

**CITY OF HOMER  
HOMER, ALASKA**

Lord/Stroozas

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

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

WHEREAS, the Homer City Code currently requires property owners to connect to the Homer Sanitary Wastewater and Sewage System and the Homer Public Water System and regulates construction, installation, and use of these systems; and

WHEREAS, the regulatory, assessment, and fee provisions regarding the City of Homer's public utilities are located in various sections throughout the Code; and

WHEREAS, the laws governing Homer's public utilities have not been recently updated to reflect the City's growth, progress, and needs; and

WHEREAS, the Code contains technical construction and installation requirements that are best addressed via permit criteria rather than provisions in the Code; and

WHEREAS, it is in the City's and the public's best interest to identify assessments and procedures arising from public utilities and capital improvements in the same title and ensure all assessment procedures are clear, consistent, and easily understood; and

WHEREAS, certain fees and assessments were addressed in Titles 9, 13, and 14 while others were in Title 17.

NOW THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1: Chapter 13.24 entitled "Sanitary Systems" is hereby repealed.

Section 2: Chapter 13.28 entitled "Water Systems" is hereby repealed.

Section 3: Chapter 9.08 entitled "Enforcement of Local Improvement District Assessments" is hereby repealed.

Section 4: Title 14 entitled "Public Services" is repealed and reenacted to read as follows: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

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

b. All administrative rules and regulations approved by Council shall be available for public inspection at the City Clerk's office, the Public Works Department, and on the City's website.

c. No person shall fail to comply with any administrative rule or regulation authorized under this title and approved by Council.

14.01.030 Immunity for discretionary acts.

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

b. Immunity under this section includes, but is not limited to, the exercise of discretion to restrict, interrupt, decrease, or terminate the sale of water to bulk water customers, resellers, or others for export or consumption outside the certificated service area or the discontinuance of water or sewer services.

c. Nothing in this section shall be construed to limit any defenses or immunities available under AS 09.65.070 or any other provision of law.

14.01.040 Violation-Penalty.

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

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

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

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

14.01.045 Violation-Right of appeal.

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

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

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

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

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

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

14.01.050 Utility permits-Appeal procedure.

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

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

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

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

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

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

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

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

#### 14.01.060 Utility permit appeals- Superior Court.

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

#### 14.01.070 Bond or cash deposit.

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

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

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

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

14.01.080 State contractor required.

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

14.01.090 Water and sewer rate schedule **and second water meter usage.**

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

b. The City will allow, upon approval of a written application and payment of the fee established by City Council, a second water usage meter to measure the flow of City water that is not discharged to the Sanitary System. This second meter will be read monthly **during the summer** and sewer charges will be credited monthly. **The meter may not be subject to read during the fall and winter months. Any charges accrued during that period will be reflected the first billing cycle the meter is read.**

#### CHAPTER 14.04 HOMER SANITARY WASTEWATER AND SEWAGE SYSTEM

##### Sections:

- 14.04.010 Purpose.
- 14.04.015 Definitions.
- 14.04.018 Service connection charges.
- 14.04.020 Connection – Required.
- 14.04.050 Sewer service connection and extension permit.
- 14.04.070 Destruction/abandonment of private sewage disposal systems.
- 14.04.080 Commercial waste disposal permit.
- 14.04.100 Discharge of surface drainage into the Sanitary System illegal.

251 14.04.110 Industrial Waste pretreatment and discharge requirements.  
252 14.04.120 Industrial Waste Disposal Permit.  
253 14.04.130 Industrial waste disposal permit-Penalties.

254

255

256 14.04.010 Purpose.

257

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

263

264 14.04.015 Definitions.

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

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269 "ADEC" means the State of Alaska Department of Environmental Conservation.

270

271 "City of Homer Industrial Pretreatment Discharge and Waste Disposal Manual" means the  
272 Industrial Waste Manual.

273

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

278

279 "Domestic sewage" means waste containing human or animal excretion, other than industrial  
280 waste.

281

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

285

286 "Industrial plant" means a plant or works producing waste material, other than domestic  
287 sewage.

288

289 "Industrial waste" means liquid or solids contained within a liquid, other than domestic  
290 sewage.

