

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

3 Lord/Stroozas

4 **ORDINANCE 19-23(S-2)**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 REPEALING AND REENACTING HOMER CITY CODE TITLE 14 TO BE
8 ENTITLED "HOMER PUBLIC UTILITY SYSTEMS" AND HOMER CITY
9 CODE TITLE 17 TO BE ENTITLED "PUBLIC ASSESSMENTS" TO: (1)
10 CONSOLIDATE WATER AND SEWER SYSTEM REGULATIONS AND
11 RATES; (2) UPDATE DEFINITIONS AND COMMON TERMS; AND (3)
12 CREATE UNIFORMITY BETWEEN SERVICE AND ASSESSMENT
13 PRACTICES AND REPEALING HOMER CITY CODE CHAPTERS 9.08,
14 13.24 AND 13.28 TO MOVE UTILITY CONSTRUCTION PRACTICES
15 AND FEES FROM HCC 13.24 AND 13.28 TO HCC TITLES 14 AND 17
16 AND MOVE HCC 9.08 TO HCC 17.03, AND UPDATE ASSESSMENT
17 LIEN ENFORCEMENT PROVISIONS TO INCORPORATE STATE LAW
18 REQUIREMENTS.
19

20 WHEREAS, the Homer City Code currently requires property owners to connect to the
21 Homer Sanitary Wastewater and Sewage System and the Homer Public Water System and
22 regulates construction, installation, and use of these systems; and
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24 WHEREAS, the regulatory, assessment, and fee provisions regarding the City of Homer's
25 public utilities are located in various sections throughout the Code; and
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27 WHEREAS, the laws governing Homer's public utilities have not been recently updated
28 to reflect the City's growth, progress, and needs; and
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30 WHEREAS, the Code contains technical construction and installation requirements that
31 are best addressed via permit criteria rather than provisions in the Code; and
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33 WHEREAS, it is in the City's and the public's best interest to identify assessments and
34 procedures arising from public utilities and capital improvements in the same title and ensure
35 all assessment procedures are clear, consistent, and easily understood; and
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37 WHEREAS, certain fees and assessments were addressed in Titles 9, 13, and 14 while
38 others were in Title 17.
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40 NOW THEREFORE, THE CITY OF HOMER ORDAINS:
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42 Section 1: Chapter 13.24 entitled "Sanitary Systems" is hereby repealed.

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Section 2: Chapter 13.28 entitled “Water Systems” is hereby repealed.

Section 3: Chapter 9.08 entitled “Enforcement of Local Improvement District Assessments” is hereby repealed.

Section 4: Title 14 entitled “Public Services” is repealed and reenacted to read as follows:

TITLE 14
CITY OF HOMER PUBLIC UTILITY SYSTEMS

- Chapters
- 14.01 Homer Public Utility Systems-General Provisions
 - 14.04 Homer Sanitary Wastewater and Sewage System
 - 14.08 Homer Public Water System
 - 14.50 Utility Distribution Facilities

CHAPTER 14.01
HOMER PUBLIC UTILITY SYSTEMS-GENERAL PROVISIONS

- Sections:
- 14.01.010 Water and sewer service area.
 - 14.01.020 City Manager rule making authority.
 - 14.01.030 Immunity for discretionary acts.
 - 14.01.040 Violation-Penalty.
 - 14.01.045 Violation-Right of appeal.
 - 14.01.050 Utility permits-Appeal procedure.
 - 14.01.060 Utility permit appeals-Superior court.
 - 14.01.070 Bond or cash deposit.
 - 14.01.080 State contractor required.
 - 14.01.090 Water and sewer rate schedules.

- 14.01.010 Water and sewer service area.

No water or sewer service shall be provided beyond the boundaries of the City of Homer except as otherwise provided in this title or upon approval granted by City Council via ordinance.

- 14.01.020 City Manager rulemaking authority.

84 a. The City Manager has authority to make administrative rules and regulations for the
85 administration of City water and sewer services and construction, repair, operations, and
86 maintenance of City water and sewer systems. Except as otherwise provided in this title, City
87 Council shall approve via resolution all administrative rules and regulations or amendments
88 to rules and regulations authorized under this title.

89
90 b. All administrative rules and regulations approved by Council shall be available for public
91 inspection at the City Clerk's office, the Public Works Department, and on the City's website.
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93 c. No person shall fail to comply with any administrative rule or regulation authorized under
94 this title and approved by Council.
95

96 14.01.030 Immunity for discretionary acts.
97

98 a. An action for damages may not be brought against the City, or any of its agents, officers,
99 contractors or employees, for a claim based on the exercise, failure to exercise or abuse of any
100 discretionary function or duty granted in or performed under this title.
101

102 b. Immunity under this section includes, but is not limited to, the exercise of discretion to
103 restrict, interrupt, decrease, or terminate the sale of water to bulk water customers, resellers,
104 or others for export or consumption outside the certificated service area or the discontinuance
105 of water or sewer services.
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107 c. Nothing in this section shall be construed to limit any defenses or immunities available under
108 AS 09.65.070 or any other provision of law.
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110 14.01.040 Violation-Penalty.
111

112 a. Except as otherwise provided in this title, the penalty for violating a provision of this title is
113 the fine listed in the fine schedule in HCC 1.16.040. If no fine is listed for the offense in HCC
114 1.16.040 or otherwise provided in this title, then the defendant must appear in court and, if
115 convicted, is subject to the general penalty as provided in HCC 1.16.010.
116

117 b. The City shall provide notice of a violation of this title via certified return receipt U.S. mail to
118 the operator, agent or property owner perpetrating or permitting the perpetration of a
119 violation of this title. The notice shall include the name of the property owner, the location of
120 the violation, the Code provisions violated, and the action necessary to correct the violation.
121

122 c. Before assessing penalties under this title, the City shall provide written notice of the
123 penalties to the property owner, operator or agent perpetrating the violation via certified
124 return receipt U.S. mail and shall deliver the notice of penalties to the property owner, operator
125 or agent in person. If the City is unable to deliver the notice despite efforts to do so at the

126 owner's, operator's or agent's last known address, the City shall post the notice on the City
127 website or in a newspaper of general circulation within the City for ten days before assessing
128 penalties. This notice shall include all the information required in subsection (b), the date from
129 which penalties incur, and notice of the right to appeal to the City Manager.

130

131 14.01.045 Violation-Right of appeal.

132

133 a. The finding of a violation and assessment of a penalty may be appealed within 30 days from
134 the date the notice of penalty was postmarked.

135

136 b. Untimely appeals shall not be accepted. A notice of appeal must be filed in writing with the
137 City Clerk and be accompanied by the appeal fee set forth in the Homer fee schedule. The
138 notice must contain:

139

- 140 1. Name and address of the owner of the property, operator or agent issued the
141 citation;
- 142 2. A copy of the notice being appealed; and
- 143 3. A statement of the grounds for appeal that must include detailed and specific
144 allegations of error and references to applicable provisions of the Code or other
145 law.

146

147 c. The City Manager may appoint a hearing officer or City official to act as the decision-maker
148 in an appeal under this section. The Public Works Director may not be appointed as a hearing
149 officer under this subsection.

150

151 d. An appeal before the City Manager or his or her designee shall be heard within 30 days from
152 the day the appeal is filed. The person against whom the violation is assessed shall be given an
153 opportunity to be heard at a public hearing and shall have an opportunity to make an oral
154 argument and present evidence.

155

156 e. The City Manager shall issue a final written decision with his or her findings no more than 30
157 days after the hearing.

158

159 14.01.050 Utility permits-Appeal procedure.

160

161 a. Any person who is dissatisfied with the approval or denial of a permit under this title may
162 appeal the decision to the City Manager no more than 30 days after the Public Works Director
163 approves or denies the permit.

164

165 b. An appeal to the City Manager must be filed within 30 days of the written approval or denial
166 of a permit under this chapter. Untimely appeals shall not be accepted. A notice of appeal

167 must be filed in writing with the City Clerk and be accompanied by the appeal fee set forth in
168 the Homer Fee Schedule. The notice must contain:

169

- 170 1. Name and address of the permit applicant;
- 171 2. A copy of the order or decision being appealed; and
- 172 3. A statement of appeal.

173

174 c. The statement of appeal must include detailed and specific allegations of error and
175 references to applicable provisions of the Code or other law.

