

Title 16

MUNICIPALLY OWNED LAND

Chapters:

- 16.01 Tidelands and Submerged Lands**
- 16.02 Leasing of City-Owned Lands**
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Chapter 16.01**TIDELANDS AND SUBMERGED LANDS**

Sections:

- 16.01.010 Approval and acceptance of state conveyances.
- 16.01.020 Approval and adoption of tideland plats.
- 16.01.030 Preference rights.

B. 1992 Tidelands. Tidelands patented to the city in 1992 (tidelands in ATS 1410) are not subject to preference rights. [Ord. 349 § 5, 1992.]

16.01.010 Approval and acceptance of state conveyances.

A. 1963 Conveyance. The conveyance by the state to the city, dated April 9, 1963, of tidelands and submerged lands lying seaward of the city was approved and accepted, and the lands therein were incorporated into the limits of the city, in 1978.

B. 1992 Conveyance. The conveyance by the state to the city, by patent dated June 16, 1992, of tidelands and submerged lands lying seaward of the city is approved and accepted, and the lands therein (to the extent not already within the city limits) are incorporated into the limits of the city. [Ord. 349 § 5, 1992.]

16.01.020 Approval and adoption of tideland plats.

A. 1963 Conveyance. The tidelands plats for the 1963 conveyance from the state to the city were approved by the city in 1978: (1) prepared by Hubbel & Waller Engineering Corp., dated December 28, 1962; and prepared by Hans J. Furuseth, dated June 1, 1968, showing all structures and improvements thereon, and the boundaries of each tract. Any conflicts between the Hubbel & Waller plat and the Furuseth plat should be resolved in favor of the latter.

B. 1992 Conveyance. The tidelands plat for the 1992 conveyance from the state to the city, prepared by Greg Scheff and Associates, denoted ATS 1410 and recorded in the Ketchikan Recording District, is approved and adopted by the city. [Ord. 349 § 5, 1992.]

16.01.030 Preference rights.

A. 1963 Tidelands. Preference rights to purchase tidelands conveyed by the state to the city in 1963 expired on February 28, 1970.

Chapter 16.02

LEASING OF CITY-OWNED LANDS

Sections:

- 16.02.010 Lands available for leasing –
Classification of lands.
- 16.02.020 Levels of approval required.
- 16.02.030 Minimum rent.
- 16.02.040 Term of leases.
- 16.02.050 Public notice.
- 16.02.060 Competitive or negotiated leasing.
- 16.02.070 Applications, fees, terms, payment.
- 16.02.080 Competitive bidding – Appeals.
- 16.02.090 Negotiated leases.
- 16.02.100 Rights prior to leasing.
- 16.02.110 Responsibility to properly locate on
leased premises.
- 16.02.120 Continuation of other legal
requirements.
- 16.02.130 Sales tax.
- 16.02.140 Terms and conditions of leases.

16.02.010 Lands available for leasing – Classification of lands.

A. All lands and interest in land owned by the city, including tide and submerged lands, may be leased as hereinafter provided.

B. Before accepting applications to lease lands, the city shall have zoned by ordinance or otherwise classified the lands in question for leasing and for particular land uses. No lease shall be granted except for the particular use for which the tract is zoned or classified. The classification of a tract of leased land may be changed by council motion or resolution, after consideration by the planning commission.

C. All city-owned properties outside the city limits shall be considered to be classified as reserved use until such time as they are otherwise classified. No city-owned property shall be leased or otherwise developed prior to the assignment of a particular zone or the repeal of the reserved use classification. [Ord. 349 § 5, 1992.]

16.02.020 Levels of approval required.

A. Except as provided in subsection (B) of this section, leases of city owned property shall be authorized by noncode ordinance.

B. Leases valued at \$10,000 or less, and for a lease term (including the lessee's rights of renewal) of five years or less, and involving two acres or less, none of which is tidelands, may be authorized by the council by resolution. [Ord. 349 § 5, 1992.]

16.02.030 Minimum rent.

A. Minimum Rate. Except for lands leased for public use, no land shall be leased for an annual rent less than eight percent of the appraised value of the land and any improvements thereon owned by the city. Facilities for supplying utility services shall not be considered as such improvements.

