

CITY OF HOMER, ALASKA
ORDINANCE NO. 90-11

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF HOMER, ALASKA,
AMENDING TITLE 18 OF THE HOMER CITY CODE
RELATING TO THE ACQUISITION, MANAGEMENT AND DISPOSAL OF
CITY REAL PROPERTY

THE CITY OF HOMER ORDAINS:

Section 1. Chapter 18.04 of the Homer City Code, entitled Municipal Property Management--Generally, is hereby repealed.

Section 2. A new Chapter 18.02 of the Homer City Code, entitled Municipal Real Property--Generally, is hereby created to read as follows:

18.02.010 Purpose. Chapters 2, 6, 8, 12, 16 and 28 of this title govern the acquisition, management and disposal of City real property.

18.02.020 Definitions. For the purposes of this title, the following words and phrases shall have the meaning set forth below unless a different meaning is specifically defined for the purposes of any chapter of this title:

a. "Fair market value" means the highest price estimated in terms of money, which the property would bring if exposed in the open market for a reasonable time, from a purchaser, who is willing, but not obliged, to buy the property from an owner willing, but not obliged, to sell it, both being fully informed of all the purposes for which the property is best adapted or could be used.

b. "Fair rental value" means that rental, estimated in terms of money, for which the property would rent, if exposed for rent for a reasonable time in the open market for the uses permitted by and under the terms required by the City.

c. "Real property" includes any estate in land, easement, right-of-way, lease, future interest, building, fixture, or any other right, title or interest in land or buildings.

18.02.030 Dedication; acceptance; maintenance. Dedications of streets, alleys, rights-of-way, easements, thoroughfares, parks and other public areas to public use shall not obligate the City to maintain, improve, or provide for municipal services in the area dedicated nor shall the dedication impose any liability on the City for the condition of the area dedicated, unless the dedication is accepted by resolution of the City Council setting forth the extent to which the City accepts the obligation to maintain, improve or provide for municipal services in the area dedicated.

18.02.040 Federal and State aid. The City may apply for, contract, and do all things necessary to cooperate with the United States Government and the State of Alaska for the acquisition, holding, improvement or development of real property within and outside the City boundaries.

18.02.050 Real property as security. The Council may pledge, mortgage, or otherwise secure City real property for the payment of city bonded or other indebtedness when required, as authorized by law.

18.02.060 Adverse possession--City immunity. The City cannot be divested of title to real property by adverse possession.

Section 3. A new Chapter 18.06, entitled Municipal Property Acquisition, is hereby created to read as follows:

18.06.010 Real property acquisitions, authority.

a. The City may acquire, own and hold real property within or outside the City boundaries by any lawful means or conveyance, and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the City were a private person.

b. The City may acquire real property by exercise of the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the City in accordance with AS 09.55.240 through AS 09.55.460.

18.06.020 Real property acquisitions, form; procedure. a. The City may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of the City. The form of any conveyance shall be approved by the City Attorney prior to execution.

b. Unless otherwise provided by Council, the City shall purchase marketable title in the real property. Unless otherwise provided by resolution or upon council approval of a purchase, the City Manager is authorized to obtain title insurance, to execute any instruments and to take all steps necessary to complete and close the purchase and acquisition of the real property.

c. Prior to any acquisition subject to Section 18.06.030, the City Manager shall furnish the Council with a title report, the Borough tax assessment value or an appraisal of the real property, and a review of any problems in acquisition,

but the failure to furnish the Council any such material shall not affect the validity of any acquisition or purchase of real property by the City.