176

177 d. The City Manager may appoint a hearing officer or City official to act as the decision-maker
178 in an appeal under this section. The Public Works Director may not be appointed as a hearing
179 officer under this subsection.

180

181 e. An appeal before the City Manager or his or her designee shall be heard within 30 days from
182 the day the appeal is filed. The permit applicant shall be given an opportunity to be heard at a
183 public hearing and shall have an opportunity to make an oral argument and present evidence.

184

185 f. The City Manager or his or her designee shall issue a final written decision with his or her
186 findings no more than 30 days after the hearing.

187

188 14.01.060 Utility permit appeals- Superior Court.

189

190 A final decision of the City Manager or his or her designee may be appealed to the Superior
191 Court no later than 30 days following the date the decision of the hearing officer is issued. An
192 appeal to the court must be filed according to the applicable court rules.

193

194 14.01.070 Bond or cash deposit.

195

196 a. Every person, firm or corporate entity carrying on the business of construction and
197 connecting to City sewer and/or water within the City may be required to deposit a bond or
198 cash deposit in favor of the City in an amount and under such conditions deemed appropriate
199 by the City Manager or his or her designee to cover damages of any kind resulting from that
200 person's, firm's or entity's operations. All such sewer or water construction and connections
201 shall be completed in a good and workmanlike manner in accordance with the specifications
202 required by the City. The bond or cash deposit shall be further conditioned that the principal
203 shall repair any damage done to the public sewer or water system on account of such work and
204 shall return the surface of the ground, street, road, building, facility, right-of-way or easement
205 to its original condition insofar as possible and in accordance with the requirements of the City.

206

207 b. Every person, firm or corporate entity carrying on the business of construction and
208 connecting to City sewer and/or water within the City must be approved in writing by the Public

209 Works Director. The Public Works Director shall approve a person, firm or corporate entity
210 under this section so long as he, she or it:

- 211
- 212 1. Meets all state and local licensing requirements;
 - 213 2. Provides a statement demonstrating experience in substantially similar or the
214 same construction projects; and
 - 215 3. Carries liability insurance in the aggregate amount of not less than \$500,000 or
216 as may be additionally required in an amount in excess of \$500,000 as may be
217 deemed necessary for the work by the Public Works Director or their designee to
218 cover the insurance requirement of the work.

219

220 14.01.080 State contractor required.

221

222 A contractor working for the City on a water or sewer project or conducting construction within
223 a public easement or right-of-way shall file a copy of their current State contractor's certificate
224 with the City Clerk's office.

225

226 14.01.090 Water and sewer rate schedule.

227

228 a. The City Council shall adopt, renew, review and amend, as necessary, a water and sewer rate
229 schedule annually via resolution. Copies of the rate schedule shall be available at the Public
230 Works Department. The schedule may also be available on the City's website.

231

232 b. The City will allow, upon approval of a written application and payment of the fee
233 established by City Council, a second water usage meter to measure the flow of City water that
234 is not discharged to the Sanitary System. This second meter will be read monthly and sewer
235 charges will be credited monthly.

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237

238 CHAPTER 14.04
239 HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

240

241 Sections:

- 242 14.04.010 Purpose.
- 243 14.04.015 Definitions.
- 244 14.04.018 Service connection charges.
- 245 14.04.020 Connection – Required.
- 246 14.04.050 Sewer service connection and extension permit.
- 247 14.04.070 Destruction/abandonment of private sewage disposal systems.
- 248 14.04.080 Commercial waste disposal permit.
- 249 14.04.100 Discharge of surface drainage into the Sanitary System illegal.
- 250 14.04.110 Industrial Waste pretreatment and discharge requirements.

251 14.04.120 Industrial Waste Disposal Permit.
252 14.04.130 Industrial waste disposal permit-Penalties.

253
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255 14.04.010 Purpose.

256

257 It is the intent of this chapter to adopt laws governing the operation and installation of the
258 Homer Sanitary Wastewater and Sewage System, which may be called the “Sanitary System.”
259 It is the goal of the City for all wastewater and sewage within City boundaries to be connected
260 to the Sanitary System, ensuring proper wastewater and sewage management throughout the
261 City. This Code should be interpreted in furtherance of that goal.

262

263 14.04.015 Definitions.

264

265 For the purposes of this chapter, the following words and phrases shall have the meanings set
266 forth below:

267

268 “ADEC” means the State of Alaska Department of Environmental Conservation.

269

270 “City of Homer Industrial Pretreatment Discharge and Waste Disposal Manual” means the
271 Industrial Waste Manual.

272

273 A “directly adjacent” sewer main means either (1) the main extends the entire length of the
274 frontage of the lot along an easement or right-of-way; or (2) it extends at least 10 feet into an
275 easement or right-of-way adjacent to the lot and the Public Works Director determines that the
276 main will not be extended to serve additional lots.

277

278 “Domestic sewage” means waste containing human or animal excretion, other than industrial
279 waste.

280

281 “Dwelling” or “dwelling unit” means any building or portion thereof which contains living
282 facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than
283 one family.

284

285 “Industrial plant” means a plant or works producing waste material, other than domestic
286 sewage.

287

288 “Industrial waste” means liquid or solids contained within a liquid, other than domestic
289 sewage.

290

291 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by two
292 or more families living independently in separate dwelling units which may or may not share
293 common entrances and/or other spaces.

294
295 “On-site sewer connection line” means the part of the sewer connection line located on the
296 property being serviced by that line.

297
298 “Off-site sewer connection line” means the part of the sewer connection line located in a public
299 easement or right-of-way.

300
301 “Premises” means a lot, parcel of land, building or establishment.

302
303 “Sewage” means a combination of liquid- or water-carried human waste conducted away from
304 residences, business buildings and institutions, which is known as domestic sewage, together
305 with the liquid- or water-carried waste resulting from a manufacturing process employed in
306 industrial establishments, including the washing, cleaning or drain water from such process or
307 establishment, which is known as industrial waste.

308
309 “Sewer connection line” means a line or pipe carrying sewage from a premises to a sewer main.

310
311 “Sewer extension” means an extension of the sewer main.

312
313 “Significant Industrial User” means an industrial user of the Sanitary System who meets any
314 one of the following criteria:

- 315
- 316 1. Is subject to or potentially subject to national pretreatment standards
317 promulgated under Section 307(b) or (c) of the Clean Water Act;
 - 318 2. Has in its wastes any priority toxic pollutants listed in 40 CFR 401.15 or 40 CFR
319 Part 403 or listed by the Public Works Director;
 - 320 3. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Clean
321 Water Act or regulations promulgated thereto;
 - 322 4. Has a discharge flow of 10,000 gallons or more of wastewater per average work
323 day;
 - 324 5. Has a flow greater than five percent of the flow into the Sanitary System or of
325 the design pollutant loading capacity of the Sanitary System; or
 - 326 6. Is determined by the Public Works Director to have a significant impact or
327 potential for significant impact, either singly or in combination with other
328 contributing industries, on the wastewater treatment system, the quality of
329 sludge, the Sanitary System effluent quality, or air emissions generated by the
330 Sanitary System.
- 331

332 “Spaghetti line” means a pipe or line connecting to a sewer main that is not directly adjacent
333 to the lot being serviced by the line or pipe.

334

335 14.04.018 Service connection charges.

336

337 A person applying for sewer service to property not previously connected to the Sanitary
338 System shall pay a sewer connection charge, which shall include engineering costs of
339 inspecting and/or installing the on-site sewer connection line and permit application fees and
340 costs. The amount of the sewer connection charge and the costs included in that charge shall
341 be published annually on the City website and a newspaper of general circulation.

342

343 14.04.020 Connection–Required.

344

345 a. Except as otherwise provided in this chapter, no person shall erect or occupy a dwelling or
346 commercial or industrial building directly adjacent to the Sanitary System without connecting
347 to the Sanitary System.

348

349 b. Except when expressly approved by permit, spaghetti lines are prohibited. No service will be
350 provided to a lot that is not directly adjacent to a sewer main.

351

352 c. Where the Sanitary System is not available, a septic system may be used so long as the septic
353 system is installed and maintained as required by ADEC and all other laws and provides
354 adequate disposal of waste.

355

356 d. Except as otherwise provided in this section, property owners must connect to the Sanitary
357 System no more than three years after the owner of a property receives written notice that the
358 Sanitary System is available to the property.