B. Public Use. City lands may be leased to any state or federal agency or political subdivision of the state, or to a nonprofit organization for less than eight percent of the appraised value, and for a consideration determined by the council to be in the best interest of the city.

C. Appraisal. With the exception of the public uses described in subsection (B) of this section, no land shall be leased, or a renewal lease issued therefor, unless the land has been appraised at its fair market value within 12 months prior to the date fixed for the beginning of the term of the lease or renewal date. [Ord. 349 § 5, 1992.]

16.02.040 Term of leases.

Lease term will be negotiated between the applicant and the city. The applicant shall state in the application the term desired. In determining whether to grant a lease for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the lease to construct thereon, the value of the applicant's proposed use to the economy of the city, and other relevant factors. The term of any given lease shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the lessee, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. A renewal option exercisable at the discretion of the lessee shall be counted in determining the term of the lease for purposes of this subsection. [Ord. 349 § 5, 1992.]

16.02.050 Public notice.

Public notice shall be given prior to leasing city-owned land. Thirty days' notice shall be given by posting notice thereof in three public places and by publication in a newspaper of general circulation once per week for three weeks. The notice must contain the name of the applicant, a brief description of the land, its area and general location, proposed use, term, computed annual minimum rent, limitations if any, a declaration stating the particular method of disposal to be used and the time and place set for a hearing on the proposed lease. [Ord. 349 § 5, 1992.]

16.02.060 Competitive or negotiated leasing.

Unless the council determines by ordinance that a particular leasing transaction should proceed by negotiation with a single prospective lessee, competitive bidding will be utilized. [Ord. 349 § 5, 1992.]

16.02.070 Applications, fees, terms, payment.

Unless otherwise provided by the council in the ordinance or resolution authorizing the lease of specific lands, the following procedures shall be followed.

A. Qualifications of Applicants or Bidders. An applicant or bidder for a lease is qualified if the applicant or bidder:

1. Is 18 years of age or over; or
2. Is a group, association, partnership or corporation which is authorized to conduct business in the state of Alaska; or
3. Is acting as an agent for another meeting one of the above criteria, and has qualified by filing with the administrator or his designee, prior to the time set for the disposition, a power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, to the exclusion of himself.

B. Applications for Lease. All applications for lease of lands shall be filed with the city clerk on forms provided by the city. Only forms completed in full and accompanied by a \$100.00 nonrefundable filing fee will be accepted for filing. Applications that qualify as a public use as defined in CMC 16.02.030(B) may be exempted from the filing fee. With every application the applicant shall submit a development plan showing and stating:

1. The purpose of the proposed lease;

2. The use, value and nature of improvements to be constructed;
3. The type of construction;
4. Dates construction is estimated to commence and be completed; and
5. Whether the intended use complies with the zoning and the Craig land use code.

C. Deposits for Cost. All applications filed with the city clerk will be forwarded to the administrator to determine estimated costs required to handle the application, including but not limited to one or more of the following: survey, appraisal, and advertising of the proposed lease of the area under application. Upon determination of the estimated costs, said official shall notify the applicant in writing of such costs, and a deposit thereof must be made within 30 calendar days after the notice is mailed. Failure of the applicant to pay the deposit shall result in the application being cancelled. If the applicant does not accept a lease within 30 calendar days after it is offered to the applicant, all deposit money spent or encumbered for survey, appraisal or advertising shall be forfeited, and the balance, if any, shall be returned to the applicant. If the land applied for is leased to another, the latter shall be required to pay actual costs of survey, appraisal and advertising, and the original deposit shall be returned to the depositor. The lessee shall be required to pay any excess of costs over deposits, and where the deposit exceeds actual costs, the excess shall be credited to present or future rents under the lease. All survey, appraisal and advertising shall be performed only under the control of the city, and any such work done without such control will not be accepted by the city.

1. Those applications defined as a public use in CMC 16.02.030(B) may be exempted from the requirements of this subsection.

