

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Erickson/Hansen

3
4 **ORDINANCE 24-20(A)**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
7 AMENDING HOMER CITY CODE SECTION 18.08.040 COUNCIL
8 APPROVAL OF LEASES.
9

10 WHEREAS, The City of Homer owns real property throughout the City, including on the
11 Homer Spit; and
12

13 WHEREAS, The City-owned property on the Homer Spit contains significant economic
14 and non-economic value for the City and its residents; and
15

16 WHEREAS, The Homer City Code 18.08.005 states purposes of the City's property leasing
17 program to be to "maximize the value of City assets" and to "provide the highest and best use
18 of City-owned property; and
19

20 WHEREAS, The City often enters long-term leases with terms of 20-35 years and options
21 for five year renewals; and
22

23 WHEREAS, Pursuant to Homer City Code 2.64.040 Duties and responsibilities of the
24 Commission, the Port and Harbor Advisory Commission (PHC) is to act in an advisory capacity
25 on the development of the City port and harbor facilities and consideration may include the
26 physical facilities, possible future development and recommendations on land use within the
27 port and harbor areas; and
28

29 WHEREAS, The PHC analyses of city owned property located on the Homer Spit should
30 assist the City Council and Manager in Port and Harbor lease activity; and
31

32 WHEREAS, It is in the best interests of the City for the City Council and City Manager to
33 receive advisory comments from the PHC on proposals for Homer Spit leases.
34

35 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
36

37 Section 1. Homer City Code Section 18.08.040 Council approval of leases, is hereby
38 amended as follows:
39

40 18.08.040 Council approval of leases.

41 a. All long-term leases for more than five years shall be approved by Council via
42 ordinance. All long-term leases for five years or less shall be approved by Council via

43 resolution. **All leases, including but not limited to, lease extensions, renewals and**
44 **options, on the Homer Spit shall receive advisory review by the Port & Harbor**
45 **Advisory Commission prior to submission to the Council or the City Manager for**
46 **approval. Tthe Council and the City Manager may forego this requirement if either**
47 **finds time is of the essence or if the best interests of the City requires otherwise**
48 **for the leasing activity. This requirement does not apply to subleases.**
49

50 b. The City Manager may execute short-term leases without Council approval when the
51 City Manager determines that a short-term lease is in the best interests of the City and
52 notifies the Council in writing of the short-term lease and its essential terms.
53

54 c. Short-term leases are not required to go through the competitive bidding process
55 unless the short-term lease would result in the lease of City-owned property to the
56 same lessee for more than one consecutive year.
57

58 d. Except as expressly provided in this chapter, property leased by the City from a third
59 party that is available for sublease or the lease of space in City-owned buildings located
60 on real property owned by a third party is exempt from this chapter.
61

62 Section 2. This Ordinance is of a permanent and general character and shall be
63 included in the City Code.

64
65 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this 22nd day of April, 2024.
66

67 CITY OF HOMER

68 *Ken Castner*

69
70 KEN CASTNER, MAYOR

71 ATTEST:

72 *Renee Krause*
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74 RENEE KRAUSE, MMC, ACTING CITY CLERK
75

76 YES: 5
77 NO: 0
78 ABSTAIN: 0
79 ABSENT: 1
80

81 First Reading: 4/8/24
82 Public Hearing: 4/22/24
83 Second Reading: 4/22/24
84 Effective Date: 4/23/24





CC-24-084

MEMORANDUM

Ordinance 24-20, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Section 18.08.040 Council approval of leases. Erickson/Hansen.

Item Type: Action Memorandum
Prepared For: Mayor Castner and Homer City Council
Date: April 3, 2024
From: Renee Krause, MMC, Acting City Clerk

Following are memorandums from Port & Harbor staff and Commission and relevant minutes excerpt on the proposed amendments to Homer City Code Chapter 18.08.040 amending the language to have advisory review of proposed leases on the Homer Spit by the Port and Harbor Advisory Commission.

The Port & Harbor Advisory Commission brought this topic forward at their regular meeting on November 8, 2023, Commissioner Shavelson performed amendments to the draft documents and presented the final draft at the regular meeting in January of this year. The Commission has recommended adoption of the proposed amendments. The relevant documents have been provided as backup.

Recommendation

Adopt Ordinance 24-20.

