction
1996 to address the complaint of potential violation, the City Attorney shall instruct the City Clerk
1997 to return the complaint and identify in writing the deficiencies on which the return is based.
1998 The City Clerk shall notify the complainant of the return and the reasons for it. A person may
1999 amend and refile a complaint but a complaint filed by the same complainant with the same
2000 deficiencies shall not be accepted. The City Clerk may recommend to the person filing the
2001 complaint that it be amended and refiled. Notifications of potential violation returned
2002 without further action shall remain confidential.

2003
2004 d. If the City Attorney determines the allegations in a complaint of potential violation, if
2005 proven, may constitute a violation of a matter within the Board or hearing officer's
2006 jurisdiction, the City Attorney shall provide written notice to the City Clerk.

2007 e. If the City Attorney and City Clerk find the complaint sufficient under this section, the City
2008 Clerk shall:

- 2009
2010 1. Retain a hearing officer as required under HCC 1.19.030(d) and provide that officer
2011 with a copy of the complaint of potential violation, a copy of the outline of the hearing
2012 officer process under this chapter, including notice that the respondent may choose
2013 to hold the proceeding in public and may be represented by legal counsel of
2014 respondent's choosing and at respondent's own expense; or
2015 2. Provide the Board with a copy of the complaint of potential violation, a copy of the
2016 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;
2019 3. Give the respondent a copy of the complaint of potential violation, along with a
2020 copy of the outline of the Board's process under this chapter, including notice that the
2021 respondent may choose to hold the proceeding in public and may be represented by
2022 legal counsel of respondent's choosing and at respondent's own expense; and
2023 4. Notify both the person submitting the complaint of potential violation and
2024 respondent of the date(s) on which each may be requested to meet with the Board or
2025 hearing officer, present documentary or testimonial evidence, and assist the Board or
2026 hearing officer in resolving the potential violation. [Ord. 18-14(A) § 5, 2018].

2027
2028 1.19.050 Disclosure of complaint of potential violation prohibited.

2029 a. A complaint of potential violation of Chapter 1.18 HCC is confidential until the Board or

2030 hearing officer completes a written report for distribution as a public record.
2031
2032 1. No person, including the complainant, shall knowingly disclose to another person,
2033 or otherwise make public in violation of this chapter, the contents of a complaint of
2034 potential violation filed with the Board or hearing officer, unless:
2035 a. The respondent elects to proceed in public; or
2036 b. The written report of the Board or hearing officer is electronically published
2037 by the City Clerk.
2038
2039 2. Breach of confidentiality required by any provision of this chapter is a violation of this
2040 chapter subject to punishment.
2041
2042 3. A person filing a complaint of potential violation shall keep confidential the fact that the
2043 person has filed the complaint with the City, as well as the contents of the complaint of
2044 potential violation. If the Board or hearing officer finds probable cause to believe that the
2045 person filing the notice of complaint violation has violated confidentiality under this chapter,
2046 the Board or hearing officer shall immediately dismiss the complaint of violation. Dismissal
2047 under this subsection does not affect the right of the Board or hearing officer or another
2048 person to initiate a proceeding on the same factual allegations by filing a complaint of
2049 potential violation.
2050
2051 4. Public disclosure resulting from corrective action under this chapter is not a violation of
2052 this section. [Ord. 18-14(A) § 5, 2018].
2053
2054 1.19.060 Conduct of investigation and standard of proof.
2055 The Board's investigation shall be conducted in executive session, unless the respondent
2056 requests to hold the Board's investigation on the notification of potential violation in public.
2057 The hearing officer's investigation shall be conducted in a manner to maintain confidentiality
2058 unless the respondent requests to hold the hearing officer's investigation on the notification
2059 of potential violation in public.
2060
2061 a. The respondent and the person who filed the notification of potential violation may
2062 identify other individuals and documents that each would like the Board or hearing officer to
2063 interview and review.
2064
2065 b. If an individual with information bearing on the notification of potential violation is
2066 unwilling to come forward with information, the respondent and the person who filed the
2067 notification of potential violation may each request the Board or hearing officer to subpoena
2068 the person and any documentary evidence.
2069
2070 c. Persons appearing before the Board or hearing officer may be represented by counsel or
2071 other person serving in a representative capacity.

2072
2073 d. The Board or hearing officer may question the respondent, the person who filed the
2074 notification of potential violation, and other persons appearing before the Board or hearing
2075 officer.