2. If all applicants withdraw from the bid process prior to the offer of a lease, the costs incurred as a result of the application process shall be borne equally by all applicants. [Ord. 349 § 5, 1992.]

16.02.080 Competitive bidding – Appeals.

A. Where competitive bidding is used, the city may either require written sealed bids stating the annual rental amount offered, or hold an auction on the rent amount. Only applicants who have completed the application requirements to the city's

satisfaction (including submittal of a development plan and the deposits for cost) shall be qualified to bid. The city may base its award of lease on a combination of factors (including the development plan and the extent to which the proposed project will meet community needs) rather than solely upon rental amount bid. The city reserves the right to reject all bids and return the deposits to the applicants.

B. Appeal. In cases involving competitive bidding, an aggrieved bidder may appeal the determination of the winning bid to the council within five days (excluding Saturday and Sunday) following such determination. Such appeals must be in writing, signed and notarized and contain a short statement of the grounds for appeal. The council, shall within 30 days after receipt of a timely appeal, review the asserted grounds for appeal and rule on the appeal. The council's decision shall be final.

C. Lease to Successful Bidder. Following the appeal period or the council's ruling, the city administrator shall notify the successful bidder that the city is prepared to issue an appropriate lease. The bidder shall be given 30 calendar days from date of mailing the notice in which to remit to the city clerk any bid balance. Failure to do so shall result in forfeiture of any and all rights previously acquired in the proposed lease, and in addition, any monies paid or deposited with the city shall be forfeited.

D. Issuance of Lease. After expiration of the appeal period, or after the ruling on the appeal to the council, the administrator shall cause a lease to be issued and executed containing such terms as the council shall have established. [Ord. 349 § 5, 1992.]

16.02.090 Negotiated leases.

Upon authorization by the council by ordinance, the city administrator may commence negotiations for the lease of city land. The final terms of a negotiated lease are subject to approval by the council unless the minimum essential terms and the authority of the administrator to execute the lease are set forth in the ordinance authorizing negotiations. The negotiated lease may not be executed until the effective date of the ordinance. [Ord. 349 § 5, 1992.]

16.02.100 Rights prior to leasing.

A. The filing of an application for a lease shall give the applicant no right to a lease nor to the use of the land applied for.

B. Any use of city-owned property not authorized by a lease shall constitute a trespass against the city. [Ord. 349 § 5, 1992.]

16.02.110 Responsibility to properly locate on leased premises.

It shall be the responsibility of the lessee to properly locate improvements on the leased land. It is unlawful to encroach on other lands of the city or on lands owned or leased by another, and violation shall constitute a misdemeanor. [Ord. 349 § 5, 1992.]

16.02.120 Continuation of other legal requirements.

The city's issuance of a lease does not relieve the lessee of the responsibility of obtaining such licenses or permits as may be required by the city, or by any state or federal agency. [Ord. 349 § 5, 1992.]

16.02.130 Sales tax.

The city sales tax on rents applies equally to leases of city-owned lands. Lessees are required to remit to the city the applicable amount of sales tax when each rent payment is due. Overdue sales tax amounts are subject to the same penalty and interest provisions as any other overdue sales tax. [Ord. 349 § 5, 1992.]

16.02.140 Terms and conditions of leases.

In addition to other applicable provisions of this code, the terms, conditions and covenants following as subsections (A) through (V) of this section shall govern all leases made under the provisions of this chapter, and shall be as a matter of law incorporated in all such leases of land made or issued by the city unless the council by resolution provides otherwise as to a specific lease, and are incorporated as though set out in full in the lease. Each lease shall contain such additional provisions as the council deems necessary to protect the public interest. Violation by the lessee of any duty of lessee's contained in subsections (A) through (V) of this section shall be grounds for the city's termination of the lease if, following written notice to

lessee of lessee's breach, lessee has not in 30 days entirely remedied the breach to the city's satisfaction.

A. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification or zoning and the terms of the lease, and in conformity with the ordinances of the city. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation by the city at any time.

B. Adjustment of Rent. The annual rent payable pursuant to any lease becomes subject to adjustment by the council on the fifth anniversary of the date of the lease and at each five-year interval thereafter. The city may adjust the rent annually if the assessment method or consumer price index method of adjustment is used.