291

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

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

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

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

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

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

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

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

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



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

14.04.018 Service connection charges.

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

14.04.020 Connection–Required.

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

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

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

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

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

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

14.04.050 Sewer service connection and extension permit.

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

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

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

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

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

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

14.04.070 Destruction/Abandonment of private sewage disposal systems.

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

14.04.080 Commercial waste disposal permit.

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

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

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

1. The Public Works Director reasonably believes, and the property attests that the type of waste reported by the property owner will not damage the Sanitary System; and
2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

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

#### 14.04.100 Discharge of drainage into the Sanitary System Illegal.

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

#### 14.04.110 Industrial Waste pretreatment and discharge requirements.

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

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

#### 14.04.120 Industrial waste disposal permit.

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

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

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

1. The applicant and the sewage generated on the property subject to the permit complies with the City of Homer Industrial Pretreatment and Discharge Administrative Rules and Regulations as adopted by Council; and
2. The sewer pipeline has sufficient capacity to dispose of the disclosed wastes.

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

#### 14.04.130 Industrial waste disposal permit-Penalties.

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

14.08.040 Water connection and extension permit.

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

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

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

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

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

#### 14.08.050 Water meter installation.

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

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

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

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

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

14.08.060 Disconnection due to nonpayment.

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

14.08.070 Frozen pipes–City not liable.

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

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

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

14.08.080 Discontinuance of water.

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

14.08.090 Priority use of water.

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

14.08.100 Surplus water–Sale.

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

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

14.08.110 Water shortage or emergency declaration.



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

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

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

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

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

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

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

14.08.130 Water shortage or emergency–Appeal.

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

14.08.150 Service deposits.

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

b. Deposits and any accrued interest shall be refunded:

1. After one year of service provided the customer has made all payments owed in full and at the time due; or
2. No more than 45 days after the date customer is disconnected from the Water System or stops receiving service. Service deposits and any interest shall first be applied to any outstanding balance owed by the disconnecting customer. If there is a balance, the remaining deposit and interest after the payment of that balance shall be refunded to the disconnecting customer.

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

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

#### 14.08.160 Bulk water sales.

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

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

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

#### 14.08.170 Water filling station permit.

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

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

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

#### CHAPTER 14.50 UTILITY DISTRIBUTION FACILITIES

##### Sections:

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

##### 14.50.010 Definitions.

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

"Cable" includes cables and wires of all descriptions.

"Natural Gas Assessment District" means City of Homer Natural Gas Distribution Special Assessment District created by Homer City Ordinance 13-02.

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

"Public utility" includes all public utilities, whether or not subject to regulation by the Regulatory Commission of Alaska.

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

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

14.50.020      Underground installation of cable extensions.

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

14.50.030      Enforcement of this chapter.

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

Section 5: Title 17 entitled "Improvement Districts" is hereby repealed and reenacted to read as follows:

## TITLE 17 PUBLIC ASSESSMENTS

### Chapters:

- 17.01 General Provisions
- 17.02 Special Assessment Districts
- 17.03 Enforcement of Public Assessments
- 17.15 Road Improvement Assessments
- 17.18 Developer Reimbursement Program

## CHAPTER 17.01 GENERAL PROVISIONS

### Sections:

- 17.01.010      Definitions.
- 17.01.020      Purpose.
- 17.01.030      Assessment authority.

- 17.01.010      Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

#### 17.01.020 Purpose.

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

#### 17.01.030 Assessment authority.

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

### CHAPTER 17.02 SPECIAL ASSESSMENT DISTRICTS

#### Sections:

- 17.02.030 Purpose and authority for special assessment districts.
- 17.02.040 Initiation of a special assessment district.
- 17.02.050 Creation of a special assessment district.
- 17.02.060 Contract–Approval of increased costs.
- 17.02.070 Special assessment roll.
- 17.02.080 Certification of assessment roll.
- 17.02.090 Payment.
- 17.02.100 Subdivision after levy of assessments.
- 17.02.120 Reassessment.
- 17.02.130 Objection and appeal.
- 17.02.140 Interim financing.
- 17.02.150 Special assessment bonds.

17.02.160 Time limit for special assessment districts.

17.02.170 Water and sewer connections required.

17.02.190 Hardship deferrals.

17.02.200 Payment in lieu of assessment.

17.02.030 Purpose and authority for special assessment districts.

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

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

17.02.040 Initiation of special assessment district.

a. A special assessment district may be initiated by:

1. A Resolution, initiated by a Council member, the City Manager, or through the developer reimbursement application process set forth in this title and approved by a vote of not less than three-fourths of Council; or
2. A Petition signed by 50% of the total record owners who receive notice from the City Clerk's office that they will be assessed a portion of the costs of a single capital improvement.