2076
2077 e. The Board or hearing officer may solicit questions and testimony from the person filing the
2078 notification of potential violation, the respondent and other persons appearing for the
2079 purpose of providing information to the Board or hearing officer. The Board or hearing officer
2080 may solicit questions from counsel present to represent persons appearing before the Board
2081 or hearing officer, but all questions during the Board's or hearing officer's investigation shall
2082 be posed through and by a member of the Board or the hearing officer. Consistent with due
2083 process, the Board or hearing officer may limit or prohibit questions suggested to the Board
2084 or hearing officer by or on behalf of persons appearing before the Board or hearing officer.

2085
2086 f. The standard of proof to be applied by the Board or hearing officer in determining a
2087 violation under this chapter is proof by a preponderance of the evidence.

2088
2089 g. Technical rules of evidence do not apply, but the findings of the Board shall be based upon
2090 reliable and relevant information presented to the Board.

2091
2092 h. The Board's or hearing officer's finding of a violation of this chapter must be supported by
2093 substantial evidence.

2094
2095 i. The Board's or hearing officer's findings shall not be binding in a subsequent sanctions
2096 proceeding.

2097
2098 j. When the Board's or hearing officer's investigation is conducted in executive session or
2099 confidentially, the public shall be excluded but an executive session of the Board shall be
2100 electronically recorded. The recording shall be available for access as a public record after
2101 publication by the Municipal Clerk of the proposed resolution and settlement. [Ord. 18-14(A)
2102 § 5, 2018].

2103
2104 1.19.070 Deliberations of the Board.

2105 Deliberations of the Board shall be conducted in executive session.

2106
2107 a. The deliberations of the Board shall not be recorded.

2108
2109 b. The respondent, the person filing the complaint, and their counsel shall be excluded from
2110 the deliberations. The Board's legal counsel may attend the deliberations.

2111
2112 c. The Board shall reconvene in open session when deliberations are complete. [Ord. 18-14(A)
2113 § 5, 2018].

2114
2115 1.19.080 Decisions on the record.

2116 Using the identification number of the complaint of potential violation to protect
2117 confidentiality, the Board shall vote or hearing officer shall determine in open session on
2118 these questions:

2119 a. Whether the Board or hearing officer finds by a preponderance of the evidence one or more
2120 violations within the jurisdiction of the Board or hearing officer; and

2121
2122 b. Whether the Board or hearing officer recommends further administrative or remedial
2123 actions; and

2124
2125 c. What specific sanctions, corrective actions or referrals, if any, the Board or hearing officer
2126 recommends pursuant to HCC 1.19.100.

2127
2128 d. If the Board or hearing officer does not find a violation under Chapter 1.18 HCC, the Board
2129 or hearing officer shall prepare a confidential statement of closure listing the complainant
2130 and respondent, the assigned identification number, the allegations, the hearing date, and
2131 the finding that no allegation was substantiated by the Board or hearing officer in whole or in
2132 part, and the date of Board or hearing officer closure. At the sole discretion of the
2133 respondent, the Board or hearing officer may release the statement of closure as a public
2134 document. [Ord. 18-14(A) § 5, 2018].

2135
2136 1.19.090 Timely completion.

2137 The Board or hearing officer shall complete action on a complaint of potential violation and
2138 investigations within 90 days of the filing of the complaint of potential violation. By a majority
2139 vote, the Board or hearing officer may extend the completion date for up to an additional 90
2140 days, or longer for good cause shown. [Ord. 18-14(A) § 5, 2018].

2141
2142 1.19.100 Sanctions, civil penalties and remedies.

2143 a. Upon conviction for any violation of Chapter 1.18 HCC under criminal procedures or upon a
2144 determination of any violation of Chapter 1.18 HCC after an investigation conducted by the
2145 Board or hearing officer under this chapter, the Board or hearing officer may impose (or
2146 recommend in the case of subsection (a)(1) of this section) as a sanction, penalty, or remedy
2147 any or all of the following, as appropriate to the seriousness of the violation:

2148 1. A recommendation to the City Council that the office of a City Council member or
2149 the position of City Manager be declared vacant for a serious violation that is (a)
2150 flagrant or (b) willful and knowing. A recommendation that the office of the Mayor be
2151 declared vacant may be made only if the violation justifies a declaration of vacancy
2152 under AS 29.20.280. Only the City Council may actually declare any of these positions
2153 vacant.

2154 2. A member of a board or commission may be removed from the board or
2155 commission.