1. At the city's sole discretion the adjusted annual rent shall be computed using one of the following methods:

a. Appraisal. The adjusted annual rent may be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council. The lessee may obtain council reconsideration of the council's prior approval of the assessor's figure for market value by giving written notice of request for reconsideration within 10 days after the council's original decision, and by thereafter presenting an alternative appraisal prepared by a Member of the Appraisal Institute (MAI) within 90 days after the council's original decision.

b. Assessment. The adjusted annual rent may be computed at that percentage of the assessed value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such assessed value shall be determined by the most recent annual tax assessment roll submitted by the city assessor and approved by the council. The lessee may obtain

council reconsideration of the assessed value of the property by protesting the assessed value placed on the rental property as outlined in CMC 3.04.060.

c. Consumer Price Index. The adjusted annual rent may be computed using the rental rate set in the original or renewed lease or the rental rate as set during any regular adjustment, plus the change in the Anchorage Consumer Price Index during the adjustment interval.

2. The lessee may obtain council reconsideration of the method of annual or five-year interval rent adjustment by giving written notice of request for reconsideration within 10 days after the council's original decision on the rental rate adjustment. The council shall, upon presentation of the lessee's evidence, within 30 days decide the final value to be used in adjusting the rent. The new rental amount shall be effective at the beginning of the five-year or annual interval to which it applies.

C. Subleasing. The lessee may sublease lands or any part thereof leased to him hereunder; provided, that the lessee first obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions as the council may deem appropriate. A copy of the sublease shall be filed with the city administrator.

D. Assignments. The lessee may assign the lease issued to him; provided, that the proposed assignment shall be first approved by the council under such further terms and conditions as the council may deem appropriate. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations thereunder. A copy of any assignment shall be filed with the city administrator.

E. Modification. Any modification or amendment of a lease shall be in writing, signed by both the city and the lessee. Modification of any lease requires authorization by ordinance, except for leases originally issued pursuant to CMC 16.02.020(B).

F. Cancellation and Forfeiture.

1. Leases in good standing may be cancelled in whole or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee

upon 90 days' notice in writing to the city before the end of an annual rental period.

2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. If such default continues for 30 calendar days after service upon lessee of written notice of default by the city without remedy by lessee of the default, the council shall take such action as is necessary to protect the rights and best interest of the city, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by lessee or any other person during the time the lessee is in default.

3. The city may cancel the lease if the land is used for any unlawful purpose.

4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall, with the approval of the council, constitute grounds for cancellation. This time period may be extended by the council by resolution.

G. Site Contamination Prohibited – Environmental Compliance Required.

1. Any violation, at the site of the leased land, by lessee, or by a third party present upon the land with lessee's permission, of an environmental statute or regulation of the city, state or federal governments shall be grounds for immediate termination of the lease by the city, at the city's sole discretion. By entering into the lease, the lessee agrees not to make any claim for monetary damages against the city for lease cancellation pursuant to this subsection.

2. The lessee shall at all times manage lessee's activities upon the leased lands, and the activities of third parties present with lessee's permission, so as to positively prevent any and all contamination of the site which would violate any statute or regulation, which could subject the city to enforcement action by a state or federal agency, or which could subject the city to statutory or common law liability, diminish the value of the land, or cause city expenditures for response costs caused by a hazardous substances release.

3. By entering into the lease, the lessee agrees to defend and indemnify the city from and against any and all claims by third parties (includ-

ing governmental entities and industry pollution-based claims) brought against the city by reason of activities on the land during the period of lessee's lease.

4. By entering into the lease, the lessee agrees to reimburse the city for any and all expenses reasonably incurred by the city (including any response or site cleanup costs) because of activities on the land during the period of lessee's lease.

H. Rights of Mortgagee or Lienholder. In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.

I. Payment of Annual Rentals. Unless otherwise provided by the council by ordinance or resolution, the following lease payment schedules shall apply: Annual rentals of \$500.00 or less shall be paid annually in advance. Annual rentals of more than \$500.00 but less than \$5,000 shall be prorated and paid in advance every calendar quarter. Annual rentals of \$5,000 or more shall be prorated and paid in advance each calendar month.

