Chapter 18.28 Tidelands

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18.28.010 Regulations adopted. The City, pursuant to Section 38.05.320(b), Article 11, Chapter 05, Title 38, Alaska Statutes, as amended, adopts the following regulations governing the filing and processing of applications, publication of notices, determination of preference rights and the adjudication of disputes between claimants concerning tidelands, the title to which has been conveyed or hereafter may to the City by the State. (Prior code 21-100.1).

18.28.020 Adopting authority. These regulations are adopted by the City Council, pursuant to authority vested in

that body by Section 29.10.003, et seq., Article 1, Chapter 10, Title 29, and by Section 38.05.320 (b), Article 11, Chapter 05, Title 38, Alaska Statutes, as amended. (Prior code 21-100.3).

18.28.030 Scope. All tide and contiguous submerged lands within or seaward of the boundaries of the City (except those provided for hereafter) from the meander line as established on ATS 612 and seaward to a line agreed upon by the City and the State and shown on ATS 612. These regulations pertain to the use and disposal of City-owned tide and contiguous submerged land. The regulations may be referred to as the City of Homer Tideland regulations. (Prior code 21-100.2).

18.28.040 Application of State Law. These regulations implement, interpret and apply the provision of the Alaska Land Act concerning use and disposal of tidelands and related matters and extend to and include the applicable provisions of Public Law 85-303 (31 Stat. 623). (Prior code 21-100.4(part).)

18.28.050 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings set forth below:
1. Generally. The following are rules of grammar and construction:
i. Headings of parts and sections of these regulations are not a part of the regulations and are inserted for convenience only.
ii. The singular number includes the plural.
iii. The masculine gender includes the feminine and the neuter.
2. "Accretion" means the gradual and imperceptible addition of new land to old by the natural deposition of sediments, i.e., sedimentation.
3. "Act" means the Alaska Land Act as now constituted or as hereafter amended.
4. "Apportionment survey cost" means that cost prorated to each subdivided tide and submerged land tract.
5. "City" means the City of Homer.
6. "Class I preference right" shall be extended to persons who occupied and developed tide and contiguous submerged lands seaward of the City of Homer on and prior to September 7, 1957, after executing a waiver to the State and the City of all rights such occupancy may have pursuant to Public Law 85-303. Upon execution of the waivers, such persons, or their successors in interest, have the right to acquire such occupied and developed tide and contiguous submerged land from the City for a consideration not in excess of the cost of survey, transferring and conveying title.
7. A "Class II preference right" shall be accorded to Class I preference right claimants who refuse to execute a waiver to the State and City of any rights such occupants may have acquired pursuant to Public Law 85.303. It shall be mandatory for the City to honor the application from the occupant after the Secretary of the Army has submitted to the Secretary of the Interior, the Governor of the State and the City Manager maps showing the pierhead line established by the Corps of Engineers with respect to the tract granted.
8. "Class III preference right" means the preference right extended to persons who occupied and developed tidelands after September 7, 1957, and who continued to occupy the same on January 3, 1959. Such persons, or their successors in interest, have the right to acquire such occupied and developed tidelands for a consideration not in excess of the cost of appraisal, administering and transferring, plus the appraised fair market value thereof, exclusive of any value occurring -from improvements or development, such as fill material, building, or structures thereon.
9. "Coast line" means the line of ordinary low water along any port-Lon of City tidelands and is the line marking the seaward limit of inland waters.
10. "Commissioner" means the Commissioner of the Department of Natural Resources of Alaska.
11. "Director" means the Director of the Division of Lands of the Department of Natural Resources.
12. "Divisions' means the Division of Lands within the Department of Natural Resources.
13. "Fair market value" is defined as the highest price, described in terms of money, which the property would bring, if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.
14. "Fill" means earth, gravel, rock, sand, or other similar materials placed upon tide or contiguous submerged lands for the purpose of elevating the lands above the high water line for a specific useful purpose. The placement of earth, gravel, rock, sand, or other similar materials on tide or contiguous submerged land solely for the purpose of spoils disposal and thereafter abandoned and not used for any beneficial purpose shall not be considered fill.
15. "Final tideland plat"' means that survey plat compiled of the tide and submerged lands under the direction and authority of the Division of Lands and the City that shows the subdivision of the tide and submerged lands and upon which each subdivided tract is identified by a letter and a number.
16. "Harbor line" is defined as that line fixed by the Secretary of the Army which is the limit to which piers, wharves,