359

360 e. Property owners with compliant and fully functioning septic systems may wait to connect to
361 the Sanitary System but shall connect to the Sanitary System before and instead of replacing
362 or repairing any substantial component of a septic system on the property. Property owners
363 delaying connection to the Sewer System under this subsection must provide written notice of
364 the property owner’s intent to temporarily stay connection only in compliance with the Code.
365 The notice of stay must be received by the City no more than 60 days after the City provides
366 written notice to the property owner that the Sanitary System is available to the property. A
367 Notice to Stay Connection is available at the Clerk’s office, the Public Works Department,
368 and/or on the City’s website.

369

370 f. Outhouses, cesspools, privies or any private wastewater system that is not subject to
371 approval and regulation by ADEC is prohibited within the City.

372

373 14.04.050 Sewer service connection and extension permit.

374
375 a. No person shall install a sewer extension or a sewer connection line without first obtaining
376 a sewer connection permit from the City. Permit applications may be obtained from the Public
377 Works Department, the City Clerk's office, and/or the City's website. Permit fees must be paid
378 at the time the application is submitted. The sewer connection and extension permit fee shall
379 include all inspection and administrative costs. All other fees for delayed or deferred services,
380 in lieu of assessments and necessary right-of-way permits shall be in addition to the permit
381 fee.

382
383 b. A property owner installing a sewer connection or extension which qualifies for a deferred
384 assessment payment or makes a payment in lieu of assessment, shall pay the assessment prior
385 to issuance of the connection or extension permit.

386
387 c. The sewer connection permit criteria shall be identified in the permit application obtained
388 from the Public Works Department, the City Clerk's office, and/or the City's website.

389
390 d. All work and materials must meet the standards and specifications as described in the
391 permit application, Homer City Code, the Uniform Building Code, and ADEC.

392
393 e. Property owners connecting to the Sanitary System shall provide and pay for all materials,
394 labor, and equipment for the excavation, connection and installation of the sewer line and
395 shall be responsible for any liability, damages or costs arising from installation, excavation,
396 and connection.

397
398 f. All sewer connections and extensions shall be inspected by the Public Works Department
399 before the connection is used. The customer shall make arrangements with the Public Works
400 Department at least 24 hours in advance for all required inspections.

401
402 14.04.070 Destruction/Abandonment of private sewage disposal systems.

403
404 All septic tanks, cesspools, privies, or sewage holding tank/vaults shall be removed, filled or
405 destroyed in full compliance with conservation requirements and the Uniform Plumbing Code.

406
407 14.04.080 Commercial waste disposal permit.

408
409 a. Except for property owners connecting to the Sanitary System for disposal of waste from a
410 single-family dwelling or property owners required to obtain an industrial waste disposal
411 permit, all property owners must obtain a commercial waste disposal permit before
412 discharging any waste into the Sanitary System.

413

414 b. The waste disposal permit application shall be available at the Public Works Office and may
415 be available on the City’s website. The permit fee must be paid at the time the application is
416 submitted. The criteria for the permit shall be included in the application.

417
418 c. The Public Works Director shall issue a commercial waste disposal permit so long as:

419
420 1. The Public Works Director reasonably believes, and the property attests that the
421 type of waste reported by the property owner will not damage the Sanitary
422 System; and

423 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

424
425 d. The Public Works Director or his designee may revoke, modify or impose conditions upon a
426 disposal permit if he or she finds, in his or her sole discretion, that revocation, conditions or
427 modifications to the permit are required to prevent or stop damage to the Sanitary System.
428 Except when immediate action is necessary to protect the Sanitary System and prevent
429 immediate harm to public health and sanitation, the Public Works Director shall provide notice
430 to the property owner at least 30 days before revoking or modifying a disposal permit.

431
432 14.04.100 Discharge of drainage into the Sanitary System Illegal.

433
434 No connections shall be made to any public sewer or any premises for the purpose of directing
435 or diverting any storm water or any surface or underground drainage into the sewer, and no
436 person shall discharge into any public sewer or house lateral any leader pipe from a roof,
437 surface drain, underground drain or any solid or liquid waste other than the sewage composed
438 of the ordinary liquid wastes of residences, business buildings and institutions from baths,
439 toilets, laundries, wash tubs, sinks and floor drains. Connections of surface or groundwater to
440 the Sanitary System are considered illegal.

441
442 14.04.110 Industrial Waste pretreatment and discharge requirements.

443
444 a. Significant Industrial Users must provide wastewater pretreatment in full compliance with
445 federal and state law, this section, and the City of Homer Industrial Waste Pretreatment
446 Discharge and Disposal Manual, which may be referred to as the Industrial Waste Manual in the
447 Code.

448
449 b. The Industrial Waste Manual shall contain administrative rules and regulations governing
450 discharge of industrial waste into the Sanitary System. These rules and regulations and any
451 amendments to them must be approved by Council via ordinance before they become
452 effective.

453
454 14.04.120 Industrial waste disposal permit.

455

456 a. All Significant Industrial Users must obtain an industrial waste disposal permit from the City.

457

458 b. The industrial waste disposal permit application shall be available at the Public Works Office
459 and may also be available on the City's website. The permit fee must be paid at the time the
460 application is submitted. The criteria for the permit shall be included in the application.

461

462 c. The Public Works Director shall only issue an industrial waste disposal permit after finding
463 that:

464

465 1. The applicant and the sewage generated on the property subject to the permit
466 complies with the City of Homer Industrial Pretreatment and Discharge
467 Administrative Rules and Regulations as adopted by Council; and

468 2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

469

470 d. The Public Works Director or his designee may revoke, modify or impose conditions upon an
471 industrial waste disposal permit if he or she finds, in his or her sole discretion, revocation,
472 conditions or modifications to the permit are required to prevent or stop damage to the
473 Sanitary System. Except when immediate action is necessary to protect the Sanitary System
474 and prevent immediate harm to public health and sanitation, the Public Works Director shall
475 provide written notice to the property owner at least 30 days before revoking or modifying a
476 disposal permit.

477

478 14.04.130 Industrial waste disposal permit-Penalties.

479

480 a. A Significant Industrial User who violates this chapter shall be liable to the City for a civil
481 penalty not to exceed \$1,000 per violation. Each day a violation continues constitutes a
482 separate violation. Such penalties may be recovered by judicial actions or, to the extent
483 permitted by State or local law, by administrative procedures.

484 b. A Significant Industrial User who violates this chapter, or who discharges or causes a
485 discharge producing interference with, deposit in, or obstruction of the Sanitary System, or
486 who causes damage to or impairs the Sanitary System, shall be liable to the City for any
487 expense, loss or damage caused by such violation or discharge. The City shall bill the user for
488 the cost incurred by the City for any cleaning, repair or replacement work caused by the
489 violation or discharge. Refusal to pay the assessed costs is a violation of this chapter.

490

491 c. A Significant Industrial User who violates any requirement of this chapter or any permit,
492 industrial wastewater acceptance notification or other authorization required by the Industrial
493 Waste Manual is guilty of a misdemeanor and shall be fined not more than \$1,000 per violation
494 or imprisoned for 90 days or both. Each day a violation continues constitutes a separate
495 violation.

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CHAPTER 14.08
HOMER PUBLIC WATER SYSTEM

Sections:

- 14.08.010 Purpose.
- 14.08.020 Definitions.
- 14.08.040 Water connection and extension permit.
- 14.08.050 Water meter installation.
- 14.08.060 Disconnection due to nonpayment.
- 14.08.070 Frozen pipes–City not liable.
- 14.08.075 Operation of water valves, fire hydrants and curb stops.
- 14.08.080 Discontinuance of water.
- 14.08.090 Priority use of water.
- 14.08.100 Surplus water–Sale.
- 14.08.110 Water shortage or emergency declaration.
- 14.08.120 Water shortage or emergency–Interruption of sale of surplus water–
Other measures.
- 14.08.130 Water shortage or emergency–Appeal.
- 14.08.150 Service deposits.
- 14.08.160 Bulk water sales.
- 14.08.170 Water filling station permit.

14.08.010 Purpose.

It is the intent of this chapter to establish laws for the operation of the Homer Public Water System. The Homer Public Water System may also be called “HPWS” or the “Water System” in this chapter, permit applications, and/or City regulations and policies. The provisions in this chapter also provide for the financial management of the Water System.