J. Entry and Reentry. In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term, the city or its agent or representative may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by the city shall be deemed an acceptance of a surrender of the lease.

K. Re-Lease. In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this chapter.

L. Forfeiture of Rental. In the event that the lease is terminated because of any breach by the lessee, the rental payment last made by the lessee shall be forfeited and retained by the city.

M. Written Waiver. The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee

in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision of the lease, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised, or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city administrator.

N. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the lessor all of the leased land on the last day of the term of the lease.

O. Renewal of Lease.

1. Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, without competitive bidding, provided:

a. The lessee or his assignee makes written application therefor at least 90 days prior to such termination;

b. The lessee is not in default under the lease;

c. The use to which the land is to be put is compatible with the current use classification (or with such new classification as the council may adopt effective at the end of the current lease term) or with the applicable zoning provisions;

d. The lessee's improvements on the leased land are in compliance with applicable building codes, fire and safety codes;

e. The lessee has complied with all requirements of the lease, particularly including the provisions of subsection (G) of this section, and there are no outstanding and unresolved environ-

mental enforcement actions pertaining to the leased premises;

f. The lessee is current in all monetary obligations to the city, including property taxes, sales taxes, utility bills, and rents for any other lands leased from the city; and

g. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.

2. Such lease shall be for an annual rent equal to the percentage of the appraised value of the land which is then being charged for new leases, and shall be subject to adjustment on every fifth anniversary.

3. Any renewal preference granted the lessee is a privilege, and is neither a right nor bargained for consideration.

P. Removal or Reversion of Improvements upon Termination of Lease. Improvements owned by a lessee may, within 60 calendar days after the termination of the lease, be removed by him; provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided, that the city council may extend the time for removing such improvements in cases where hardship is proven. All periods of time granted the lessee to remove improvements are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, the city.

Q. Inspection. The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon. Upon the city's request, the lessee shall permit an authorized representative of the Alaska Department of Environmental Conservation (ADEC) to make an environmental audit of the leased premises. Notwithstanding any confidentiality provisions in federal or state law, by entering into the lease, the lessee agrees that the results of any environmental audit of the premises made by or at the order of any state or federal agency shall be made available to the city as land owner.

R. Use of Material. All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved

by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.

S. Rights-of-Way. The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of use.

T. Warranty. The city does not warrant by its zoning, classification or leasing of land that the land is ideally suited for the use authorized under the zoning, classification or lease, and no guaranty is given or implied that it will be profitable to employ the land for said use.

U. Notice or Demand. Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. Mail, enclosed in a registered or certified mail prepaid envelope addressed as herein provided.

V. Additional Lease Terms. Any lease shall contain such additional limitations, reservations, requirements or special conditions as the council may determine are appropriate to protect the city's interest, including (without limitation) requirements (1) for improvements of a specified kind and value to be constructed or located on the land by the lessee within a specified time period, (2) for the lessee to complete the improvements set forth in the development plan submitted with the lease application within a specified time period, or (3) requirements that the lessee indemnify the city

against third party claims for personal injury or property damage arising from lessee's occupancy of the land, and support that indemnification with liability insurance naming the city as an additional insured. [Ord. 710 § 4, 2018; Ord. 349 § 5, 1992.]

Chapter 16.03**SALE OF CITY-OWNED LANDS**

Sections:

- 16.03.010 Applicability.
- 16.03.020 Commencement.
- 16.03.030 Without warranty.
- 16.03.040 Appraisal required – Minimum price.
- 16.03.050 Disposal methods.
- 16.03.060 Disposals for public use.
- 16.03.070 Disposal procedures.

16.03.010 Applicability.

A. The provisions of this chapter shall constitute the formal procedures for the sale or other permanent disposal of real property or an interest in real property owned by the city of Craig.

B. Sale or other permanent disposal of properties obtained through property tax foreclosure shall be governed by the statutory procedures in AS 29.45.460 through 29.45.490. [Ord. 349 § 5, 1992.]

