



City of Homer

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Memorandum 18-076(A)

TO: Mayor Zak and Homer City Council
FROM: Katie Koester, City Manager
DATE: June 6, 2018
SUBJECT: Memo to clarify proposed changes to Ordinance 18-16 by City Attorney and Port and Harbor Commission

The purpose of this memo is to provide an overview of the proposed changes before you in Ordinance 18-16(S) both by the City Attorney and the Port and Harbor Advisory Commission who has spent 2 meetings reviewing the Ordinance.

Changes from the Attorney:

Ordinance 18-16(S) before you includes changes recommended by the City Attorney that provide clarity and are detailed in the track changes /notes version of 18-16(S) in the packet. These changes will be adopted by adoption of the substitute.

Changes from the Port and Harbor Commission:

Amendments proposed by the Port and Harbor Commission are *not* included in the substitute (Ordinance 18-16(S)) and will need to be adopted by Council by motion by referencing the items below. Memo 18-059 details recommendations from the Port and Harbor Commission from their March meeting and Memo 18-075 their May meeting. Please keep in mind the exact line references in the memos may be off given they were working from different versions. Use sections of code instead of line number as a reference. The changes they proposed are summarized below.

1. Reinstating the annual adjustment of leases based on the Anchorage Consumer Price Index.

Add new subsection 18.08.075(f) **Lease amount to be adjusted annually based on the Anchorage Consumer Price Index.**

Delete in title following 'commissions,' ~~REMOVING THE REQUIREMENT THAT ALL LEASES MAY BE INCREASED TO REFLECT INFLATION AS DETERMINED IN THE CONSUMER PRICE INDEX~~

2. Requiring the terms of the lease to remain the same with the transfer of the lease.

Upon further clarification with the sponsor of the amendment, staff recommends adding the language below to section 18.08.160(e) to achieve the intent of the amendment, 'to keep the same business as was conducted by the previous owner' (minutes from April 25 Port and Harbor Commission meeting).

Amend 18.08.160 (e):

(e) Where a lessee intends to assign the lease as part of a sale of the business located on the leased lot, the person who intends to purchase the business may apply to extend the lease term to allow the continuation of the business and to secure financing for the purchase of that business. **Any significant changes in the terms (use) of the existing lease must be reviewed by the Port and Harbor Commission and approved by City Council by Resolution as an amendment to the lease.**

3. Clarify that an appraisal is required at time of lease transfer in addition to new leases. Allow an appraisal to serve as valid if it was done within 2 years of time of renewal of a lease (up from place holder of 1 year proposed by City Attorney). Allow flexibility in the appraisal schedule to allow for cost savings by clustering appraisals.

Amend 18.08.100(a-c):

- a. An appraisal of the fair market rent of the property will be required before final approval of a **new lease or the transfer of a lease** and within **two years** ~~one year~~ prior to **the renewal of a lease** ~~renewal~~.
- b. The requirement of an appraisal may be waived at the discretion of the City Manager for short-term leases.
- c. All leased properties shall be appraised every five years from the effective date of the lease. **The City may choose to have the property appraised at less than five year intervals in order to appraise multiple properties at one time.**

4. Clarifying the language regarding the length of time allowed for options to renew in a lease in 18.08.110(a).

Amend 18.08.110(a):

- a. Leases may contain no more than two options to renew and each option must **not exceed** ~~be for less than~~ 25% of the length of the initial lease term.

Attachments

Memorandum 18-059 from Port and Harbor Advisory Commission

Memorandum 18-075 from Port and Harbor Advisory Commission