14.08.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings set forth below:

“Bulk water” means water purchased from the City and supplied to the customer by means of fire hydrant, tanker truck, or by any other means other than through a direct connection from a water main to the premises where the water is consumed.

“Bulk water customer” means a person who purchases bulk water from the City.

538 A “directly adjacent” water main either (1) extends the entire length of the frontage of the lot
539 along a public easement or right-of-way; or (2) extends at least 10 feet into the easement or
540 right-of-way adjacent to the lot and the Public Works Director has determined that at no time
541 will the water main be extended to serve additional lots.

542
543 “Reseller” or “reseller of water” means a person who purchases water from the City and, for
544 valuable consideration, provides any quantity of such water to another person, but it shall not
545 include any eating or drinking establishment that provides its customers City water only by the
546 glass.

547
548 “Standard service account” means an established City water utility account for metered water
549 service through a direct connection from the City water main to the premises served.

550
551 “Surplus water” means water that the City administration has determined, in its sole
552 discretion, is in excess of the water needed to meet the consumption, sanitation, and fire
553 protection needs within the boundaries of the City.

554
555 “Multiple-family dwelling” means a building or portion thereof designed for occupancy by two
556 or more families living independently in separate dwelling units which may or may not share
557 common entrances and/or other spaces.

558
559 “Off-site water connection line” means the part of the water connection line located in a public
560 easement or right-of-way.

561
562 “On-site water connection line” means the part of the water connection line located on the
563 property being serviced by that line.

564
565 “Premises” means a lot, parcel of land, building or establishment.

566
567 “Water connection line” means a line or pipe carrying water from the water main to a premises.

568
569 “Water extension” means an extension of the water main.

570
571 “Spaghetti line” means a pipe or line connecting to a water main that is not directly adjacent
572 to the lot being serviced by the line or pipe.

573
574 “Water filling station” means a non-City facility used to supply bulk water from the Water
575 System to a tanker truck or other means of conveyance.

576
577 14.08.040 Water connection and extension permit.

578

579 a. All property owners connecting to the Water System must obtain a permit prior to starting
580 construction.

581

582 b. The Water System connection and extension permit application shall be available at the City
583 Clerk's office, the Public Works Department, and/or on the City's website. The permit fee must
584 be paid at the time the application is submitted. The criteria for the permit shall be included
585 in the application.

586

587 c. The Public Works Director or his or her designee may revoke, modify or impose conditions
588 upon a Water System permit if he or she finds, in his or her sole discretion, that revocation,
589 conditions or modifications to the permit are required to prevent or stop damage to the Water
590 System. Except when immediate action is necessary to protect the Water System and prevent
591 immediate harm to public health and sanitation, the Public Works Director shall provide notice
592 to the property owner at least 30 days before revoking or modifying a Water System permit.

593

594 d. Installation of a Water System connection or extension of a water main must meet the
595 standards and specification in the permit application, the Homer City Code, and any applicable
596 state or federal law or regulations, including but not limited to State of Alaska Department of
597 Labor Occupational Safety and Health requirements.

598

599 e. A property owner installing an on-site water connection line or extending a water main is
600 solely responsible for all costs and liability associated with or arising from the excavation,
601 connection, and installation of the on-site water line or water main extension.

602

603 14.08.050 Water meter installation.

604

605 a. Property owners must install a water meter and related components before they will be
606 eligible to connect to the Water System. Installation of all water meters must comply with
607 installation instructions drafted by the Public Works Department and approved by City Council
608 and available at the City Clerk's Office and Public Work's office. A violation of the installation
609 instructions shall constitute a violation of this chapter.

610

611 b. The property owner required to install the water meter shall be responsible for all costs
612 associated with installation of that meter and its corresponding mechanisms and a rental fee
613 for the meter from the City.

614

615 c. The City shall have the right to install a water meter remote on a building serviced or
616 scheduled to be serviced by the Water System. The meter shall be the size and model indicated
617 by the Public Works Director.

618

619 d. Water meters remain City property. Persons renting meters shall be responsible for damage
620 arising from external damage and freezing. Internal wear and tear and failure of the meter due

621 to general external wear and tear shall be the responsibility of the City. Customers shall provide
622 reasonable access for City personnel to maintain, monitor, and service a meter.

623

624 14.08.060 Disconnection due to nonpayment.

625

626 The City may discontinue water service for nonpayment of any utility service charges,
627 connection fees and related charges. The City shall provide notice to a Water System user at
628 least 30 days before discontinuing water service due to nonpayment.

629

630 14.08.070 Frozen pipes–City not liable.

631

632 Customers will be solely responsible for all on-property frozen water connections and
633 extensions.

634

635 14.08.075 Operation of water valves, fire hydrants and curb stops.

636

637 Only persons authorized by the City may operate water valves, fire hydrants, and/or curb stops.

638

639 14.08.080 Discontinuance of water.

640

641 Water may at any time be shut off from water mains without notice for repairs, extensions or
642 other necessary purposes. The City will not be liable to the customer for any loss or damage
643 caused by disruptions in water service.

644

645 14.08.090 Priority use of water.

646

647 The first priority of use of the water produced by the Water System is to provide for human
648 consumption, sanitation, and fire protection needs of water consumers within the boundaries
649 of the City of Homer.

650

651 14.08.100 Surplus water–Sale.

652

653 a. Subject to subsection (b) of this section and other provisions of this chapter, water may be
654 made available for sale to bulk water customers, resellers, and others for export or
655 consumption outside the boundaries of the City of Homer.

656

657 b. Notwithstanding any other provision of this title, City Council may by resolution restrict,
658 interrupt, decrease, or terminate the sale of water for export or consumption outside the
659 boundaries of the City if Council determines it is in the best interests of the City to do so.

660

661 14.08.110 Water shortage or emergency declaration.

662

663 a. City Council may declare a water shortage and restrict the use of water within the boundaries
664 of the City if it finds, via resolution, and after conducting a public hearing, insufficient water
665 available to meet the sanitation, fire protection, and consumption needs within the
666 boundaries of the City.

667
668 b. City Council may declare a surplus water shortage via resolution and restrict use of surplus
669 water as Council deems necessary and in the City's best interest.

670
671 c. The City Manager may declare a water emergency of up to 30 days if he or she finds that there
672 is an imminent threat or actual impairment to the City's ability to meet water supply demands.
673 The City Manager shall submit a summary of the declaration of water emergency and the
674 reasons for the declaration at the next regularly scheduled Council meeting.

675
676 14.08.120 Water shortage or emergency–Interruption of sale of surplus water–Other
677 measures.

678
679 a. If a water shortage or water emergency is declared, the City shall first restrict, decrease,
680 interrupt, or terminate the sale of surplus water. The City may take any other measures that
681 the City determines, in its sole discretion, are necessary to address the water shortage or
682 emergency so long as it does so without discrimination between similarly situated consumers.

683
684 b. Any measures adopted in response to a declared water shortage or emergency shall, for the
685 duration of the period of the declared shortage or emergency, prevail over any conflicting
686 provisions of law establishing rights of persons to receive specific or proportionate amounts of
687 the water supply.

688
689 c. Any measures adopted in response to a declared water shortage or water emergency will be
690 made available for public inspection at the City Clerk's office, at the City Library, and at the
691 Public Works Department while those measures are in effect. Notice of the measures shall also
692 be posted on the City's website within 48 hours after the declaration of the water shortage or
693 emergency.

694
695 14.08.130 Water shortage or emergency–Appeal.

696
697 Any person aggrieved by a City Council declaration of a water shortage or water emergency
698 under HCC 14.08.110, or by any action taken by the City in response to such a declaration, may
699 appeal the declaration or action to the Superior Court. The appeal must be filed within 30 days
700 from the date the declaration was adopted or action taken. The declaration or action of the
701 City shall not be reversed except on the ground that such declaration or action was fraudulent,
702 arbitrary, or capricious.

703
704 14.08.150 Service deposits.

705
706 a. All water service users, at the time the service is established, shall pay a deposit based on
707 meter size, established by Council via resolution.

708
709 b. Deposits and any accrued interest shall be refunded:

710
711 1. After one year of service provided the customer has made all payments owed in
712 full and at the time due; or

713 2. No more than 45 days after the date customer is disconnected from the Water
714 System or stops receiving service. Service deposits and any interest shall first
715 be applied to any outstanding balance owed by the disconnecting customer. If
716 there is a balance, the remaining deposit and interest after the payment of that
717 balance shall be refunded to the disconnecting customer.