16.03.020 Commencement.

A. The disposal process will commence upon, and be further governed and controlled by, a non-code ordinance consistent with the procedures set forth herein, and such other terms or conditions as the council may determine, identifying the particular land to be disposed of and the particular disposal method to be used.

B. Lands may not be sold or otherwise permanently disposed of until the land has been classified or zoned and the council has determined (in a non-code ordinance) that the disposal and subsequent use of the land is in the city's best interest.

C. Where a public hearing reveals that a particular upland or tideland disposal may have significant and widespread public opposition, the council may require approval of the disposal by the qualified voters of the city. [Ord. 349 § 5, 1992.]

16.03.030 Without warranty.

Real property sold, traded, or exchanged shall be conveyed by the city without warranty; except in cases where a land trade with the federal government cannot proceed unless the city agrees to warrant title to the land being traded by the city, and any such warranty shall be supported by title insurance. [Ord. 349 § 5, 1992.]

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16.03.040 Appraisal required – Minimum price.

Except as otherwise provided in this chapter, the mayor or the mayor's designee may sell, exchange or otherwise dispose of real property, or an interest therein, only after appraisal of the fair market value thereof by a qualified appraiser obtained by the city and conducted within 12 months before the date of the sale. The price shall not be less than the fair market value plus the cost of the appraisal plus survey, platting, recording and other costs to the city attendant to the transaction. [Ord. 349 § 5, 1992.]

16.03.050 Disposal methods.

A. Methods. Land may be disposed of by sealed competitive bid, auction, over-the-counter offerings of unsold remnants of any of the aforesaid processes, equal value exchange, negotiated sale, or such other lawful methods as the council may approve by noncode ordinance for the specific disposal.

B. Negotiated Sales and Exchanges. Upon authorization by the council by noncode ordinance, the administrator may commence negotiations for the sale, exchange or other disposal of city land. The final terms of a negotiated disposal are subject to approval by the council unless the minimum essential terms and the authority of the mayor to execute the disposal are set forth in the ordinance authorizing negotiations. The negotiated disposal may not be executed until the effective date of the ordinance.

C. Competitive Bidding Not Required. The mayor or the mayor's designee, after council approval by noncode, nonemergency ordinance, may sell, exchange or otherwise dispose of the following real property, or an interest therein, without giving an opportunity for competitive bidding.

1. Real property, or an interest therein, to be exchanged for other real property, or an interest therein, which is determined by an appraisal prepared by a qualified appraiser obtained by the city to be at least equal in value to the city-owned property or the interest therein that is to be exchanged; or if the city's property is determined to be greater in value, if the difference is made up in cash or additional property of equivalent value. The equal-value requirement is not mandatory in transactions with other government entities. The person receiving the city-owned property or interest to be

exchanged shall pay the cost of the appraisal, plus survey, platting, recording and all other costs to the city attendant to the transaction; except where the exchange is with a governmental entity whose rules prohibit such payment.

2. Sale, lease, donation, exchange or other transfer of real property, or an interest therein, to or with another municipality, a state, or the United States, when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city.

3. Parcels of real property that are standard in size or configuration under existing zoning may be disposed of by sale or exchange to the legal owner of adjoining property, with such adjoining parcel to be then replatted to incorporate therein such substantial parcel sold or exchanged. That the sale price or exchange value shall be at least equal to the fair market value of the city-owned property or interest therein transferred, which may be determined by using the current assessed value of the property, or a comparable portion of such property, as established by the city assessor, plus survey, platting, recording and other costs to the city attendant to the transaction.

4. Easements may be released to the legal owner of the servient property when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city. Refer to CMC 16.04.010 for additional procedures governing easements. [Ord. 349 § 5, 1992.]

16.03.060 Disposals for public use.

A. Disposal to Governmental Agency. The sale or disposal of land may be made to a state or federal agency for less than the appraised value, provided the council approves the terms and conditions of such disposal by ordinance. Such disposals may be exempted from the requirements of CMC 16.03.040.

