

SPONSOR: CRAIG CITY COUNCIL

**CITY OF CRAIG
ORDINANCE NO. 719**

**ADDING CHAPTER 12.10 TO THE CRAIG MUNICIPAL CODE PROVIDING FOR
ROAD MAINTENANCE AND CAPITAL IMPROVEMENTS ALONG THE PORT ST.
NICHOLAS ROAD AND ESTABLISHING A FEE FOR MAINTENANCE AND
IMPROVEMENTS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRAIG, ALASKA:

WHEREAS, the City of Craig exercises general powers per Alaska Statutes 29.35.010 and other enabling statutes, including street and road maintenance powers; and,

WHEREAS, Section 1, Article 10 of the Alaska Constitution provides that a liberal construction shall be given to the powers of local government units; and

WHEREAS, the City of Craig provides maintenance and capital improvements to the Port St. Nicholas Road outside the Craig city limits; and,

WHEREAS, the City of Craig is authorized to provide services, including streets, outside its boundaries per Alaska Statutes 29.35.020, and may regulate the use and operation of streets outside its boundaries to the extent that the jurisdiction in which they are located does not regulate them; and,

WHEREAS, Alaska Statutes 29.71.800 defines streets to include roads; and,

WHEREAS, there is no jurisdictional entity within the Port St. Nicholas Road as defined in this ordinance that provides maintenance to and improvement of the Port St. Nicholas Road in the manner proposed in this ordinance; and,

WHEREAS, the City of Craig has a property interest in the Port St. Nicholas Road consisting of an easement and fee simple title to surface estate conveyed by quitclaim deed; and,

WHEREAS, the Port St. Nicholas Road contains a water main that is the sole means of transmission of potable water between the city's water treatment plant and its water customers, which includes both city residents and many Port St. Nicholas residents, and constitutes vital public infrastructure for city and Port St. Nicholas residents; and,

WHEREAS, ongoing maintenance to the Port St. Nicholas Road benefits the water main by ensuring reasonable access to and functioning of the main; and,

WHEREAS, the City of Craig agreed to provide maintenance to the Port St. Nicholas Road in cooperation with the State of Alaska to meet a state-imposed condition to accept federal funding to upgrade and pave the road; and,

WHEREAS, the City of Craig assumed all the rights of ownership from Shaan Seet contained in the Declaration of Protective Covenants, Restrictions, Easements and Agreements, as recorded August 14, 1984 at Book 124 in the Ketchikan Recording District, including but not limited to determining a reasonable manner to partially reimburse the City of Craig for providing maintenance and improvement to the Port St. Nicholas Road; and

WHEREAS, the maintenance and improvements to the Port St. Nicholas Road by the City of Craig benefit the owners of properties along the Port St. Nicholas Road; and

WHEREAS, the Council finds it to be an unfair burden on the residents of the City of Craig to bear the entire cost for the maintenance and improvement of the Port St. Nicholas Road; and

WHEREAS, Alaska law does not allow the City of Craig to establish the Port St. Nicholas Road as a service area because the service could be provided by annexation of the Port St. Nicholas area to the City of Craig; and

WHEREAS, maintenance, repair, and improvement activities on the Port St. Nicholas Road are a significant cost to the City of Craig; and

WHEREAS, by adoption of this ordinance, the Craig City Council authorizes the delivery, outside of the city's municipal boundaries, of road operation, repair, maintenance, construction, improvements and any other road services and facilities as described in this ordinance; the council further authorizes the exercise of the powers necessary for the provision of those services.

Section 1. Classification. This ordinance is of a general and permanent nature and the code sections adopted hereby shall become a part of the code of the City of Craig, Alaska.

Section 2. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

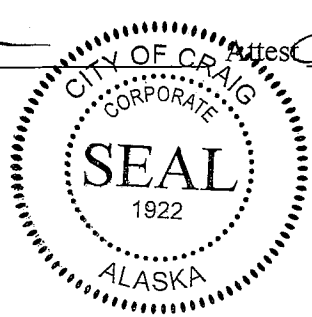
Section 3. Effective Date. This ordinance shall take effect July 1, 2019.

Section 4. Action. This ordinance establishes a new chapter at 12.10 of the Craig Municipal Code.

Passed and approved this 7th day of February, 2019.



Mayor Tim O'Connor



Attest 

Kassi Mackie, City Clerk

Chapter 12.10

Port St. Nicholas Road Maintenance and Improvement and Road Maintenance and Improvement Fee - Extraterritorial

Sections:

- 12.10.010 Road Maintenance and Improvement Fee.**
- 12.10.020 Fee Set.**
- 12.10.030 Use of Fee.**
- 12.10.040 Annual Maintenance Report; Plan of Work.**
- 12.10.050 Prohibition Applied to Delinquent Properties.**
- 12.10.060 Notices to Property Owner.**
- 12.10.070 Notices from Property Owner.**
- 12.10.080 Appeal; Judicial Review.**
- 12.10.090 Definition.**