718
719 c. If a customer has had utility service with the City within the last two years and paid their City
720 utility payments on time, the Finance Department may waive the deposit requirement under
721 this section.

722
723 d. Customers requesting an automatic continuance of utility service between renters may
724 enter into a landlord agreement with the City for this purpose.

725
726 14.08.160 Bulk water sales.

727
728 a. Bulk water sales rates shall be established by City Council via resolution. The schedule for
729 service fees shall apply to all bulk water service requests.

730
731 b. The meter deposit will be returned when the meter is returned undamaged.

732
733 c. If a bulk water customer purchases a meter from the City for measuring the quantity of water
734 purchased it shall be exempt from the monthly meter service charge. It is the responsibility of
735 the bulk water customer to maintain that meter so the City can accurately determine the
736 amount of water being purchased. In the event the meter fails, the customer must repair or
737 replace the meter at its sole expense. The City may at any time test the meter for accuracy and
738 reject a repaired meter that it is not accurate.

739
740 14.08.170 Water filling station permit.

741
742 a. No person shall establish or operate a water filling station to obtain water from the Water
743 System unless that person has a water filling station permit issued by the City.

744

745 b. A person shall apply for a water filling station permit on a form provided by the City. The
746 permit application is available at the City Clerk’s office, the Public Works Department, and may
747 be available on the City’s website. The permit fee must be submitted with the application.

748
749 c. The water filling station permit criteria shall be included in the permit application and any
750 conditions and terms of the permit shall be included on the face of the permit. Water filling
751 station permit terms and conditions may include, but are not be limited to, uniform or site-
752 specific flow rate restrictions, storage tank requirements, and other provisions required by the
753 Public Works Department to minimize adverse effects on the Water System and promote its
754 efficient operation.

755
756 CHAPTER 14.50
757 UTILITY DISTRIBUTION FACILITIES

758
759 Sections:

- 760 14.50.010 Definitions.
761 14.50.020 Underground installation of cable extensions.
762 14.50.030 Enforcement of this chapter.

763
764 14.50.010 Definitions.

765
766 The following words, terms and phrases, when used in this chapter, shall have the meanings
767 ascribed to them in this section, except where the context clearly indicates a different
768 meaning:

769
770 “Cable” includes cables and wires of all descriptions.

771
772 “Natural Gas Assessment District” means City of Homer Natural Gas Distribution Special
773 Assessment District created by Homer City Ordinance 13-02.

774
775 “Public utility” includes every corporation, whether public, cooperative, or otherwise,
776 company, individual, or association of individuals, their lessees, trustees, or receivers
777 appointed by a court, that owns, operates, manages, or controls any plant or system for (1)
778 furnishing, by generation, transmission, or distribution, electrical service to the public for
779 compensation; (2) furnishing telecommunication service to the public for compensation.

780
781 “Public utility” includes all public utilities, whether or not subject to regulation by the
782 Regulatory Commission of Alaska.

783
784 “Telecommunications” means the transmission and reception of messages, images,
785 impressions, pictures, data, and signals by means of electricity, electromagnetic waves, and
786 any other kind of energy, force variations, or impulses, whether conveyed by cable, wire,

787 radiated through space, or transmitted through other media within a specified area or
788 between designated points.

789

790 14.50.020 Underground installation of cable extensions.

791

792 After October 24, 2006, all public utility cable facilities, including, but not limited to, electric
793 power, telephone, and telecommunications cables constructed or installed for the purpose of
794 providing utility service to any land not served before that date by overhead cable facilities,
795 shall be installed underground, and no cables or supporting poles shall be constructed or
796 installed above ground for such purpose, unless the utility obtains an approved exception
797 pursuant to HCC 22.10.055(e) or (f).

798

799 14.50.030 Enforcement of this chapter.

800

801 In addition to penalties and remedies set forth in this title, no permit may be issued to install a
802 utility line on City property or in a City-owned or controlled easement or right-of-way in
803 violation of this chapter.

804

805 Section 5: Title 17 entitled “Improvement Districts” is hereby repealed and reenacted
806 to read as follows:

807

808

TITLE 17
PUBLIC ASSESSMENTS

809

810

811 Chapters:

812 17.01 General Provisions

813 17.02 Special Assessment Districts

814 17.03 Enforcement of Public Assessments

815 17.15 Road Improvement Assessments

816 17.18 Developer Reimbursement Program

817

818

CHAPTER 17.01
GENERAL PROVISIONS

819

820

821 Sections:

822 17.01.010 Definitions.

823 17.01.020 Purpose.

824 17.01.030 Assessment authority.

825

826 17.01.010 Definitions.

827

828 For the purposes of this title, the following words and phrases shall have the meanings set forth
829 below:

830

831 “Benefited area method” means a method of assessment that determines each parcel’s share
832 of the assessment by dividing the total cost of the improvements on which the assessment is
833 based by the total square footage of land benefited by the improvement and then allocating a
834 portion of the cost of the assessment to each parcel based upon the square footage of the land
835 benefited by the improvement. The square footage included in the calculation shall exclude
836 undevelopable land. For a lot 50% larger than the average lot in the district, the Public Works
837 Director may determine that benefited area only includes the first 200 feet of the lot so long as
838 Council approves that determination.

839

840 “Cost” means all expenses incurred by the City for an improvement, including but not limited
841 to, advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of
842 property acquisition, payments to construction contractors, costs of interim and long-term
843 financing of the improvement, including costs of issuing bonds and notes, and City
844 administrative costs.

845

846 “Developable land” means land that, in the discretion of the Public Works Director, can be
847 reasonably developed for uses permitted within the property’s zoning district.

848

849 “District” means a special assessment district created under this chapter unless otherwise
850 specified.

851

852 “Equal area method” means an assessment method allocating costs equally to each lot in a
853 District.

854

855 “Front footage method” means an assessment method allocating costs between lots in a
856 District based on the linear feet fronting the improvement for which the District was created.
857 Under this method, and except as provided in this definition, lots fronting the improvement on
858 more than one side and only accessing the improvement from one side will only be assessed
859 for linear feet on one side. Lots fronting the improvement on more than one side and accessing
860 the improvement from more than one side, will be assessed for linear feet on all sides accessing
861 the improvement.

862

863 “Improvement” means a capital improvement, including without limitation streets, sidewalks,
864 alleys and bridges; street lighting; drainage and flood control facilities; sanitary sewage
865 collection and treatment facilities; water supply and distribution facilities; natural gas
866 distribution facilities; and parks, playgrounds, public squares and open space.

867

868 “Public Works Director” means the Public Works Director or his or her designee. If the Public
869 Works Director position is not filled or is temporarily empty, the City Manager or his or her
870 designee will serve as the “Public Works Director” for purposes of this title.

871
872 “Special Assessment Application Fee” means the fee charged for the processing of the special
873 assessment district application. The fee is approved annually by Council in the resolution
874 adopting the City fee schedule.

875
876 “Record owner” means the person in whose name real property is listed on the property tax
877 roll prepared by the Kenai Peninsula Borough.

878
879 “Undevelopable land” means land that cannot be practicably developed due to natural
880 characteristics, which may include, but are not limited to, steep grade, ravines, and wetlands.

881
882 17.01.020 Purpose.

883
884 The purpose of this title is to identify the assessments the City may charge for acquiring,
885 installing or constructing capital improvements and utility systems that benefit real property
886 within City boundaries.

887
888 17.01.030 Assessment authority.

889
890 The City may assess all or part of the cost of a capital improvement against real property
891 benefited by the improvement, whether the property is privately or governmentally owned,
892 including real property that is exempt from taxation.

893
894 CHAPTER 17.02
895 SPECIAL ASSESSMENT DISTRICTS

- 896
897 Sections:
- 898 17.02.030 Purpose and authority for special assessment districts.
 - 899 17.02.040 Initiation of a special assessment district.
 - 900 17.02.050 Creation of a special assessment district.
 - 901 17.02.060 Contract–Approval of increased costs.
 - 902 17.02.070 Special assessment roll.
 - 903 17.02.080 Certification of assessment roll.
 - 904 17.02.090 Payment.
 - 905 17.02.100 Subdivision after levy of assessments.
 - 906 17.02.120 Reassessment.
 - 907 17.02.130 Objection and appeal.
 - 908 17.02.140 Interim financing.
 - 909 17.02.150 Special assessment bonds.