B. Disposal to Nongovernmental Agency. The sale, lease or other disposal of city land may be made to a private, nonprofit corporation at less than fair market value, provided the disposal is approved by the council by ordinance adopted after 14 days' public notice and the land or interest in land is to be used solely for the purpose of providing a service to the public which is supplemental to a governmental service or is in lieu of a service which could or should reasonably be provided by

the state or the city. Such disposals may be exempted from the requirements of CMC 16.03.040. [Ord. 349 § 5, 1992.]

16.03.070 Disposal procedures.

A. Conduct of Sale. The mayor or his designee shall conduct sales in accordance with the ordinance approved by the council for a specific sale. The city administrator shall prescribe the procedures for the conduct of the sale to the extent not provided by this chapter or otherwise prescribed by the council for a specific sale.

B. Advertisement.

1. The city shall publish notice in a newspaper of general circulation once per week for three weeks and post the notice in at least three public places within the city at least 30 days prior to the sale date. The notice shall contain a general description of the types and locations of the parcels available, the terms and conditions of purchase, the last day upon which a person may register for the sale, the date, time and place of any sale activities, and the name, address and telephone number of the person or office to contact for sale or registration forms and further information.

2. Public notice as set forth above shall be required prior to all sales or other permanent disposals.

C. Qualifications. To qualify to purchase city lands, an individual must be 18 years of age or older and have an Alaska domicile; a corporation must be registered to do business in the state. No person, corporation or other entity may register or bid if they have failed to remedy a default on a prior sale or lease of city real property, or if they have failed to pay in full the amount of any judgment obtained against them by the city from a court of law.

D. Conditions of Sale.

1. The buyer shall pay all closing costs, including fees for preparation of documents, escrow fees and recording fees.

2. The city reserves the right to require, in the event the buyer desires to remove or cause to be removed, merchantable timber, sand or gravel, or other materials, that prior to commencement of such activity, the entire remaining principal and accumulated interest, or any unpaid portion of the purchase price, be paid in full to the city. The city shall make known to the buyer that city-owned

lands obtained through Section 14(c)(3) of the Alaska Native Claims Settlement Act are subject to subsurface rights as held by Sealaska Corporation.

3. The city council shall consider placing restrictive covenants, reversionary clauses, performance bond requirements, or other similar restrictions in the deeds, or require the submission of a development plan when deemed reasonably necessary to protect the public health and welfare or to uphold the city's ordinances, coastal management plan or other officially adopted land use plans.

E. Subsequent Transfers. Any subsequent transfer or sale of the property by the buyer prior to full payment therefor shall require the prior written approval of the city, followed by the transferee's assumption of any remaining balance on the original buyer's promissory note and the original buyer's deed of trust to the city. The city may withhold approval based on lack of creditworthiness of the proposed transferee or other commercially reasonable grounds, in which case the sale or transfer shall not be made unless the entire remaining balance due the city is paid in full either prior to or as part of the buyer's sale transaction. [Ord. 349 § 5, 1992.]

Chapter 16.04**EASEMENTS, USE PERMITS AND
RESOURCE REMOVAL PERMITS**

Sections:

- 16.04.010 Easements.
- 16.04.020 Access permits.
- 16.04.030 Timber and resource disposal.

16.04.010 Easements.

A. Authorized. The city will convey or lease an easement in city-owned land upon approval by the council by resolution. Easements shall be nonexclusive unless otherwise provided in the easement document.

B. Application and Fee. The applicant for an easement shall apply to the city administrator on a form prescribed by the city. The application shall be accompanied by plans, reports, a narrative and other material sufficient to permit the city to evaluate the need for, and use to be made of, the requested easement. The application shall also be accompanied by a base fee of \$25.00 plus an amount determined by the administrator or his designee to cover the cost of an appraisal of the value of the easement, if one is required under subsection (E) of this section. From time to time, the administrator shall adjust the base fee to reflect changes in the cost of municipal services related to the transaction.

C. Departmental Action. The application for the easement shall be referred for comment to city departments which may have an interest in the parcel subject to the proposed easement. Upon receipt of the comments of the departments, the administrator shall refer the application, departmental comments, and the administrator's recommendation to the council. Upon receipt of the administrator's recommendation, the council may, by resolution, authorize the mayor to execute the easement under such terms and conditions as the council finds appropriate.