Attachments:

Memorandum PHC-24-001

Memorandum from Commissioner Shavelson re: Property Leasing

Excerpt of the PHC Minutes dated January 24, 2024



ACTION ITEM REPORT

Property Leasing

To: Port and Harbor Advisory Commission
From: Amy Woodruff
Meeting Date: January 24, 2024

Summary Statement:

Commissioner Shavelson has revised his proposed draft ordinance to amend City Lease Code. If the commission makes a motion of support and a councilmember sponsors it, it will be forwarded to the City Manager and the City Attorney for review prior to moving forward to Council. Depending on the duration of that review, it would likely appear on the agenda at the February 26th and March 11th meetings.

Staff Recommendation:

Review the draft ordinance and supporting memorandum. Weigh potential benefits to the City against potential costs to City or Lessee due to a longer timeline for lease approval.

Attachments:

Memorandum from Commissioner Shavelson
Draft Ordinance from Commissioner Shavelson



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Port and Harbor

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Homer, AK 99603

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(f) 907-235-3152

Memorandum

To: Port & Harbor Commission & Staff
From: Bob Shavelson
Date: January 2, 2024
Subject: Property Leasing

The Homer City Code rightly recognizes the purpose of the City's leasing program is to "maximize the value of City assets" and to "provide the highest and best use of City-owned property." HCC 18.08.005. Because City leases, including ground leases, can endure for 20-35 years (depending on the lease term and options to renew), it's vital such leases receive adequate scrutiny.

Currently, the Port & Harbor Commission (PHC) does not review final drafts of long-term leases before they go to the City Council for approval; instead, the PHC only reviews a recommendation to lease from the City Manager. While that recommendation is required to contain "the essential terms of the proposed lease," HCC 18.08.070, it does not contain the final lease language, and therefore paints an incomplete picture of the actual lease.

Because the PHC has a specialized knowledge of City-owned property on the Spit, and because close scrutiny should be paid to leases locking-up City property for 20-35 years, it makes sense to run final draft lease language – and not simply the City Manager's less complete recommendation – through the PHC before consideration by the Council.

At its December 13, 2023, meeting, the PHC discussed this proposal, and raised two primary concerns: 1) additional PHC review could delay turn-around times for leasing activities and 2) lease options, renewals and extensions were not covered in the original proposed language.

To address concern 1, the proposal has been modified to allow both the City Council and the City Manager to forego PHC review if they find time is of the essence. To address concern 2, the proposal now includes reference to lease extensions, options to renew and renewals.



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These policy goals can be achieved with the following amendment to the Homer City Code:

Add to the end of HCC 18.08.04(a): "All leases, including but not limited to lease extensions, renewals and options, on the Homer Spit shall be reviewed by the Port & Harbor Commission prior to submission to the Council or the City Manager for approval; the Council and the City Manager may forego this requirement if either finds time is of the essence for the leasing activity."

Draft Ordinance of the Homer City Council (January 2024)

WHEREAS, the City of Homer owns real property throughout the City, including on the Homer Spit;

WHEREAS, the City-owned property on the Homer Spit represents significant economic and non-economic value for the City and its residents;

WHEREAS, the Homer City Code rightly recognizes the purposes of the City's property leasing program to be to "maximize the value of City assets" and to "provide the highest and best use of City-owned property." HCC 18.08.005;

WHEREAS, to achieve these purposes, and to promote predictability, the City often enters long-term leases which can endure for 20-35 years;

WHEREAS, by virtue of its roles and responsibilities, the Port & Harbor Commission (PHC) has specialized knowledge about City-owned property located on the Homer Spit;

WHEREAS, currently, while the PHC may review recommendations to lease from the City Manager, such recommendations may not provide a complete picture of the proposed lease, and the PHC does not review final draft lease language before it goes to Council or the City Manager for approval;

WHEREAS, it is in the best interests of the City to provide the necessary scrutiny for property leases on the Homer Spit by providing the PHC the opportunity to review final draft lease language before it goes to Council or City Manager for final approval.

NOW, THEREFORE, HOMER CITY CODE IS HEREBY AMENDED TO REFLECT:

Add to the end of HCC 18.08.04 (a): "All leases, including but not limited to lease extensions, renewals and options, on the Homer Spit shall be reviewed by the Port & Harbor Commission prior to submission to the Council or the City Manager for approval; the Council and the City Manager may forego this requirement if either finds time is of the essence for the leasing activity."

