

**CITY OF HOMER  
HOMER, ALASKA**

City Manager/  
Public Works Director

**RESOLUTION 24-071**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
ESTABLISHING A ROW POLICY EVALUATION TEAM ON CUTTING,  
CLEARING OR REMOVAL OF TREES AND VEGETATION LOCATED  
WITHIN PUBLIC RIGHTS-OF-WAY

WHEREAS, For many years the Public Works Department did not regularly maintain City Rights-of-Way (ROW), leading to overgrowth and recent increased vegetation clearing activities; and

WHEREAS, Homer City Code (HCC) Chapter 11.36 Vegetation in Rights-of-Way was enacted by Ordinance 16-51 and amended by Ordinance 19-27(S) to clarify the City of Homer's right and obligation to maintain public rights-of-way; and

WHEREAS, The previous version of this law does not address potential concerns in areas of steep slopes, landmark trees, traffic volume, zoning classification, or property covenants but is a "one size fits all" approach; and

WHEREAS, The City had received complaints about vegetation removal activities, including debris, noise, and scope of clearing in the ROW; and

WHEREAS, In October 2019, the Homer City Council adopted Resolution 19-073(S) establishing a moratorium on cutting clearing or removal of trees and vegetation located within public ROW between October 15, 2019 and May 1, 2020 and establishing a ROW Policy Evaluation Team; and

WHEREAS, In June 2020, the Homer City Council adopted Ordinance 20-26 amending HCC Chapter 11.36 Vegetation in Rights-of-Way clarifying the City's right and obligation to maintain public rights-of-way developed by the ROW Policy Evaluation Team; and

WHEREAS, The Public Works Department continues to have difficulty in performing the necessary work of maintaining utilities, stormwater ditches, and safe road ROW's due to the issues related to the current version of HCC 11.36 Vegetation in Rights-of-Way; and

WHEREAS, It is in the City's best interest to examine opportunities to create a ROW maintenance policy that allows the Public Works Department the ability to maintain city infrastructure and promote visibility and safety, in a cost effective way that appreciates



adjacent landowner concerns, while not limiting the Public Works Department in its ability to perform its assigned functions and responsibilities.

NOW, THEREFORE, BE IT RESOLVED that during the aforementioned period, the City Council of Homer Alaska will evaluate the City's ROW maintenance policy by appointing two Council members to work with the City Manager, Public Works Director and appropriate staff, as determined by the City Manager, to propose alternative ROW maintenance policies to City Council no later than July 22, 2024.

BE IT FURTHER RESOLVED that the evaluation team will discuss and evaluate policy to include the following issues of concern:

1. Stormwater drainage, snow storage and plowing, sight distances, utility operations and maintenance, and equipment and emergency vehicle response
2. Steep slopes, traffic volumes, zoning districts, and property covenants
3. Debris cleanup and aesthetics, including landmark trees
4. Adjacent landowner concerns including timing and noise
5. Landowner maintenance options and opportunities
6. Legal rights and responsibilities of City and landowners, including enforcement
7. Cost of implementation

BE IT FURTHER RESOLVED that in order to address these issues, the evaluation team may seek legal counsel from the City Attorney.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 10<sup>th</sup> day of June, 2024.

CITY OF HOMER



KEN CASTNER, MAYOR

ATTEST:



RENEE KRAUSE, MMC, ACTING CITY CLERK

Fiscal Note: N/A





# MEMORANDUM

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**Resolution 24-071, A Resolution of the City Council of Homer, Alaska, Establishing a Right of Way Policy Evaluation Team on Cutting, Clearing or Removal of Trees and Vegetation Located within Public Rights of Way. City Manager/Public Works Director.**

**Item Type:** Backup Memorandum  
**Prepared For:** Mayor Castner and City Council  
**Date:** June 4, 2024  
**From:** Daniel Kort, Public Works Director  
**Through:** Melissa Jacobsen, Interim City Manager

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**Summary:**

The resolution is for consideration of forming a Committee to re-visit the Homer City Code Section HCC 11.36 VEGETATION IN RIGHTS-OF-WAYS and provide edits that will allow the Public Works Department the ability to perform their assigned duties.

**Background:**

In October of 2016 a new Homer City Code Section HCC 11.36 VEGETATION IN RIGHTS-OF-WAYS was enacted. Prior to October 2016, the City had taken a passive approach to clearing vegetation from Right-of-Ways (ROW) thereby encouraging “creep” of vegetation into the ROWs as defined in the Backup Memorandum from September 23, 2016. The vegetation had created a safety issue where road maintenance equipment was not able to safely access some roadways due to low hanging branches, further damaging road maintenance equipment. It was recognized in this memorandum that it would take many years to reverse the many years’ worth of “vegetative creep” into the ROWs.

In June of 2019, HCC 11.36 was modified to more clearly define the Public Works Director discretion in decisions relating to clearing of vegetation in ROWs. The Public Works Department then made significant efforts in clearing the ROWs. In response to feedback from the public, the Homer City Council introduced and passed Resolution 19-073(S) in October 2019. This Resolution enacted a moratorium on cutting, clearing or removal of trees and vegetation located within Public ROWs between October 15, 2019 and May 1, 2020, and the formation of a committee to evaluate the City’s ROW maintenance policy and propose alternative ROW maintenance policies to the City Council no later than the last Council meeting in March 2020. The committee was made up of two council members, City Manager, and appropriate staff. The committee evaluated the policy to include the following issues of concern:

1. Drainage, snow storage and plowing, sight distances, utility operations and maintenance, and equipment and emergency vehicle response
2. Steep slopes, traffic volumes, zoning districts, and property covenants

3. Debris cleanup and aesthetics, including landmark trees
4. Adjacent landowner concerns including timing and noise
5. Landowner maintenance options and opportunities
6. Legal rights and responsibilities of City and landowners, including enforcement
7. Cost of implementation

In June of 2020, Ordinance 20-26 was enacted, amending HCC 11.36. The amended Code allowed the Public Works Department the ability to resume removing vegetation from the ROWs, however the revised Code created new and unintended challenges with vegetation removal in the ROWs. Under the current version of Code, one property owner who may only be adjacent (abutting or across the street) to the vegetation clearing can object to the work and stop all efforts in clearing the vegetation from the ROW. The Code as written does not define the procedures for remediating the disagreement over what needs to be removed versus what does not need to be removed.

This issue was identified shortly after adoption of the revised HCC 11.36 and was thought to be resolved under the previous City Manager, where the Public Works Department was granted verbal authority to conduct vegetation removal from the road way to the top of the back slope of the established stormwater ditch without prior public notification, and any vegetation removal beyond the top of the back slope of the ditch to the property line would require property owner notification prior to removal. However, this agreement was never a written policy, but rather just a verbal agreement. Therefore, upon the departure of the former City Manager, this verbal policy agreement was no longer valid.

**Recommendation:**

The Public Works Department, through the Interim City Manager, recommends forming a new Committee to discuss proposed edits to the revised HCC 11.36 to remove ambiguity and define a path to resolve a solution for the vegetation clearing needs of the Public Works Department and the desires of the Council and public. The Public Works Department suggest the formation of this Committee with the full understanding of how sensitive this topic was in 2019 when the first Committee was formed after the brief Moratorium on vegetation removal.