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

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

1. Schedule a meeting of record owners of real property in the proposed district, notify the record owners by mail of the date, time and location of the meeting, and include a copy of the notice in the City's regular meeting advertisement;
  2. Refer the proposed district to the Public Works Director, who shall prepare an improvement plan for the proposed district. The proposed district improvement plan shall include:
    - A. The boundaries of the proposed district;
    - B. The design of the proposed improvement;
    - C. A cost estimate for the improvement;
    - D. The assessment allocation method used to calculate the amount owed by each record owner in the proposed district;
    - E. The percentage of the improvement cost to be assessed against properties in the district;
    - F. The time period over which assessments will be financed; and
    - G. Preliminary assessment roll for the proposed district.
  3. The Public Works Director shall use the equal area method in calculating the assessment amount unless another method is specified in the improvement plan.
- 17.02.050 Creation of a special assessment district.
- a. Upon completion of an improvement plan under this chapter, the City Clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at least twice in a newspaper of general circulation in the City, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.
  - b. A record owner of real property in the proposed district may file a written objection to the improvement plan with the City Clerk no later than the day before the date of the public hearing on the improvement plan. If owners of real property that would bear 50 percent or more of the assessed cost of the improvement file timely written objections, the Council may not proceed with the improvement unless it revises the improvement plan to reduce the assessed cost of the improvement that is borne by objecting record owners to less than 50 percent of the assessed cost of the improvement. If the resolution changes the district boundary in the improvement plan, the City Clerk shall notify all record owners of property included in the district under the improvement plan of the change.
  - c. At the noticed date and time, Council shall hold a public hearing and shall adopt a resolution approving the assessment if Council finds, via resolution, that the improvement is necessary and benefits the properties that will be assessed. Council must also approve the proposed



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

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

17.02.060 Contract-Approval of increased costs.

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

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

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

17.02.070 Special assessment roll.

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

b. Council shall certify the assessment roll by resolution.

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

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

17.02.080 Certification of assessment roll.

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

17.02.090 Payment.

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

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

17.02.100 Subdivision after levy of assessments.

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

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

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

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

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

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

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

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

#### 17.02.120 Reassessment.

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

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

#### 17.02.130 Objection and appeal.

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

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

#### 17.02.140 Interim financing.

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

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

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

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

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

17.02.150 Special assessment bonds.

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

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

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

17.02.160 Time limit for special assessment districts.

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

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

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

17.02.170 Water and sewer connections required.

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

17.02.190 Hardship Deferrals.

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

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

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

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

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

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

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

17.02.200 Payment in lieu of assessment.

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

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

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

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

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

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

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

#### CHAPTER 17.03 ENFORCEMENT OF PUBLIC ASSESSMENTS

Sections:

17.03.010 Delinquent assessment payments-enforcement.

17.03.020 Priority of lien.

17.03.010 Delinquent assessment payments-enforcement.

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

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

17.03.020 Priority of Lien.

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

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

#### CHAPTER 17.15 ROAD IMPROVEMENT ASSESSMENTS

Sections:

17.15.010 Partial payment for inaccessible frontage road.

17.15.020 Corner lot assessment.

17.15.010 Partial payment for inaccessible frontage road.

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

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

b. A delayed payment agreement shall include provisions confirming:

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

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

17.15.020 Corner lot assessment.

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

#### CHAPTER 17.18 DEVELOPER REIMBURSEMENT PROGRAM

Sections:

- 17.18.010 Purpose.  
17.18.020 Definitions.  
17.18.030 Developer Requested Special Assessment District.  
17.18.040 Developer Incentive and Reimbursement Program.

17.18.010 Purpose.

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

17.18.020 Definitions.

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

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



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

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

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

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

17.18.030 Developer Requested Special Assessment District.

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

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

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

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

17.18.040 Developer Incentive and Reimbursement Program.

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

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

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

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS 23<sup>rd</sup> DAY OF SEPTEMBER, 2019.



CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

1410 Melissa Jacobsen  
1411 MELISSA JACOBSEN, MMC, CITY CLERK  
1412  
1413

1414 YES: 6  
1415 NO: 0  
1416 ABSTAIN: 0  
1417 ABSENT: 0  
1418

1419 First Reading: 9-9-19  
1420 Public Hearing: 9-23-19  
1421 Second Reading: 9-23-19  
1422 Effective Date: 9-24-19  
1423  
1424

1425 Reviewed and approved as to form:

1426 Rich Albin Acting City Manager  
1427  
1428 Katie Koester, City Manager  
1429

1430 Date: 9-26-19  
1431

Holly Wells  
Holly Wells, City Attorney

Date: 9-30-19