12.10.010 Road Maintenance and Improvement Fee

- A. The owner of record of any lot or property intersecting with the Port St. Nicholas Road, or any lot or tract that lies within 350 feet of the Port St. Nicholas Road, shall pay to the City of Craig a road maintenance and improvement fee.
- B. Road maintenance and improvement fee bills shall be mailed by regular US Mail to property owners of record on a regular basis as established by the City Council.
- C. Each bill rendered shall be due when mailed. All bills not paid within sixty (60) days of the mailing date shall be considered delinquent.
- D. At any time after the account becomes delinquent, a notice of delinquency may be sent to the owner.
- E. Upon delinquency, the city may lien the delinquent property in accordance with Chapter 1.20 of the Craig Municipal Code and provide notice of the lien to the owner of record. The city may seek to recover the delinquent fee and costs of collection, including attorney's fees, by any manner allowable by law.
- F. Chapter 12.10 applies to areas outside the city limits.
- G. Each lot owner shall be responsible for providing the City of Craig with a valid mailing address. The City of Craig shall have no responsibility other than mailing to the last known address as provided by the lot owner.

12.10.020 Fee Set

The annual road maintenance and improvement fee is set at 45 percent of costs reported in the Annual Maintenance Report, divided by the number of lots and tracts subject to the fee; provided, that the aggregate dollar amount of the fee shall not exceed \$150.00 per lot or tract for any given year.

12.10.030 Use of Fee

- A. Fees collected under this section shall be held in a special revenue fund, subject to annual audit and reporting in the same manner as other special revenue funds maintained by the city.

- B. Road maintenance and improvement fees collected will be appropriated from time to time by the city council to meet maintenance, repair, capital improvement, and operational costs of the Port St. Nicholas Road. Fees collected under this chapter shall not be used for the maintenance, repair, capital improvement, or operational costs of the city's water main within the Port St. Nicholas Road.

12.10.040 Annual Maintenance Report; Plan of Work.

- A. The Public Works Department shall prepare an annual maintenance report. The report shall include a description of all capital and maintenance activities performed within the road corridor during the course of the reporting period. The report shall also include an accounting of all fees collected and all expenses incurred during the reporting period. The proposed annual maintenance report shall be made available for a 30-day public review and comment period. At the conclusion of the 30-day comment period the City of Craig shall consider all comments received and report the same to the city council. The report shall be provided to the City Council for public comment and consideration of adoption no later than 90 days following the end of the reporting period.
- B. The Public Works Department of the city shall prepare an annual plan of work and budget estimating the work tasks and the capital and operational costs for the Port St. Nicholas Road. The annual plan of work may include road brushing, plowing, sanding, sweeping, striping, surfacing, grading, excavation, maintenance of culverts and drainage structures, repair and maintenance of asphalt and concrete, and all other tasks and costs reasonably related to operation, maintenance, and improvement of the road. The proposed plan of work shall be made available for a 30-day public review and comment period. At the conclusion of the 30-day comment period the City of Craig shall consider all comments received and report the same to the city council. The annual plan shall be presented to the City Council for public comment and consideration of adoption no later than 180 days following the end of the reporting period.

12.10.050 Prohibition Applied to Delinquent Properties

The City of Craig shall not approve or authorize installation of a new water service connection, where no service previously existed, to any property for which the fees required to be paid by the property owner of record under this chapter are delinquent.

12.10.060 Notices to Owner

Notices from the City of Craig to the owner of record will be given in writing and either mailed to or delivered to the owner's last known address. Where conditions warrant in emergencies, the city may notify the owner verbally by telephone or messenger or by text message or e-mail.

12.10.070 Notices from Owner

Notices from owners to the city shall be in writing and mailed to Craig City Hall or delivered to the office of the city clerk at Craig City Hall.

12.10.080 Appeal; Judicial Review.

- A. An owner of record who receives a billing pursuant to 12.10.010 of this chapter may file a protest in writing to the city administrator within thirty days (30) of the mailing of the bill in accordance with 12.10.010. The protest shall state all of the factual and legal grounds for the protest and submit all supporting documents to be considered by the city administrator in deciding the protest. Any outstanding bill for the road maintenance and improvement fee must be paid in full at the time of the filing of the protest. The failure to

submit full payment of any outstanding bill shall result in the city clerk notifying the owner of record that the protest is incomplete and not in compliance with this provision and will not be considered by the city administrator. The decision of the city administrator shall be a final decision and shall be provided to the owner of record by certified mail.

- B. Judicial review by the Superior Court, First Judicial District, at Prince of Wales Island, Alaska, may be had by filing a notice of appeal in accordance with Alaska Rules of Appellate Procedure 602(a)(2) no later than thirty days (30) after the city's receipt of the return of service of the decision of the city administrator to the owner of record.

12.10.090 Definition

Except where otherwise defined in this chapter, "Port St. Nicholas Road" is defined as the 60 foot wide road corridor beginning at the intersection of the City of Craig municipal boundary with the Port St. Nicholas Road, and ending at Station 278+89.57, a point 29.57' bearing S88°32'W of Point of Curvature No. 37 of the Port St. Nicholas Road, as shown on Sheet 11 of 14 of Plat 95-57, Ketchikan Recording District.