7.B. Port & Harbor Staff Report – December 2023

Port Director Hawkins noted the second and final reading of the ordinance pertaining to the City's share of additional funding in the amount of \$266,000, which passed at City Council's meeting on Monday. He added that a resolution was passed requesting the state to match the additional funding. The Kenai Peninsula Borough also passed a resolution to state supporting the increase of their share of the funds for the project.

Other discussion topics included:

- Oil spills in the harbor.
- Property leasing on the Spit.
- Large Vessel Haul Out Facility.
- Cruise Boom Documentary.

7.C. Homer Marine Trades Association (HMTA) Report

8. PUBLIC HEARING(S)

9. PENDING BUSINESS

9.A. Property Leasing

SIEKANIEC/PITZMAN MOVED TO APPROVE COMMISSIONER SHAVELSON'S MEMORANDUM REGARDING PROPERTY LEASING FOR RECOMMENDATION TO CITY COUNCIL.

Mr. Shavelson offered clarification that the end of the proposed changes would include a sentence that reads, "This requirement does not apply to subleases."

There was no further discussion.

Chair Matthews requested a roll-call vote.

VOTE: YES: VELSKO, ZEISET, FRIEND, SIEKANIEC, MATTHEWS, PITZMAN, SHAVELSON, ROGERS.

Motion carried.

10. NEW BUSINESS

10.A. Scheduling Work Session for Port & Harbor Advisory Commission

The Commission agreed to schedule a work session for Tuesday, March 5th at 5:30 p.m.

11. INFORMATIONAL MATERIALS

11.A. Port Operations Report

**CITY OF HOMER
HOMER, ALASKA**

Erickson/Hansen

ORDINANCE 24-20

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
AMENDING HOMER CITY CODE SECTION 18.08.040 COUNCIL
APPROVAL OF LEASES.

WHEREAS, The City of Homer owns real property throughout the City, including on the Homer Spit; and

WHEREAS, The City-owned property on the Homer Spit contains significant economic and non-economic value for the City and its residents; and

WHEREAS, The Homer City Code 18.08.005 states purposes of the City's property leasing program to be to "maximize the value of City assets" and to "provide the highest and best use of City-owned property; and

WHEREAS, The City often enters long-term leases with terms of 20-35 years and options for five year renewals; and

WHEREAS, Pursuant to Homer City Code 2.64.040 Duties and responsibilities of the Commission, the Port and Harbor Advisory Commission (PHC) is to act in an advisory capacity on the development of the City port and harbor facilities and consideration may include the physical facilities, possible future development and recommendations on land use within the port and harbor areas; and

WHEREAS, The PHC analyses of city owned property located on the Homer Spit should assist the City Council and Manager in Port and Harbor lease activity; and

WHEREAS, It is in the best interests of the City for the City Council and City Manager to receive advisory comments from the PHC on proposals for Homer Spit leases.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Section 18.08.040 Council approval of leases, is hereby amended as follows:

18.08.040 Council approval of leases.

a. All long-term leases for more than five years shall be approved by Council via ordinance. All long-term leases for five years or less shall be approved by Council via

43 resolution. **All leases, including but not limited to, lease extensions, renewals and**
44 **options, on the Homer Spit shall receive advisory review by the Port & Harbor**
45 **Advisory Commission prior to submission to the Council or the City Manager for**
46 **approval. Tthe Council and the City Manager may forego this requirement if either**
47 **finds time is of the essence or if the best interests of the City requires otherwise**
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51 City Manager determines that a short-term lease is in the best interests of the City and
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54 c. Short-term leases are not required to go through the competitive bidding process
55 unless the short-term lease would result in the lease of City-owned property to the
56 same lessee for more than one consecutive year.

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58 d. Except as expressly provided in this chapter, property leased by the City from a third
59 party that is available for sublease or the lease of space in City-owned buildings located
60 on real property owned by a third party is exempt from this chapter.

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62 Section 2. This Ordinance is of a permanent and general character and shall be
63 included in the City Code.

64
65 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA this ____ day of _____, 2024.

66
67 CITY OF HOMER

68
69 _____
70 KEN CASTNER, MAYOR

71 ATTEST:

72
73 _____
74 RENEE KRAUSE, MMC, ACTING CITY CLERK

75
76 YES:

77 NO:

78 ABSTAIN:

79 ABSENT:

80
81 First Reading:

82 Public Hearing:

83 Second Reading:

84 Effective Date: