Chapter 18.08 City Property Leases

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18.08.010 Definitions. For the purpose of the chapter the following words and phrases are defined as set forth in this section:
a. "Applicant" means a person applying to lease or use city property and includes bidders and proposers.
b. "Appraisal" means a valuation or estimation of value of property by disinterested persons of suitable qualifications.
c. "Assignment" means a transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein.
d. "Lease" means an agreement granting exclusive possession or use of city land and/or location for a specific period of time in accordance with specific terms.
e. "Sealed bid" or "sealed proposal" means a method of competitive bidding for a lease whereby each party interested in leasing city property submits a proposal in a sealed envelope and all such proposals are opened at the same time. The proposal most favorable to the City is selected for negotiation for a lease.
f. "Sublease" means a lease or rental executed by the lessee of an estate to a third person, conveying the same estate or a portion of it, for a term equal to or shorter than that for which the lessee holds it.
g. "Property Management Policy and Procedures Manual" means the manual adopted pursuant to §18.08.160. (Ord 92-10 (part), 1992).

18.08.020 Lease Committee. The City Council shall establish the formation of the Lease Committee and its duties by Resolution as reflected in the Property Management Policy and Procedures Manual. (Ord. 04-22, §1, 2004; Ord. 92-10 (part), 1992).

18.08.030 Approval of lease. a. No lease shall be executed until, the City Council has approved, with or without modifications, the Lease Committee's recommendation.
b. Except as provided in §18.08.175, the City Council may approve a lease of city land for less than fair rental value only if the motion approving the lease contains a finding that the lease is for a compelling public purpose or use, and a statement of facts upon which the finding is based.
c. The City Council gives the City Manager the authority to execute short term leases of 6 (six) months or less pursuant to the Property Management Policy and Procedures Manual.(Ord. 04-22 §2, 2004; Ord. 92-10 (part), 1992).

18.08.040 Property available for leasing. Unless dedicated or reserved to another purpose, all real property including tide, submerged or shorelands to which the City has a right, title and interest as owner or lessee, or to which the City may become entitled, may be leased as provided in this chapter. In the case of any conflict between this chapter and any regulations or other ordinances or state law specifically governing the leasing of city tide and submerged lands, the latter shall prevail. (Ord. 92-10 (part), 1992).

18.08.050 Qualification of applicants. An applicant for lease is qualified if the applicant is:
a. a natural person and is responsible, meaning the applicant has sufficient skill, experience and financial capability to perform all the obligations of the lessee under the proposed lease; and
b. a person who is at least nineteen years of age; or
c. a group, association or corporation which is authorized to conduct business under the laws of the State of Alaska. (Ord. 92-10 (part), 1992). 183 (Homer 06/04)

18.08.060 Application to lease. All prospective applicants for lease of city property shall file an application to lease with the City Clerk on a form available at the City Hall during regular business hours. No person may submit a bid or proposal on a city lease without having properly filed an application for lease in accordance with the guidelines incorporated in the Property Management Policy and Procedures Manual and paid all applicable fees. (Ord. 92-10 (part), 1992).

18.08.070 Terms of lease. a. The terms of a lease shall be recommended by the Lease Committee.
b. Terms of leases shall be negotiated taking into consideration the following factors:
1. nature of the proposed use;
2. type and cost of improvement to be placed upon the premises;
3. period of time required to amortize the improvements;
4. benefit to the City;
5.whether improvements are consistent with the comprehensive plan, Homer zoning ordinances and other city codes;
6. public needs and benefits;
7. other factors deemed relevant by the Lease; and
8. date of commencement and completion of improvements.
c. Determination of rent shall take into consideration the following factors:
1. appraisal or tax assessed valuation;
2. highest and best use of land;
3. development (existing and planned);
4. economic development objectives;
5. the location of the property; and
6. alternative valuation methodologies as negotiated by both parties.
d. All leases or memorandums of leases shall be recorded.
e. The lessee and the Lease Committee may negotiate all lease terms except those required by law. (Ord. 04-22, 2004; Ord. 92-10 (part), 1992).

18.08.080 Appraisal. a. An appraisal of the fair market value or fair rental value of the property will be required before the original approval of a lease and at the time of review and renewal. The appraisal can be made by an independent contractor or the Kenai Peninsula Borough Assessor as negotiated in the lease agreement.
b. The requirement of an appraisal may be waived at the discretion of the Lease Committee for leases for six months or less. (Ord. 04-22, 2004; Ord. 92-10 (part), 1992).

18.08.090 Requirements of the lessee. A proposed lessee shall provide, at its sole expense, the following unless waived by the Lease Committee in its discretion.
a. Property improvement plan. The proposed lessee shall submit a property improvement plan that includes a schedule for commencement and completion of proposed improvements.
b. Survey. The lessee shall submit a survey of the land lease after Homer City Council approval of the lease.
c. Plat. If only a portion of a lot is to be leased, the lessee shall cause a subdivision plat to be filed in accordance with Kenai Peninsula Borough subdivision requirements within ninety days after Homer City Council approval of the lease. (Ord. 04-22, 2004; Ord. 92-10 (part), 1992).

18.08.100 Improvements. a. Construction of improvements. Construction of improvements shall take place only after review and approval of the construction plans by the Lease Committee for consistency with the lease

agreement and after all applicable permits and legal requirements are secured.
b. Construction of improvements not consistent with the lease agreement. Any improvements not consistent with the lease agreement shall be construed only after having been reviewed and approved by the City Council after review and comment by the Lease Committee, the Port and Harbor Commission, the Planning Commission, and any other advisory commission determined to be appropriate by the Lease Committee.
c. Removal of improvements upon termination. The City Council standards for removal of improvements are set by Resolution, as reflected in the Property Management Policy and Procedures Manual. (Ord. 04-22, §3, 2004; Ord. 92-10 (part), 1992).

18.08.110 Lease option. The City may grant an option to lease property. The option shall contain the specific duration and terms as set forth in a request for proposal or as negotiated by the Lease Committee and approved by the City Council. The City may charge a non-refundable fee for the option and said fee may be equal to the fair rental value. (Ord. 04-22, 2004; Ord. 92-10 (part), 1992).

18.08.120 Sublease. a. City property may be subleased only if the lease agreement so provides and only with the consent of the City Council.
b. A sublease of city property shall be subject to Homer City Council approval and shall be in writing and executed by the parties. Any amendments to a sublease shall also be in writing and subject to City Council approval prior to becoming effective.
c. A lessee shall be assessed additional rent, equal to 10% of the current rent for the subleased area, upon approval of a sublease. (Ord. 11-25 §1 (part), 2011; Ord. 04-22, 2004; Ord. 92-10 (part), 1992).

18.08.130 Lease assignment. A lessee may assign a lease to another party subject to approval by the City Council and the procedures set forth in the Property Management Policy and Procedures Manual. (Ord. 92-10 (part), 1992)

18.08.140 Competitive bidding. The Lease Committee or the City Council may elect to require the submission of sealed bids to lease city property or facilities. The competitive bidding process shall be administered by the Lease Committee. The apparent successful bidder shall be selected to negotiate the terms of a lease, but shall have no right to a lease or any other property right until a lease is successfully negotiated, approved by the City Council, and signed by the parties. (Ord. 04-22, 2004; Ord. 92-10 (part), 1992)

18.08.150 Reconsideration. A lessee may request reconsideration by the Homer City Council of the terms of the lease within fifteen days of City Council action on the lease. The reconsideration procedures set forth in the Property Management Policy and Procedures Manual shall be applied in the event of a reconsideration. (Ord. 92-10 (part), 1992)

18.08.160 Property Management Policy and Procedures Manual. a. The City Council shall adopt by resolution a Property Management Policy and Procedures Manual. Leasing and use permits of City land and facilities shall conform to the manual except to the extent it shall be in conflict with this code or any relevant ordinance later adopted, in which case the provisions of this code and later ordinances shall prevail over the provisions of the manual.
b. The Property Management Policy and Procedures Manual may be revised by City Council resolution.
c. A copy of the Property Management Policy and Procedures Manual shall be available to the public during normal working hours at City Hall. (Ord. 92-10 (part), 1992)

18.08.170 Exceptions--Financing transactions. The procedures set forth in this chapter do not apply to sales, purchases or leases entered into by the City as a part of a financing transaction in which the City is acquiring or disposing of municipal property for municipal purposes through the use of lease/leaseback arrangements or the lease/purchase mechanisms. The formal procedure with respect to these financing leases and the related purchase and sale of land and interests in land shall be by an ordinance of the City Council authorizing the financing transaction. (Ord. 92-10 (part), 1992)

18.08.175 Exception--Leasing to the federal or state government. The City may license or lease any real property to the United States, the State of Alaska, a political subdivision of the state, or an agency of any of these entities, for consideration agreed upon between the parties without a competitive bidding process or otherwise complying with the provisions of HCC S 18.08.140, if the City Council determines the transaction is advantageous to the City. Such a transaction may be for less than fair rental value and without an appraisal unless otherwise directed by the City Council. Respecting such a license or lease, the Homer City Council, in its discretion, may waive any other requirements of Homer City Code, Chapter 18.08. (Ord. 92-10 (part), 1992)

18.08.180 Assessments; capital improvement Projects. a. A lessee of city property shall pay all real property special assessments levied and assessed against the property to the full extent of installments falling due during the term of the lease.
b. In the event the City completes a capital improvement project which directly benefits the leasehold property and no local improvement district is formed to pay the cost thereof, the City may, in its sole discretion, impose, and the lessee shall pay as additional rent, the leasehold property's proportionate share of the cost of the improvement. The amount of additional rent imposed annually by the City under this subsection shall not exceed the amount which would have been payable annually by the lessee if a local improvement district had been formed which provided for installment payments on a schedule and bearing interest at rates typical of other local improvement districts of the City for that type of capital improvement. (Ord. 92-10 (part), 1992)

18.08.190 Connection to utilities. A lessee of city property shall connect to city utilities and bear all costs of connections and adhere to all applicable local, state and federal regulations. Connections to newly installed city utilities shall be made as soon as possible after completion. (Ord. 92-10 (part), 1992)

18.08.200 Fee schedule. The fees for lease applications, lease fees, and assignment fees shall be established by the City Council from time to time by means of a resolution. (Ord. 92-10 (part), 1992)

[i] Prior ordinance history: Ordinances 92-04, 90-11, 87-1 and 86-34.

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