bulkheads, or other work may be extended in navigable waters without further authorization.
17. "Improvements" means buildings, wharfs, piers, dry docks, and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreation, residential, or other beneficial uses or purposes. In no event shall f4 11 be considered a permanent improvement when placed on the tidelands solely for the purposes of disposing of water or spoils. However, fill material actually utilized for beneficial purposes by the applicant shall be considered a permanent improvement.
18. "Land" means all tide and submerged lands under the jurisdiction of the City.
19. "Mean high tide" means the tidal datum plane of the average of all the high tides as may be or has been established by the United States Coast and Geodetic Survey. "Mean high water line" shall be interpreted as the intersection of the datum plane of mean high water with the shore.
20. "Mean low water" means the tide datum plane of the average of the low tides as has or may be established by the United States Coast and Geodetic Survey.
21. "Mean lower low water" means the tidal datum plane of the average of the lower of the two low waters of each day as has or may be established by the United States Coast and Geodetic Survey.
22. "Natural resources" includes, without limiting the generality thereof, oil, gas and all other minerals, but does not include fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine, animal and plant life, or water power, or the use of water for the production of power.
23. "Occupant" means any person as defined herein, or his successor in interest, who actually occupied for any business, residential, or other beneficial purpose, tidelands or tidelands and submerged lands contiguous thereto, within the corporate boundaries of the City on or prior to January 3, 1959, with substantial, permanent improvements. The holder of a permit of clearance in respect to interference with navigation, or of a special use permit from a government agency will not qualify as an occupant unless such entry on the land had, through exercise of reasonable diligence, resulted in actual occupancy and substantial permanent improvements, as hereinafter mentioned. No person shall be considered an occupant by reason of having:
i. Placed a fish trap in position for operation or storage upon the tide, shore, or submerged land;
ii. Placed a setnet or piling therefor, or any other device or facility for the taking of fish; iii. Placed piling or dolphins for log storage or other moorage;
iv. Placed floats or vessels upon the tide, shore or submerged land;
v. Placed telephone, power, or other transmission facilities, roads, trails, or other improvements not requiring exclusive use or possession of tide or contiguous or submerged land; or
vi. Claimed the land by virtue of some form of constructive occupancy. Where land is occupied by a person other than the owner of the improvements thereon, the owner of the improvements shall, for the purposes of these regulations, be considered the occupant of such lands.
24. "Occupied" or "Developed" means the actual use, control, and occupancy, but not necessarily residence, of the tide and contiguous submerged land by the establishment thereon of substantial permanent improvements.
25. "Permit preference" means that privilege of the upland owner to acquire first choice over other nonpreference right-- claimants to a permit for like use and enjoyment of the City owned tide or contiguous submerged lands abutting his property.
26. "Person" means any person, firm, corporation, cooperative association, partnership, or other entity, legally capable of owning land or an interest therein.
27. "Pierhead line" means a line fixed by the Corps of Engineers of the Department of the Army that is parallel to existing line of mean low tide at such distance offshore from the line of mean low tide that the pierhead line shall encompass, to the landward, all stationary, manmade structures (but shall not encompass any part of breakwaters, bridges, or piers used for vessel dockage which part extends beyond such a parallel line marking the seaward extremity of other manmade structures) which were in existence as of February 1, 1957, to seaward of the City.
28. "Preference right" subject to the classification thereof established hereafter, means and includes the right of an occupant to acquire by grant, purchase, or otherwise, at the election of the occupant, except as otherwise limited or prescribed in these regulations, any tract or tracts of tideland, or tideland and submerged land contiguous thereto, occupied or developed by such occupancy on and prior to January 3, 1959.
29. "Reclaimed or constructed tided or contiguous submerged lands" means those lands resulting by purposeful filling of tide or contiguous submerged lands.
30. "Shore lands" means all lands which are covered by nontidal waters that are navigable under the laws of the United States up to ordinary high water mark as heretofore or hereafter modified by natural accretion, erosion or reliction.
31. "Submerged lands" means those land covered by tidal waters between the line of mean low water and seaward to a distance of three geographical miles, or as may hereafter be properly claimed by the City.
32. "Substantial permanent improvement" shall for these regulations have the same meaning as "improvements" as defined in this section.

