



City of Homer

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Memorandum 21-004

TO: ROB DUMOUCHEL, CITY MANAGER

FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER

DATE: DECEMBER 31, 2020

SUBJECT: ORDINANCE 21-02 SUBLEASES

Subleases, and the businesses that utilize them, generate and grow the tax base benefit for the City, Borough, and State. It's in the City's best interest if City Code supports and encourages the growth of business and equally supports all conditions allowed under the City code and land use requirements. Currently, Homer City Code (HCC) 18.08.140 requires property lessees to pay 10% of any additional rent earned from a sublease.

Currently, as the Harbor has gained experience with implementation of this aspect of the City Harbor leasing requirements, it has been found not to have been an effective tool to promote the leasing goals embedded in Title 18. Instead, the deletion of the sublease premium and the delegation of authority to the Administration to approve subleases should promote the purposes of HCC 18.05.005, "that the lease of City-owned property maximizes the value of City assets and that the City awards leases that provide the highest and best use of City owned property". It should also promote the additional code purpose that "the City to lease its property in a fair and nondiscriminatory way".

Current administrative experience- includes:

- 1) **MONITORING AND ENFORCEMENT ISSUES.** Currently, there are no agencies outside the City that track subleasing within City limits other than the KPB tax assessment office. Sublease tracking is a self-reporting program which assumes the lessee of a City lease property chooses to report their sublease activity. City staff are only aware of subleases that are self-reported or noticed through visual inspection of the property, making it difficult to ensure that enforcement of the subleasing conditions are evenly and fairly applied to all lessees.
- 2) **ADMINISTRATIVE EXPEDIENCY.** Given the seasonality and short term use that often takes place with subleasing, it is not practical to expect that subleases would have to be approved by Council as per the current code. Staff's limited ability to track and enforce the code as written for small subleases, and Council's busy calendar when addressing this shifting field, have made it difficult to keep pace with the code as it currently stands. Instead Administrative approval of sublease activity promotes the purposes of the code and assists lessees by promoting expeditious economic development activity. The City's ability to rapidly respond in a kinetic business environment is important especially as the economy rebounds from the COVID-19 pandemic.

ADMINISTRATIVE RECOMMENDATIONS:

- 1) Removal of the 10% subleasing premium -.
- 2) Addition of a self-reporting form/ application requesting approval of subleasing by the City manager or their designee. The reporting form would include:
 - a. The applicant information/lessee requesting the sublease;
 - b. The proposed sublease business information;
 - c. A current Alaska business license;
 - d. Proof of insurance;
 - e. The length of term of the proposed sublease; and
 - f. Confirmation that the proposed use in the proposed sublease is an allowed use with the current zoning.
- 3) Amend code language to delegate administrative approval and management of individual subleases to the City Manager or their designee. This would become an administrative task, streamlining the process, reducing staff time spent on subleases, and providing expedient processing of lessee sublease requests.

RECOMMENDATION

Introduce and adopt Ordinance 21-xx amending HCC Chapter 18.08 City Property Leases, Sections 18.08.010 definitions & 18.08.140 Sublease