910 17.02.160 Time limit for special assessment districts.

911 17.02.170 Water and sewer connections required.

912 17.02.190 Hardship deferrals.

913 17.02.200 Payment in lieu of assessment.

914

915 17.02.030 Purpose and authority for special assessment districts.

916

917 a. A special assessment district may be created for the purpose of acquiring, installing or
918 constructing a capital improvement that primarily benefits real property in the district, in
919 contrast to capital improvements that benefit the entire community and are paid for with
920 general government resources or improvements that benefit a specific individual parcel.

921

922 b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment
923 district, authorizing an improvement in a special assessment district, approving and levying
924 special assessments, payment of special assessments, and the authorization of special
925 assessment bonds, for public information and administrative guidance.

926

927 17.02.040 Initiation of special assessment district.

928

929 a. A special assessment district may be initiated by:

930

931 1. A Resolution, initiated by a Council member, the City Manager, or through the
932 developer reimbursement application process set forth in this title and
933 approved by a vote of not less than three-fourths of Council; or

934 2. A Petition signed by 50% of the total record owners who receive notice from the
935 City Clerk's office that they will be assessed a portion of the costs of a single
936 capital improvement.

937

938 b. Special assessment petition applications are available from the Clerk's office. A benefited
939 property owner proposing a special assessment district by petition must file with the Clerk a
940 complete special assessment petition application no more than 60 days after the notice of
941 assessment is issued to record owners. The Clerk shall approve all properly and timely
942 submitted applications within 10 days of the date on which the application is filed. The Clerk
943 shall notify the petition sponsor in writing that the petition has been approved, prepare the
944 petition, and distribute it by certified mail to all record owners of property in the proposed
945 district no more than 30 days after the petition application is approved.

946

947 c. Upon adoption of a resolution initiating a special assessment district, or the filing of a
948 sufficient petition with the Clerk, the City Clerk shall:

949

- 950 1. Schedule a meeting of record owners of real property in the proposed district,
951 notify the record owners by mail of the date, time and location of the meeting,
952 and include a copy of the notice in the City’s regular meeting advertisement;
953 2. Refer the proposed district to the Public Works Director, who shall prepare an
954 improvement plan for the proposed district. The proposed district improvement
955 plan shall include:
956
957 A. The boundaries of the proposed district;
958 B. The design of the proposed improvement;
959 C. A cost estimate for the improvement;
960 D. The assessment allocation method used to calculate the amount owed
961 by each record owner in the proposed district;
962 E. The percentage of the improvement cost to be assessed against
963 properties in the district;
964 F. The time period over which assessments will be financed; and
965 G. Preliminary assessment roll for the proposed district.
966
967 3. The Public Works Director shall use the equal area method in calculating the
968 assessment amount unless another method is specified in the improvement
969 plan.
970
971 17.02.050 Creation of a special assessment district.
972
973 a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time
974 for a public hearing on the necessity of the improvement and proposed improvement plan.
975 Notice of the hearing shall be published at least twice in a newspaper of general circulation in
976 the City, and mailed via certified mail to every record owner of real property in the proposed
977 district not less than 60 days before the hearing.
978
979 b. A record owner of real property in the proposed district may file a written objection to the
980 improvement plan with the City Clerk no later than the day before the date of the public
981 hearing on the improvement plan. If owners of real property that would bear 50 percent or
982 more of the assessed cost of the improvement file timely written objections, the Council may
983 not proceed with the improvement unless it revises the improvement plan to reduce the
984 assessed cost of the improvement that is borne by objecting record owners to less than 50
985 percent of the assessed cost of the improvement. If the resolution changes the district
986 boundary in the improvement plan, the City Clerk shall notify all record owners of property
987 included in the district under the improvement plan of the change.
988
989 c. At the noticed date and time, Council shall hold a public hearing and shall adopt a resolution
990 approving the assessment if Council finds, via resolution, that the improvement is necessary
991 and benefits the properties that will be assessed. Council must also approve the proposed

992 improvement plan. The resolution shall contain a description of the improvement, the
993 estimated cost of the improvement, the percentage of the cost to be assessed against the
994 properties in the district, and a description of the properties to be assessed.

995
996 d. If record owners of all real property in the proposed assessment district waive in writing the
997 notice, protest period and public hearing required under this section, the question of creating
998 the district may be submitted to Council without such notice, protest period or public hearing.

999
1000 17.02.060 Contract–Approval of increased costs.

1001
1002 a. After a special assessment district has been created, the City shall contract for the
1003 construction of the improvement. If the City will own the improvement, it shall solicit bids for
1004 construction of the improvement. If the City will not own the improvement, it shall contract
1005 with the owner of the improvement to provide for its construction.

1006
1007 b. If the cost of constructing the improvement will exceed 15 percent of the estimated cost of
1008 construction identified in the improvement plan, the City shall not contract for the
1009 construction of the improvement without first notifying all record owners in the district via
1010 certified mail of the increased cost and providing record owners in the proposed district 30
1011 days to object to the increase.

1012
1013 c. If the City receives written objections from record owners collectively bearing one-half or
1014 more of the cost of the improvement, the City may not contract to construct the improvement
1015 unless it can do so at an amount not more than 15 percent above the estimated cost of
1016 construction identified in the improvement plan. The City may still impose an assessment or
1017 levy taxes on the district for the costs of developing the improvement plan so long as the record
1018 owners approved the initiation of the district and the improvement plan.

1019
1020 17.02.070 Special assessment roll.

1021
1022 a. After completion of the improvement, the City shall assess costs of the improvement and
1023 prepare an assessment roll stating for each property in the special assessment district the
1024 name and address of the record owner, Kenai Peninsula Borough parcel number, the legal
1025 description of the property, the amount assessed against the property, and the assessed value
1026 of the property as determined by the Borough Assessor.

1027
1028 b. Council shall certify the assessment roll by resolution.

1029
1030 c. Prior to certifying the assessment roll, Council shall hold a hearing. All record owners in the
1031 proposed district will have an opportunity to raise objections to the assessment roll at the
1032 hearing. At least 15 days before the hearing, the City Clerk shall send written notice of the
1033 hearing on the certification of the assessment roll by certified mail to each record owner

1034 appearing on the assessment roll and publish notice of the hearing in a newspaper of general
1035 circulation in the City.

1036

1037 17.02.080 Certification of assessment roll.

1038

1039 After the hearing the Council shall correct any errors or inequalities in the assessment roll. If
1040 an assessment is increased, a new hearing shall be set and notice published, except that a new
1041 hearing and notice is not required if all record owners of property subject to the increased
1042 assessment consent in writing to the increase. Objection to the increased assessment shall be
1043 limited to record owners of properties whose assessments were increased. When the
1044 assessment roll is corrected, the Council shall confirm the assessment roll by resolution. The
1045 City Clerk shall record the resolution and confirmed assessment roll with the District Recorder.

1046

1047 17.02.090 Payment.

1048

1049 a. In the resolution certifying the assessment roll, Council shall fix the time or times when
1050 assessments or assessment installments are due, the amount of penalty on a delinquent
1051 payment and the rate of interest on the unpaid balance of an assessment. An assessment that
1052 is to be paid in a single payment shall not be due before 60 days after billing.

1053

1054 b. Within 30 days after fixing the time when payment of the assessments is due, the Finance
1055 Director shall mail a statement to the record owner of each assessed property identifying the
1056 property and stating the assessment amount, the payment due date, and the amount of the
1057 penalty on a delinquent payment. Within five days after mailing the statements, the Finance
1058 Director shall publish notice of mailing the statements in a newspaper of general circulation in
1059 the City.

1060

1061 17.02.100 Subdivision after levy of assessments.

1062

1063 a. Except as otherwise provided in this section or required by a governing tariff, a “subdivided
1064 property connection fee” shall be paid before subdivided lots may be connected to an
1065 improvement for which the original assessment was levied.

1066

1067 b. The “subdivided property connection fee” shall only be required when the original
1068 assessment on the pre-subdivided lot was apportioned equally between parcels and was not
1069 apportioned based upon lot size or area.