D. Survey. Prior to the execution of an approved easement, the applicant shall provide a survey of the easement to the standards required by the city administrator.

E. Easement Price. The sale or lease price of an easement shall be for such fees and under such terms and conditions as approved by the city coun-

cil. For exclusive use easements the administrator may require an appraisal. If the administrator determines that an appraisal is required, the appraised value shall be based on an appraisal conducted no more than 12 months prior to council authorization of the easement. Upon execution of the easement by the city, the applicant shall pay to the city the market value of any marketable materials, timber or other resources within the easement area which will be destroyed, cut or removed. The administrator shall determine the value of resources of any marketable materials, timber or other resources within the easement area which will be destroyed, cut or removed. The council may sell or lease an easement to any state or federal agency or political subdivision of the state or to a nonprofit organization for less than the appraised value. The council may also exempt said groups from paying to the city the market value of any marketable materials, timber or other resources within the easement area which will be destroyed, cut or removed.

F. Improvements and Changes. No improvements or changes in improvements may be made within an easement unless first approved by the city administrator.

G. As-Built Plans. Immediately upon completion of the construction of any improvements within the easement area, the easement grantee shall provide the city administrator with accurate, complete and legible as-built drawings of such improvements. Upon making any changes or additions to such improvements, the permittee shall provide the administrator with as-built drawings showing such changes or additions.

H. Restoration. The administrator may require restoration and the posting of such security for restoration as he determines necessary. [Ord. 584 § 4, 2007; Ord. 349 § 5, 1992.]

16.04.020 Access permits.

A. The administrator may, without council action, issue access permits for the purpose of authorizing entry onto, and use of, city-owned property for exploration, survey, archaeological exploration and other uses of less than one year which are essentially nondestructive. Permits issued under this section shall be for such fees and under such terms and conditions as the administrator determines are appropriate.

B. For temporary use for a period of more than one year but not more than two years, the council may, by resolution in each specific case, authorize the city administrator to grant a permit to an applicant for the use of city lands. Such permit may be granted without appraisal of the value of the land or public auction of the permit, for any purpose compatible with the land use classification or zoning of such lands, and on such terms for such use as the council determines.

C. In the issuance of an access permit, the city may make expressly applicable to the permit such provisions from CMC 16.02.140 as the city deems appropriate. [Ord. 349 § 5, 1992.]

16.04.030 Timber and resource disposal.

A. The mayor may, with council approval, authorize the sale and disposal of resources on city land, including materials and structures, dead and down or diseased timber, for such fees and under such terms and conditions as he determines are appropriate. Materials and structures may be sold or disposed of only if the mayor and city council determine that there is little commercial value for the material or structure and the disposal is incidental to or consistent with a planned use of the property.

B. The council may, by resolution in each specific case, authorize the administrator to grant permits to applicants for the purpose of removing earth, stone, gravel, timber or other resources from such lands, in which event the payment due the city under the permit shall be based on fair market value of the materials removed. [Ord. 349 § 5, 1992.]

Chapter 16.05

DEFINITIONS

Sections:

16.05.010 Definitions.

16.05.010 Definitions.

In this title, unless otherwise specified:

“Appraised value” of a parcel being offered for sale or lease means the fair market value of the parcel as determined by the city assessor or other qualified appraiser, applying his best professional judgment to determine the value that would be paid in an arms-length transaction between a prudent buyer who is not obligated to buy and a prudent seller who is not obligated to sell;

“Classification” and “classify” mean the application of a general land use guideline to a particular piece of city-owned property outside of the municipal boundaries;

“Domicile” is the true and permanent home of a person from which he has no present intention of moving, and to which he intends to return whenever he is away;

“Land” or “lands” as used in this title includes the land and improvements of any nature made to or upon the land, unless the context clearly indicates otherwise;

“Preference right” has the same meaning as in AS 38.05.820; and

“Tidelands” means tide and submerged lands. [Ord. 349 § 5, 1992.]