18.06.030 Real property acquisition--Council approval. In addition to any other Council action that may be required by law or this Code with regard to real property acquisition by the City, the following shall be subject to Council approval:

- a. All acquisitions of real property, except:
 1. Acquisitions for which the specific location is identified and specifically authorized for purchase under an approved capital improvement budget;
 2. Acquisitions of rights-of-way or easements incidental to a construction project which has been approved by the council;
 3. Acquisitions by foreclosure or by judicial proceedings or settlements other than proceedings in eminent domain;
 4. Acquisitions pursuant to the selection of State lands under the provisions of AS 29.65.010, et seq.;
 5. Acquisitions by the dedication of any interest in property in connection with the approval of a subdivision plat; however, the City's obligations with respect to such dedications are subject to Section 18.02.030.
- b. The institution of eminent domain proceedings on behalf of the City, except that in an emergency where the public interest so requires, the City Manager may institute eminent domain proceedings without Council approval, informing the Council thereof and the justification therefor as soon as practicable.

18.06.040 Real property acquisition--acceptance by City Manager. No conveyance of real property to the City shall be effective until accepted in writing by the City Manager or his designee; provided, that no such acceptance shall be required to perfect a property interest in lands:

1. Acquired by foreclosure or by judicial proceedings or settlements including proceedings in eminent domain;
2. Acquired pursuant to the selection of state lands under the provisions of AS 29.65.010 et seq.;
3. Acquired through the physical appropriation of lands by an act giving rise to a finding of inverse condemnation.
4. Acquired through the dedication of any interest in property in connection with the approval of a subdivision plat; however, the City's obligations with respect to such dedications are subject to Section 18.02.030.

18.06.050 Exemption from competitive bidding. Because of the unique nature of real property, the City need not acquire real property by competitive bidding.

18.06.060 Multi-year contracts. The City may acquire real property over a term extending beyond the current fiscal year:

a. For capital improvements: by a contract involving debt if authorized by the City Council and ratified by a majority of those qualified to vote and voting on the question at a City election; or

b. For any public purpose: by a contract not involving debt and not requiring funds from future appropriations, which shall mean a contract:

1. Under which the city's performance during succeeding fiscal years shall be subject to the availability of funds lawfully appropriated therefor; and

2. As to which the seller's only security for payment of the acquisition price is the real property being acquired, without recourse against the City or any other City assets.

18.06.070 Lease-purchase agreements. The City may acquire real property by a lease-purchase agreement under Section 18.06.060, which shall mean an agreement:

a. under which the City pays rent for the use of the real property; and

b. which grants the City an option to purchase the real property; and

c. which allows the City to apply all or part of the rent payments to the purchase price of the real property.

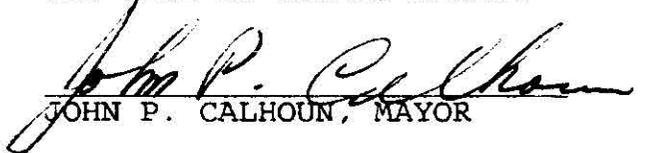
Section 4. Chapter 18.16 of the Homer City Code is hereby repealed.

Section 5. Subparagraphs b. and c. of Section 18.08.010 of the Homer City Code are hereby repealed.

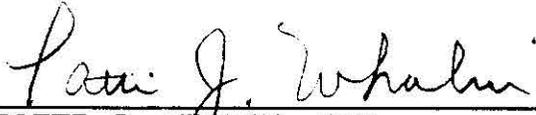
Section 6. Section 18.12.020 of the Homer City Code is hereby amended to delete the reference to "Section 18.04.020" and to add in its place a reference to "Section 18.02.020".

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,
this 25th day of June, 1990.

THE CITY OF HOMER, ALASKA

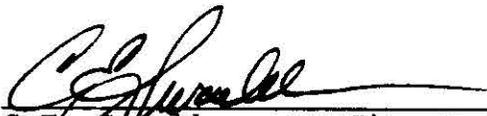

JOHN P. CALHOUN, MAYOR

ATTEST:


PATTI J. WHALIN, CMC
CITY CLERK

First Reading: 5/14/90
Public Hearing: 6/11/90
Second Reading: 6/25/90
Effective Date: 6/26/90

Review and approved as to form and content:


C.E. Swackhammer, City Manager
Date: _____

Gordon J Tans, Perkins Coie
Date: _____