1070

1071 c. The amount of the “subdivided property connection fee” shall be equal to the amount of the
1072 original assessment adjusted by the increase in the number of parcels.

1073

1074 d. If the original assessment was payable in installments, the City may enter into a written
1075 agreement for the payment of the connection fee in installments on terms that are

1076 substantially the same as those authorized for the payment of the original assessment, secured
1077 by a deed of trust on the parcel.

1078

1079 e. Upon the subdivision of a property assessed as a single parcel in the Natural Gas District
1080 improvements where assessments were levied in an equal amount per parcel (i.e., without
1081 regard to parcel area, dimension or other characteristic), the assessment levied on the
1082 property that is to be subdivided shall be paid in full before the recording of the final plat. No
1083 parcel that results from the subdivision shall be subject to assessment for the improvements,
1084 but shall be charged for connecting to the improvements in accordance with the tariff of the
1085 public utility that provides natural gas service to the parcel.

1086

1087 f. Subdivisions of lots included in the original assessment shall only incur the “subdivided
1088 property connection fee” when the subdivision of the lot occurs on or before the date the total
1089 assessment for the district is paid in full.

1090

1091 g. All subdivided property connection fees collected under this section shall be deposited in
1092 the Homer Accelerated Water Sewer Program fund.

1093

1094 17.02.120 Reassessment.

1095

1096 a. Council shall within one year correct any deficiency in a special assessment found by a court,
1097 under the procedure for certification of the assessment roll in HCC 17.02.

1098

1099 b. Payments on the initial assessment are credited to the property upon reassessment. The
1100 reassessment becomes a charge upon the property notwithstanding failure to comply with any
1101 provision of the assessment procedure.

1102

1103 17.02.130 Objection and appeal.

1104

1105 a. An assessment may only be contested by a person who filed a written objection to the
1106 assessment roll before its certification. Council’s decision regarding an objection to the
1107 assessment role is final and may be appealed to the Superior Court within 30 days after the
1108 date of certification of the assessment roll.

1109

1110 b. If no objection is filed or appeal taken within the time provided in this section, the
1111 assessment procedure shall be considered regular and valid in all respects.

1112

1113 17.02.140 Interim financing.

1114

1115 a. Council may provide by resolution or ordinance for the issuance of notes to pay the costs of
1116 an improvement from the special assessments for that improvement. The notes shall bear

1117 interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed
1118 either in cash or bonds for the improvement project.

1119
1120 b. Notes issued against assessments shall be claims against the assessments that are prior and
1121 superior to a right, lien or claim of a surety on the bond given to the City to secure the
1122 performance of the contract for construction of the improvement, or to secure the payment of
1123 persons who have performed work or furnished materials under the contract.

1124
1125 c. The Finance Director may accept notes against special assessments on conditions
1126 prescribed by the Council in payment of:

- 1127
- 1128 1. Assessments against which the notes were issued in order of priority;
 - 1129 2. Judgments rendered against property owners who have become delinquent in
1130 the payment of assessments; and
 - 1131 3. Certificates of purchase when property has been sold under execution or at tax
1132 sale for failure to pay the assessments.

1133
1134 17.02.150 Special assessment bonds.

1135
1136 a. Council by ordinance may authorize the issuance and sale of special assessment bonds to
1137 pay all or part of the cost of an improvement in a special assessment district. The principal and
1138 interest of the bonds shall be payable solely from the special assessments levied against
1139 property in the district. The assessment shall constitute a sinking fund for the payment of
1140 principal and interest on the bonds. The benefited property may be pledged by the Council to
1141 secure payment of the bonds.

1142
1143 b. On default in a payment due on a special assessment bond, a bondholder may enforce
1144 payment of principal, interest, and costs of collection in a civil action in the same manner and
1145 with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
1146 shall be against all property on which assessments are in default. The period for redemption is
1147 the same as for a mortgage foreclosure on real property.

1148
1149 c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund
1150 and appropriate to the fund annually a sum adequate to cover a deficiency in meeting
1151 payments of principal and interest on bonds if the reason for the deficiency is nonpayment of
1152 assessments when due. Money received from actions taken against property for nonpayment
1153 of assessments shall be credited to the guarantee fund.

1154
1155 17.02.160 Time limit for special assessment districts.

1156
1157 a. If five or more years elapse between the creation of a special assessment district and the City
1158 contracting for construction of the improvement, the City may not enter into the contract

1159 unless the Council by resolution extends the period for entering into the contract by not more
1160 than an additional five years.

1161
1162 b. Before the Council acts on a resolution under subsection (a) of this section, the City Clerk
1163 shall mail notice of the resolution to each current record owner of property listed on the
1164 preliminary assessment roll that the City will not contract for construction of the improvement
1165 in the district unless the resolution is adopted. The notice also shall include an updated copy
1166 of the preliminary assessment roll.

1167
1168 17.02.170 Water and sewer connections required.

1169
1170 Except as otherwise provided in the Code, the owner of property in a water or sewer special
1171 assessment district that contains an occupied building shall connect to the improvement
1172 constructed in the district within three years after the date that the resolution confirming the
1173 assessment roll for the district becomes final.

1174
1175 17.02.190 Hardship Deferrals.

1176
1177 a. A person may obtain a deferment of assessment payments under this section if the person:

- 1178
- 1179 1. Has an annual family income that is less than 125% of the current U.S. Health
1180 and Human Services Poverty Guidelines for Alaska;
 - 1181 2. Is the record owner of the assessed property, and permanently resides in a
1182 single-family dwelling on the property; and
 - 1183 3. Is not determined by the City, after notice and hearing, to have been conveyed
1184 the property primarily for the purpose of obtaining the deferment.

1185
1186 b. A person seeking deferment of an assessment payment shall file a written application with
1187 the Finance Director supported by documentation showing that the applicant meets the
1188 criteria in subsection (a) of this section. A person requesting an assessment payment
1189 deferment the first year the assessment is levied must file an application for deferment with
1190 the City no more than 15 days after receiving the initial assessment. A person requesting an
1191 assessment payment deferment under this section in any year after the first year must file an
1192 application for deferment no later than April 15th of the year for which the deferment is sought.
1193 A person must file an application each year for which deferment is sought and shall be required
1194 to prove eligibility for deferment as of January 1st of each year for which a deferment is
1195 requested. Within the same year, the City for good cause shown may waive the claimant's
1196 failure to make timely application and approve the application as if timely filed.

1197
1198 c. A person who receives an assessment payment deferment shall execute a deed of trust on
1199 the property subject to assessment, together with a promissory note payable to the City on
1200 demand, to secure the eventual payment of the deferred payment.

1201
1202 d. A deferred assessment payment shall be immediately due and payable upon the earlier to
1203 occur of the following events:

- 1204
1205 1. The sale or lease of the assessed property; or
1206 2. The death of both the deferred assessment applicant and the applicant's
1207 surviving spouse, if any.

1208
1209 e. Except for assessments imposed upon the Natural Gas Assessment District, hardship
1210 deferrals are not available from assessment payments for the infrastructure of a privately-
1211 owned utility.

1212
1213 17.02.200 Payment in lieu of assessment.

1214
1215 a. The purpose of an in lieu of assessment is to allow the City to respond to changing
1216 circumstances and allow a lot outside a special assessment district access to an improvement
1217 after the formation of the District. It provides a mechanism for the City to be compensated for
1218 access to the improvement while maintaining an incentive for the formation of future special
1219 assessment districts. An in lieu of assessment should be used infrequently and only in
1220 furtherance of this purpose.

1221
1222 b. A payment in lieu of assessment may be available to owners of property outside a special
1223 assessment district who want to connect to the improvement funded by a special assessment
1224 district. In order to qualify for connection to an improvement under this section, the record
1225 owner of the property and the City shall enter into a written agreement. The record owner shall
1226 agree in writing to:

- 1227
1228 1. Pay the full and actual costs of extending the benefit of the improvement onto
1229 their property; and
1230 2. Pay in full the property's pro-rated share of the assessed improvement.

1231
1232 c. The Public Works Director retains authority to deny a request for extension of an
1233 improvement under this section.

1234
1235 d. A payment in lieu of assessment must be paid in an equal or shorter period than the term of
1236 the original assessment.