33. "Tidelands" means those land which are periodically covered by tidal waters between the elevation of mean high and mean low tides.
34. "Tideland review committee" means that committee appointed by the City Council to decide on matters pertaining to the administration, adjudication and disposal of tideland preference right applications.
35. "Upland owner" means that owner whose upland property abuts the line of mean high tide.
36. "Waste or injury to land" means the disturbance of ground cover, damage to vegetation, littering or dumping of waste, removal of or damage to any material from a berm, or use of a vehicle in areas designated as prohibited to vehicles. (Ord. 01-38, 2001; Prior code 21-100.4 (part).)

18.28.060 Ownership. Except as otherwise provided herein, the City, by virtue of Section 47-2B-35 (3) ACLA, 1959 Supp. and tideland Patent No. 271 issued 12/09/74, recorded in Vol. IV and any other patents hereafter issued to it, reserves and has succeeded to all right, title and interest of the State of Alaska in tide and submerged lands lying seaward of the City, including lands, improvements, reclaimed lands, or natural resources in all lands up to the original GLO meander line and seaward of the corporate city limits of Homer, Alaska to the Director's line as defined in said Tidelands Patent No. 271, or on any succeeding patents; provided, however, that those lands and rights therein lawfully vested in others by Acts of Congress prior to January 3, 1959, shall not be infringed upon and provided further that title to natural resources therein shall be reserved to the State of Alaska until such time as the State may convey such title to the City. (Ord. 01-55, 2001;Prior code 21-100.5)

18.28.070 Protection of fish and game. Prior to any construction of development by any persons or governmental agency that will use, divert, obstruct, pollute or utilize any of the waters of the State of materials from such water areas, the Commissioner of the Alaska Department of Fish and Game shall be notified and a letter of approval obtained by the applicant pursuant to Chapter 94, Article 1, Section 31, SLA 1959, as amended. (Prior code 21-100.6).

18.28.080 Herring spawn covenant. The lease or sale of any City tide and submerged lands shall contain a restrictive covenant pursuant to Chapter 10, Article 4, Section 16.10.160, Title 16, Alaska Statutes, as now or as hereafter amended. (Prior code 21-100.7).

18.28.090 Reservations. Each and every contract for the sale, lease or grant of, and each deed to City tide and contiguous submerged land, properties or interest therein, made under the provisions of this chapter, shall be subject to a reservation to the City or to the State, whichever shall be entitled thereto, which shall be substantially in the following form:

"The party of the first part, City, hereby expressly saves, excepts and reserves out of the grant hereby made unto itself (or to the State of Alaska) its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, (or to the State of Alaska), its lessees, successors, and assigns forever the right to enter by itself, its or their agents, attorneys and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipe lines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as foresaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved. (Prior code 21-100.8).

18.28.100 Damages. No rights shall be exercised under the foregoing reservation, by the City or the State or their lessees, successors or assigns, until provision has been made by the City or the State or their lessees, successors, or assigns, to pay to the owner of the land, upon which the rights, reserved in this chapter to the City or the State or their lessees, successors, or assigns, are sought to be exercised, full payment for all damages sustained by the owner by reason of entering upon the land; provided, that if the owner for any cause whatsoever refuses or neglects to settle the damages, the City or the State or their lessees, successors, assigns, or any applicant for a lease or contractfrom the City or the State for the purpose of prospecting for valuable minerals or option contract or

lease for mining coal, or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the City Council or the Director, as the case may be, in a company qualified to do business in Alaska and in a form as determined by the City Council, or the Director, as the case may be, after due notice and opportunity to be heard, to be sufficient in amount and security to secure the owner full payment for all such damages, to enter upon the land in the exercise of the reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer. (Prior code 21-100.9).

18.28.110 Federal priority. The following tidelands and tide and contiguous submerged lands are reserved pursuant to Section 3, Public Law 85-303, (71 Stat. 623) 1957:

All tracts or parcels of land, together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from the Territory or State of Alaska or from any party in whom title has vested under the laws applicable to the Territory or State, or the law of the United States, all lands expressly retained by or ceded to the United States, all land acquired by the United States by gift or by proceedings under eminent domain, all lands filled in, built up, or otherwise reclaimed by the United States for its own use as long as so used, and any rights that the United States has in lands presently and actually occupied by the United States under claim or rights. (Prior code 21-100.10).

