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**CITY OF HOMER  
HOMER, ALASKA**

Mayor/Lewis

**RESOLUTION 16-079(S)(A)**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, APPROVING A POLICY AND PROCEDURE FOR THE WAIVER OF PENALTIES ON DELINQUENT SPECIAL ASSESSMENT PAYMENTS.

WHEREAS, On March 23, 2015, the Council adopted Resolution 15-17, confirming the assessment roll, establishing payment due dates and establishing delinquency, penalty and interest provisions for the Homer Natural Gas Distribution Special Assessment District (“District”); and

WHEREAS, On September 14, 2015, the Council adopted Resolution 15-081(S), confirming the assessment roll for condominium units in the District, and establishing delinquency, penalty and interest provisions for those assessments; and

WHEREAS, On May 9, 2016, the Council adopted Resolution 16-052, establishing a more lenient penalty and interest structure for installments on assessments in the District that first become delinquent on or after July 1, 2016; and

WHEREAS, With thousands of properties being assessed in the District, exceptional circumstances may occur in which, in the interest of fairness, a penalty on a delinquent assessment payment should be waived; and

WHEREAS, The proposed Policy and Procedure for administrative waiver of penalties on delinquent assessment payments in a special assessment district is based on the Kenai Peninsula Borough procedure for fine abatement on late property taxes, is in the best interest of the City, and should be adopted.

NOW, THEREFORE, BE IT RESOLVED the Policy and Procedure for waiver of penalties on delinquent assessment payments in a special assessment district is adopted to read as follows:

1. POLICY

It is the policy of the City of Homer to provide fair and consistent administration of Alaska statutes and City ordinances with respect to waiving the assessment of penalties on delinquent assessment payments in special assessment districts, and to recognize that

42 exceptional circumstances may occur in which, in the interest of fairness, a penalty on a  
43 delinquent assessment should be waived.

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45 2. RESPONSIBILITY

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47 A. The Finance Director will review a request that the City waive a penalty on a  
48 delinquent assessment payment, determine the facts that are relevant to the waiver  
49 request, and recommend that the Council grant or deny the request in accordance  
50 with the procedure below.

51 B. The Council will determine whether to grant or deny a request that the City waive a  
52 penalty on a delinquent assessment payment, taking into consideration the  
53 recommendation of the Finance Director.

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55 3. PROCEDURE

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57 A. An owner of property in a special assessment district who is delinquent in making an  
58 assessment payment may apply to the Finance Director for a waiver of the penalty on  
59 the delinquent assessment payment on a form provided by the Finance Director.

60 B. The application to waive the penalty shall be accompanied by payment of all  
61 delinquent assessment payments that the property owner owes to the City.

62 C. The Finance Director will review and recommend that the Council approve or  
63 disapprove the application. The Finance Director will recommend approval of an  
64 application to waive a penalty on a delinquent assessment payment if the Finance  
65 Director finds one of the following:

66 1. A clerical error by the City Clerk or Finance Department contributed  
67 substantially to the late payment.

68 i. For the purpose of this procedure, a clerical error is a mistake made by  
69 City personnel that results in the failure of the City to correctly and timely  
70 notify the property owner of the due date for the delinquent assessment  
71 payment, or to correctly credit a timely assessment payment to the  
72 property owner's account. Examples of a clerical error include:

73 • Application of a timely payment to the wrong account.  
74 • Failing to send the property owner timely notice of the payment due  
75 date.

76 • Sending the property owner notice of the payment due date using a  
77 name or address other than the name and addresses of the property  
78 owner that currently appear on the Kenai Peninsula Borough property  
79 tax roll.

80 ii. The property owner is responsible for notifying the Kenai Peninsula  
81 Borough Assessor of any change in property owner name or address. The  
82 City is not responsible for updating the property owner name and address  
83 on the Kenai Peninsula Borough property tax roll, or for investigating the

- 84 accuracy of the property owner name or address that currently appears  
85 on the Kenai Peninsula Borough property tax roll.
- 86 2. A U.S. Postal Service error contributed substantially to the late payment. A  
87 waiver on this ground requires proof of one of the following:
- 88 i. The Postal Service failed to deliver either the payment or the notice of the  
89 payment due date to the address that appeared on the envelope.
- 90 ii. The Postal Service delayed delivery of either the payment or notice of  
91 the payment due date to a degree that contributed substantially to the  
92 lateness of the payment.
- 93 iii. The postmark on the payment did not accurately reflect when the  
94 property owner delivered the payment to the Postal Service.
- 95 3. Proof that the property owner was unable to make the payment on time  
96 because of an extreme non-financial personal hardship. This could include a  
97 serious illness or death of the property owner or an immediate family member  
98 that reasonably prevented making the payment on time.

99 The property owner bears the burden of proving that one of the grounds for waiving  
100 the penalty exists, based on relevant documentation and sworn testimony.

- 101 D. The Council will decide whether to approve or disapprove an application to waive a  
102 penalty on a delinquent assessment payment, taking the Finance Director's  
103 recommendation into consideration in the decision. The City Clerk shall give the  
104 property owner a written notice of the Council's decision on the application, stating  
105 the Council's reasons for the decision. The decision of the Council on the application  
106 is final and not subject to appeal.

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108 PASSED AND ADOPTED by the Homer City Council on this 25<sup>th</sup> day of July, 2016.

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110 CITY OF HOMER



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DAVID G. LEWIS,  
MAYOR PRO TEMPORE

ATTEST:

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JO JOHNSON, MMC, CITY CLERK