- 2156 3. A public or private reprimand may be given to the official.
2157 4. The official may be ordered to refrain from voting, deliberating, or participating in
2158 any matter in violation of Chapter 1.18 HCC.
2159 5. The committee assignments of an official may be revoked.
2160 6. An official's privilege to travel at City expense on City business may be revoked or
2161 restricted.
2162 7. A contract, transaction or appointment, which was the subject of an official act or
2163 action of the City that involved the violation of a provision of Chapter 1.18 HCC, may
2164 be voided.
2165 8. The official must forfeit or make restitution of any financial benefit received as a
2166 consequence of a violation of Chapter 1.18 HCC.
2167 9. A civil fine of not more than \$1,000 per violation may be imposed. [Ord. 18-14(A) § 5,
2168 2018].

2169
2170 1.19.110 Board member and hearing officer disclosures.
2171 a. When an investigation is convened in executive session to determine whether the
2172 respondent has violated Chapter 1.18 HCC, the Board members will be requested to disclose
2173 any conflict of interest, ex parte communications, or other facts that may affect their
2174 qualification to hear the matter. After such a disclosure, the other members of the Board shall
2175 determine whether a member shall be excused for cause.

2176
2177 b. A hearing officer shall disclose any conflict of interest or ex parte communications with the
2178 complainant or respondent before conducting an investigation or holding a hearing under
2179 this chapter. The complainant and the respondent have 10 days from the date the written
2180 disclosure is sent to the parties to file an objection to the hearing officer with the City Clerk.
2181 Upon receiving an objection, the City Clerk shall appoint a new hearing officer. [Ord. 18-14(A)
2182 § 5, 2018].

2183
2184 1.19.120 Duty of cooperation.
2185 A City official or the City Manager subject to a complaint of a violation shall work
2186 cooperatively with the City Clerk to establish a hearing date and shall appear at the place and
2187 time set for the hearing, regardless of the respondent's intentions concerning defense or
2188 exercise of other rights. Failure to appear, except when failure results from a serious
2189 condition or event that prevented the respondent's appearance, is a breach of respondent's
2190 duties under this chapter and in itself may result in a summary finding of violation by the
2191 Board or hearing officer and imposition of remedies, penalties and disciplinary action under
2192 HCC 1.19.100. For the purposes of this section, a "serious condition or event" may include a
2193 serious medical condition, a serious family emergency requiring the presence of the party, a
2194 death in the family, or other similar cause that prevents the respondent's attendance at the
2195 hearing. Nothing in this section shall prevent the rescheduling of a hearing for cause upon
2196 request of the respondent or the complainant. [Ord. 18-14(A) § 5, 2018].
2197

2198 1.19.130 Settlement of complaints.
2199 a. The respondent in any case accepted for investigation may propose a resolution and
2200 settlement of the complaint. A proposed resolution and settlement will include the admitted
2201 violation of Chapter 1.18 HCC; the remedial actions agreed to by the respondent subject to
2202 the City Council's concurrence; any proposed preventive actions to be undertaken to avoid
2203 similar violation by respondent or others in the future; and other matters required by the
2204 Board or hearing officer.

2205
2206 b. A proposed resolution and settlement are subject to approval by the Board or hearing
2207 officer and have no effect unless approved by the Board or hearing officer. The Board or
2208 hearing officer will give the complaining person the opportunity to review and comment on
2209 the proposed resolution and settlement prior to approving it. Until approved by the Board or
2210 hearing officer, a proposed resolution and settlement must be kept confidential.

2211 c. The proposed resolution and settlement become public record upon final approval by the
2212 Board or hearing officer. [Ord. 18-14(A) § 5, 2018].

2213
2214 1.19.140 Record of proceedings and public record.
2215 Permanent records and minutes shall be kept of Board's or hearing officer's proceedings.
2216 Such minutes shall record the vote of each member upon every question decided in public.
2217 Every decision or finding shall immediately be filed in the office of the City Clerk, and shall be
2218 a public record open to inspection by any person. Every finding and recommendation shall be
2219 directed to the City Council at the earliest possible date. [Ord. 18-14(A) § 5, 2018].

2220
2221 1.19.150 Limitation period.
2222 a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and subject to
2223 subsection (b) of this section, the Board or hearing officer only may investigate or otherwise
2224 act upon a complaint of a potential violation of Chapter 1.18 HCC that is received by the City
2225 Clerk's office within five years after the date of the alleged violation.

2226
2227 b. After the time limitation in subsection (a) of this section has expired, the Board or hearing
2228 officer may investigate or otherwise act upon a complaint of a potential violation of Chapter
2229 1.18 HCC that is received by the City Clerk's office within one year after the date of discovery
2230 of the alleged violation, but in no case shall this subsection extend the period of limitation in
2231 subsection (a) of this section by more than three years. [Ord. 18-14(A) § 5, 2018].

2232