18.28.120 Navigational authority. The City shall have authority pertaining to the construction and placement by itself or by others of solid fill and/or open pile structures that will extend to the harbor line as established by the U. S. Army, Corps of Engineers, except as provided in Section 10 and 11 of the River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403 and 404). (Prior code 21-100.11).

18.28.130 Final tideland plat--Survey proportionment cost. a. The final tideland survey plat showing completed subdivision and monumentation and signed by the City Manager nd the Director shall be known as Final Tideland Plat ATS 612. The final plat shall serve as the basis upon which all tideland preference right disposals shall be made.
b. The survey cost of each preference right tract shall be computed by multiplying the total square feet of the preference right tract by a square foot cost factor to be established by the City Council with concurrence of the Director of the Division of Lands. (Prior code 521-100.12).

18.28.140 Notice and posting. Tideland and contiguous submerged lands as well as any material therefrom owned by the City shall be sold, granted, leased or otherwise disposed of only through action of the City Council. No land or material in the tidelands shall be sold, granted, leased or otherwise disposed of until Council has received a recommendation thereon from the City Manager. Before such lands or any interest therein is disposed of the City Clerk shall post a notice for three consecutive weeks preceeding the time of disposal as stated in the notice, in at least two common posting places; provided the sale, lease, or disposal of lands shall be held not less than one week nor more than three weeks following the last date of the posted notice. The notice shall set forth the following:
a. The name and address of person, persons, corporation or agencies requesting the sale, grant, lease or interest therein;
b. The location and description of the lands or interest therein and the improvements thereon;
c. The preference or preference right claimed, if any, and the length of time including dates the claimant occupied the land;
d. The date, time and place, and the general terms, including the minimum bid, if any, of the sale, lease, or other disposal;
e. The dates of the advertisement or posting. (Prior code 21-100.13).

18.28.150 Protest. Anyone may file a protest with respect to the grant, sale, lease, or other disposal of tidelands or materials thereon or therein. Such protest shall be in writing and contain a statement as to the nature and reason for the protest. Each protest so made shall be filed with the City Clerk during but not later than the last date provided in the disposal notice. The party protesting shall be required to notify by registered or certified mail the party whose action he is protesting. The postmark date of the addressee's post office will govern. Failure to protest shall constitute a waiver. (Prior code 521-100.14).

18.28.160 Review of protest. The City Clerk shall, upon receiving a protest, indicate upon it the time and date received, then submit it to the City Manager, who shall review the protest. The City Manager shall, upon review, submit his findings to the City Council. The City Council shall notify the protestant of their findings within thirty days of the date the protest was received by the City Clerk. (Prior code 21-100.15).

18.28.170 Deposit. The City Manager may require applicants to deposit with the City Clerk a sum sufficient to cover all, or any portion of, anticipated costs of appraisal and/or advertisement. The deposit shall be made within thirty calendar days after request for deposit. Failure to comply shall result in cancellation of the application. Any sum above the actual cost shall be returned to the applicant. In the event the land applied for is disposed of to otherthan the applicant within thirty days after offering, the successful applicant shall- be required to pay any survey, appraisal or advertising cost and the original deposit will be returned to the depositor. If the depositor cancels hisapplication, or fails to accept the contract or title when offered by the City, the deposited money shall be forfeited but if the City does not grant the application, all sums in excess of costs incurred shall be refunded. It shall be the responsibility of the City following the receipt of any deposit required to perform or have performed any appraisal, and/or advertisement, required or deemed necessary. (Prior code 21-100.16).

18.28.180 Site examination. The City, through its authorized representative, shall have the right to enter upon any City held tidelands that are leased, or upon which a permit was granted, to make any and all examinations or investigators that are deemed necessary. (Prior code 21100.17).

18.28.190 Time for filing applications--Loss of preference rights. An occupant claiming a Class I, Class II, or Class III Preference Right may make, and the City will accept, applications for preference rights at any time during normal working hours within two years from the effective date of the ordinance adopting these regulations. Any preference right for which an application is not filed within this period shall be lost. (Prior code 21-100.18).