1237
1238 e. Property accessing an improvement under this section may be included in a special
1239 assessment district for the same service created in the future. If a property is included in an
1240 assessment district under this subsection, the property will receive a credit towards the total
1241 assessment equal to (1) the amount of the "in lieu of assessment" already paid for the property

1242 or (2) the amount of the assessment levied on the property in the future special assessment
1243 district, whichever amount is less.

1244

1245

CHAPTER 17.03

1246

ENFORCEMENT OF PUBLIC ASSESSMENTS

1247

1248 Sections:

1249 17.03.010 Delinquent assessment payments-enforcement.

1250 17.03.020 Priority of lien.

1251

1252 17.03.010 Delinquent assessment payments-enforcement.

1253

1254 a. Assessments under this title and any interest or penalties on these assessments are liens on
1255 the property assessed.

1256

1257 b. Foreclosure of assessment liens shall be in accordance with the procedures required for
1258 foreclosure of property tax liens under Alaska Statute.

1259

1260 17.03.020 Priority of Lien.

1261

1262 a. Assessments under this title and any interest or penalties on these assessments are liens on
1263 the property assessed and are prior and paramount to all liens except municipal tax liens.
1264 Assessment liens may be enforced as provided in this Code and AS 29.45.320-29.45.470 for
1265 enforcement of property tax liens.

1266

1267 b. Assessment liens run with the land, and that portion of the assessment under the
1268 assessment contract that has not yet become due is not eliminated by foreclosure of a property
1269 tax lien.

1270

1271

CHAPTER 17.15

1272

ROAD IMPROVEMENT ASSESSMENTS

1273

1274 Sections:

1275 17.15.010 Partial payment for inaccessible frontage road.

1276 17.15.020 Corner lot assessment.

1277

1278 17.15.010 Partial payment for inaccessible frontage road.

1279

1280 a. The record owner of a through lot or flag lot may delay payment of the part of an assessment
1281 for road improvements that is based on frontage on a road to which the lot does not yet have
1282 access. To delay payment under this section, the owner shall enter into a delayed payment

1283 agreement with the City before the end of the period for filing objections to the district under
1284 HCC 17.02.050.

1285

1286 b. A delayed payment agreement shall include provisions confirming:

1287

- 1288 1. The lot fronts two streets but only has access to one of those streets;
- 1289 2. The lot owner agrees to pay the part of the assessment based on frontage on the
1290 street to which the lot has access; and
- 1291 3. When and if the lot acquires access to the other street the property fronts, the
1292 owner agrees to pay the remaining part of the assessment.

1293

1294 c. A delayed payment agreement shall be recorded with the District Recorder's office.

1295

1296 17.15.020 Corner lot assessment.

1297

1298 The assessment for road improvements against a corner lot shall be based only on the longer
1299 of the lot's road frontages.

1300

1301

1302

CHAPTER 17.18

1303

DEVELOPER REIMBURSEMENT PROGRAM

1304

1305 Sections:

1306 17.18.010 Purpose.

1307 17.18.020 Definitions.

1308 17.18.030 Developer Requested Special Assessment District.

1309 17.18.040 Developer Incentive and Reimbursement Program.

1310

1311 17.18.010 Purpose.

1312

1313 It is the intent of this chapter to provide incentive through reimbursement and access to the
1314 City's special assessment district process and procedures to developers expanding access to
1315 public utilities and capital improvements within the boundaries of the City.

1316

1317 17.18.020 Definitions.

1318

1319 In this chapter, unless otherwise provided, or the context otherwise requires, the following
1320 words and phrases shall have the meaning set forth below:

1321

1322 "Benefiting property" means one or more parcel(s) of real property which are adjacent to, will
1323 benefit from, or are likely to require connection to a Municipal Improvement.

1324

1325 “Cost of Construction” means the developer’s actual direct cost of constructing a Municipal
1326 Improvement.

1327

1328 “Developer” means an owner of real property who is developing his, her, or its real property.

1329

1330 “Developer Reimbursement Agreement” means a written contract between the City, as
1331 approved by the Council, and one or more developers, which provides for reimbursement of a
1332 portion of the Costs of Construction of a Municipal Improvement by a developer, and the
1333 method for assessing the pro rata share of the Costs of Construction of a Municipal
1334 Improvement to Benefited Property.

1335

1336 “Municipal Improvement” means water, sewer, electrical, and/or storm water systems or other
1337 capital improvements which have been designed and constructed according to City standards,
1338 approved by the City, accepted by the City, and provide potential benefits and/or service to
1339 Benefited Property.

1340

1341 17.18.030 Developer Requested Special Assessment District.

1342

1343 a. A developer may request a Resolution of the Council approving a special assessment district
1344 in connection with the construction of a Municipal Improvement as set forth in HCC 17.02.040.

1345

1346 b. A request for special assessment district initiated by a developer shall be filed on the Special
1347 Assessment District Resolution Request Form, which is available from the City Clerk’s Office.

1348

1349 c. The developer’s request must include all information required by the Special Assessment
1350 District Resolution Request Form, including, without limitation, a description of the
1351 boundaries of the district requested and the Municipal Improvement the developer intends to
1352 construct or extend, a cost estimate for the improvements to be constructed, the proposed
1353 method used to calculate the amount claimed by each record owner of Benefited Property in
1354 the proposed district, the percentage of the improvement cost to be assessed to Benefited
1355 Properties within the district, and the percentage of the improvement cost to be assessed to
1356 the developer’s property and/or project.

1357

1358 d. Upon adoption of a Resolution of Council finding there is a necessity for the special
1359 assessment district identified by the developer in the developer’s application and the initiation
1360 of the special assessment district process under this chapter, a Developer Reimbursement
1361 Agreement must also be presented to Council for approval. This agreement must include the
1362 terms and conditions of the improvement plan and the proposed construction and installation
1363 terms by the Contractor.

1364

1365 17.18.040 Developer Incentive and Reimbursement Program.

1366

1367 a. If Council approves the district and the Developer Reimbursement Agreement under the
1368 procedures set forth in Title 17.02, and upon completion of the approved Municipal
1369 Improvement in accordance with the City’s standards and acceptance of the same by the City,
1370 and only to the extent permitted by law, the City shall transfer any payments received by the
1371 City in payment for the assessments within the district. The City will disburse any payments
1372 received from property owners in the district to the developer within 90 days from the date the
1373 City collects or receives the assessment payment.

1374
1375 b. The City may collect, but is not required to collect, the amounts assessed to any Benefited
1376 Property for the pro rata share of the developer’s Costs of Construction. The Pro Rata Payment
1377 must be paid before any Benefited Property connects to or uses the Municipal Improvement.
1378 No Benefited Property is permitted to connect to or use the Municipal Improvement without
1379 first making the Pro Rata Payment. The Pro Rata Payment is in addition to any connection
1380 fees, service fees, or other fees that may be charged for connection and/or use of the Municipal
1381 Improvement, or any other fees chargeable by the City under the Code for the construction of
1382 a particular Municipal Improvement.

1383
1384 c. The City accepts no liability to collect any Pro Rata Payment from the owners of Benefited
1385 Property, or in the event of non-payment, to pursue enforcement for non-payment of any Pro
1386 Rata Payment, or to disconnect or remove any Benefited Property from the Municipal
1387 Improvement for non-payment of a Pro Rata Payment. The City assumes no liability or
1388 responsibility regarding the enforceability of any Reimbursement Agreement, or the
1389 developer’s ability to seek a Pro Rata Payment. To the extent permitted by law, enforcement
1390 matters relating in any way to a Pro Rata Payment, or recovery or reimbursement of any Costs
1391 of Construction, shall be the sole responsibility of the private developer.

1392
1393 Section 6: This ordinance is of a permanent and general character and shall be included
1394 in the Homer City Code.

1395
1396 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS ____ DAY OF _____, 2019.

1397
1398 CITY OF HOMER
1399
1400 _____
1401 KEN CASTNER, MAYOR
1402

1403
1404
1405
1406 ATTEST:
1407 _____
1408 _____

1409 MELISSA JACOBSEN, MMC, CITY CLERK

1410

1411

1412 YES:

1413 NO:

1414 ABSTAIN:

1415 ABSENT:

1416

1417 First Reading:

1418 Public Hearing:

1419 Second Reading:

1420 Effective Date:

1421

1422

1423 Reviewed and approved as to form:

1424

1425 _____

1426 Katie Koester, City Manager

1427

1428 Date: _____

1429

Michael Gatti, City Attorney

Date: _____