18.28.200 Waste or injury to land. It is unlawful for any person to commit waste or other injury upon City-owned tideland and contiguous submerged land and the person so offending shall, in addition to being civilly liable for any damages caused, upon conviction be punished in accordance with Section 1.16.010. (Prior code 521-100.19).

18.28.210 Additional tide and submerged land. In approving any application for a preference right, the City shall include as part of the tract conveyed, and in addition to the occupied or developed lands, such additional tide and contiguous submerged lands as shall be reasonably necessary in the opinion of the Tidelands Review Committee for the occupant's use and enjoyment of the occupied or developed land. Provided, however, that any such conveyance shall not include an area which would unjustly deprive any other applicant from reasonable use and enjoyment of the lands for which he applies or any area which would interfere with navigation. (Prior code 21-100.20).

18.28.220 Preference right application. All persons claiming a preference right to any tideland tract shown on the final tideland plat ATS 612 shall submit an application to the City Clerk on a form approved by the Tideland Review Committee. (.Prior code 21-100.21).

18.28.230 Preference right application--Approval or disapproval. a. Each complete preference right application submitted to the City Clerk shall be forwarded to the Tideland Review Committee. The Tideland Review Committee through its Chairman may request the applicant to submit additional information or proof of ownership as deemed necessary.
b. The Tideland Review Committee shall within sixty days from the date the application is received by the City Clerk notify the City Manager of their approval or disapproval of the application.
c. If the application is approved, the Tideland Review Committee shall notify the City Manager of all moneys owed the City by the applicant which pertains to the tideland application and he shall then recommend that a resolution be passed conveying said tract to the applicant.
d. If the application is not approved, or if it is determined that the applicant possesses a different preference right than that claimed, the Tideland Review Committee shall so notify the applicant by registered mail and state their reasons for disapproval. The Tidelands Review Committee shall then advise the City Manager. (Prior code 21-100.22).

18.28.240 Payment--Class I Preference Right. Upon approval of each Class I Preference Right Application, the Tideland Review Committee shall notify the applicant of all moneys owed the City pertaining to the tideland application, including, but not limited to, the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in Section 18.12.130. Upon receipt of notice from the Tideland Review Committee, the applicant shall have thirty days to make payment or enter into a Purchase Agreement as set forth in Section 18.12.320. If payment is not made, or a Purchase Agreement is not entered into within the thirty day period, the application shall be voidable at the City's option. (Prior code 21-100.23).

18.28.250 Payment--Class III Preference Right. Upon approval of each Class III Preference Right application, the Tideland Review Committee shall notify the applicant of all moneys owed the City pertaining to the tideland application including, but not limited to, the fair market value of the tideland tract and the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in subsection (b) of Section 18.12.130. If payment is not made, or a Purchase Agreement is not entered into within the thirty day period, the application shall be voidable at the City's option. (Prior code 21-100.24).

18.28.260 Appeal. Any action taken by the Tideland Review Committee may be appealed to the City Council. The City Council shall render their decision within sixty days from the date the appeal is submitted. Any person shall have the right to appeal in person before the City Council or present his views in writing or be represented. (Prior Code 21-100.25).

18.28.270 Appeal form. Any appeal submitted to the City Council must:
a. Be filed within thirty days after receipt of notice of the action by the Tideland Review Committee;
b. Be filed at the office of the City Clerk;
c. Specify the action or actions to be reviewed by the City Council;
d. Specify the grounds urged for the reversal or modification of the action. (Prior code 21-100.26).

18.28.280 Finality of decision. The City Council shall within sixty calendar days after receipt of the notice of appeal render their decision which shall be final so far as the City of Homer is concerned, but without prejudice to any other remedy or remedies the applicant may have. (Prior code 21-100.27).

18.28.290 Appraisal. Appraisal of the tract shall be made by a qualified appraiser to be appointed by the Tideland Review Committee. Such appraisal to be made on the basis of fair market value of the tidelands exclusive of any value resulting from improvements or developments, such as fill material, buildings, or structures thereon. (Prior code 21-100.28).

18.28.300 Cost of appraisal. The cost of the appraisal shall be borne by the applicant with the fee to be determined by the Tideland Review Committee. (Prior code 21-100.29).

18.28.310 Appraisal deposit. Each Class III Preference Right claimant shall deposit with the City Clerk the sum of fifty dollars to cover the cost of appraisal. Any amount exceeding this shall be charged to the applicant and any surplus shall be returned to him. (Prior code 21-100.30).

18.28.320 Purchase agreement--Terms. Persons eligible to receive tideland conveyance from the City may enter into a purchase agreement. Purchase agreements shall require the applicant to pay to the City according to a payment schedule that shall be agreed upon between the purchaser and the City. However, in no event shall the final payment under the agreement be made beyond March 31, 1974. (Prior code 521-100.31).

18.28.330 Purchase agreement--Not applicable. Purchase agreements shall be allowed for only the payment of the fair market value of the tideland tract and for the proportionment cost of survey. (Prior code 21-100.32).

18.28.340 Independent survey. If two or more qualified Preference Right claimants agree to a boundary relocation, approval of the Tideland Review Committee and concurrence of the Director of the Division of Lands must be obtained by letter. All independent surveys shall be performed by a registered engineer or surveyor and the total cost shall be borne by the claimants. The final plat shall conform to the requirements of the State of Alaska Tideland Regulations and shall not be considered final until approved by the Tideland Review Committee and concurred in by the Director of the Division of Lands. (Prior code 21-100.33).

18.28.350 Conveyance of title. When all requirements have been satisfied by the applicant, the City Council shall direct the City Clerk to convey title. (Prior code 21-100.34).

18.28.360 Nonpreference right tidelands. When in the best interest of the City, the City Council may grant leases or permits for the use of City-owned tidelands. (Prior code 21-100.35).

18.28.370 Tideland leases. City-owned tide and submerged land shall be leased in accordance with the Charter of the City. In addition to any requirements there set forth, the applicant shall submit a development plan that shall state:
a. The purpose of the proposed construction or improvement;

b. The type of construction;
c. The date construction will begin and the estimated date of completion;
d. And any other data, survey plats or information deemed necessary by the City Manager. (Prior code 21-100.36).

18.28.380 Tideland permit. The City Council may issue permits for the use and/or improvement of City-owned tidelands. Council shall give such preference to the use of the land as will be of greatest economic benefit to the City, provided that first preference shall be granted to the upland owner over other nonpreference applicants for the use of tideland and contiguous submerged land seaward of the upland property and which is needed by such owner for the purpose or purposes for which it may be granted. (Prior code 21-100.37).

18.28.390 Tideland permit--Application. Application for a tideland permit shall be submitted to the City Manager. The City Manager shall submit the application to the City Council for their approval or disapproval. Whereupon, Council may, with or without a public hearing or posted notice, grant or reject the requested permit. (Prior code 21-100.38).

18.28.400 Tideland permit--Duration of permit. a. Permits issued shall not exceed five years in duration, but are renewable at the option of the City Council. All permits shall be revocable when used contrary to the conditions under which they are granted, or when Council in its judgment determines that the best interest of the City would be served by revocation. If any permit expires or is revoked, all improvements placed on the tide or contiguous lands shall be removed by the permittee within sixty days. Provided, however, that the City Manager may extend the time for removing such improvements in cases where hardship is shown. A permittee may, with the consent of the City Manager, sell his improvements to any succeeding permittee.
b. Any improvements or chattels having an appraised value in excess of ten thousand dollars which are not removed within the time allowed, shall be sold at public sale and the net proceeds thereof, if any, paid to the permittee after paying all expenses of the sale and charges due to the City. If there be no other bidders, the City may bid on the property for the total amount of permittee's indebtedness to the City. Any improvements having a value of less than ten thousand dollars which are not removed within the time allowed, shall revert to and become the absolute property of the City. (Prior code 21-100.39)

18.28.410 Permits--Rights-of-way and easements. Permits may be issued by the City Manager and after approval by City Council for utility lines and services of all types and for necessary rights-of-way. Such permits shall be revocable at the option of the city. (Prior code 21-100.40)

18.28.420 Disposal of material. Applications for the free use or the purchase of material on City-owned tidelands or contiguous submerged lands shall be submitted to the City Manager and he shall present his recommendations to the City Council and the City Council shall determine the conditions of disposal; provided that when such disposals are deemed not in the best interest of the city, the City Council shall reject the application. (Prior code 21-100.41)

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