

**AGENDA
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
January 5, 2016
6:30p.m.**

The meeting will be preceded by a workshop beginning at 6:00p.m.

The public is invited and encouraged to attend

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. MAYOR'S REPORT:
6. CITY ADMINISTRATOR'S REPORT:
7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. NEW BUSINESS:
 - A. Approval of lease agreement between Alascom, Inc.; d.b.a. AT&T Alascom, and the City of Thorne Bay, discussion and action item:
 - B. Review of lease agreement between the City of Thorne Bay and 3J's Waterfront Corp., discussion and possible action item:
10. ORDINANCES FOR PUBLIC HEARING:
 - A. Ordinance 16-01-05-01, an ordinance of the City Council amending Title 15.04-Setbacks adding Section 15.04.020-Development Plans, discussion and action item:
 - B. Ordinance 16-01-05-02, an ordinance of the City Council amending Title 17.04-Planning and Zoning, Sections 17.04.022-Residential zone, 17.04.023 Deer Creek residential, 17.04.024 Mixed residential/commercial I, 17.04.025 Mixed residential/commercial II, 17.04.026 Mixed residential/commercial III, 17.04.027 Commercial zone, 17.04.028 Industrial zone, 17.04.029 Waterfront development zone, 17.04.030 Public zone, discussion and action item:
11. EXPENDITURES EXCEEDING \$2,000.00:
12. EXECUTIVE SESSION: The Council May adjourn to executive session for the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have adverse effect upon the finances of the city.
13. CONTINUATION OF PUBLIC COMMENT:
14. CONTINUATION OF COUNCIL COMMENT:
15. ADJOURNMENT:

Posted: December 29, 2015

City Hall (2), A&P, SISD, USFS, The Port, Tackle Shack Thorne Bay School, KRBD

**AMENDMENT NO. 3 TO LEASE AGREEMENT
BY AND BETWEEN
CITY OF THORNE BAY
AND
ALASCOM, INC., d.b.a AT&T ALASCOM**

THIS AMENDMENT NO. 3 TO LEASE (“Amendment”), effective on the latest signature date below, amends the Lease Agreement captioned “THBYAKZA, AK0480R01”, effective March 1, 1986, as amended by that certain Extension Option Letter dated February 28, 2001, as amended by that certain Amendment No. 1 to Lease Agreement effective March 1, 2006, and as amended by that certain Amendment No. 2 to Lease Agreement effective November 9, 2010 (“Amendment No. 2”) (collectively, the “Lease”), by and between the City of Thorne Bay, an Alaska municipal corporation (hereinafter “Lessor”), and Alascom, Inc., an Alaska corporation, d.b.a AT&T Alascom (hereinafter “Lessee”), whereby Lessee leases those certain premises comprising approximately 0.42 acres (18,295 square feet, more or less) of ground space located at NSN Sandy Beach Road, Thorne Bay, Alaska 99901 (the “Premises”).

WHEREAS, the current Lease term expires on February 29, 2016; and

WHEREAS, Lessor and Lessee now desire to confirm the Lease’s automatic extension;

NOW THEREFORE, in consideration of the mutual promises herein contained and good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Lessor and Lessee agree as follows.

1. Lessor and Lessee hereby acknowledge and reaffirm all their respective rights, duties and obligations under the Lease, including this Amendment. Should any provision in this Amendment conflict with any provision in the Lease, the terms of this Amendment shall control.
2. Lessee hereby exercises the first of three (3) available automatic Renewal Options. Accordingly, the current Term of the Lease is hereby extended for five (5) years (the “Extension Term”) beginning on March 1, 2016 (the “Commencement Date”) and ending on February 28, 2021 (the “Expiration Date”), subject to any earlier termination under the Lease.
3. Effective on March 1, 2016 and throughout the Extension Term, the Rent shall be \$673.38 per year.
4. Lessee shall have the option to extend the Lease Term for two (2) additional periods of five (5) years each (each, an “Option Term”). The Lease shall automatically extend for each successive Option Term unless Lessee notifies Lessor in writing of Lessee’s intention not to renew at least thirty (30) days prior to the expiration of the then current Term. The Lease terms and conditions during each Option Term shall be as set forth in the Lease except for Rent, which for each Option Term shall be an amount agreed upon by Lessor and Lessee, provided, however, that Rent for each Option Term shall not be greater than the previous Rent adjusted on the basis of the percentage increase in the U.S. Department of Labor

Consumer Price Index for Anchorage (CPI-U) as determined for the first half of the preceding calendar year, or the then most recent published CPI figures. The base CPI figure for the Lease is 193.456 (Base year: 1982-84 = 100) and the Lease's base rent is \$600.00 (such rental amount being established under Paragraph 4 of Amendment No. 2). The Extension Term and any Option Term during which Lessee occupies the Premises, shall be collectively referred to as the "Term."

5. This Amendment, together with the Lease, contains the entire agreement between Lessor and Lessee with respect to the matters stated herein and both parties acknowledge that neither relies upon any statements or representations by the other not contained herein. This Amendment can only be modified in writing by obtaining the signature of all parties referenced herein.
6. Lessor and Lessee represent and warrant to each other that they have the full right, power and authority to enter into this Amendment without the consent or approval of any other entity or person and make these representations knowing that the other party will rely thereon. Furthermore, the signatory on behalf of Lessor and Lessee further represent and warrant that they have full right, power and authority to act for and on behalf of Lessor and Lessee in entering into this Amendment.
7. Except as otherwise expressly provided herein, all defined terms shall have the meanings ascribed to them in the Lease.
8. When used in this Amendment the term "Lease" shall mean the original Lease and any and all subsequent modifications and/or amendments.
9. This Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
10. The submission of an unsigned copy of this Amendment to Lessor shall not constitute an offer or option with respect to the matters contained herein. This Amendment shall become effective and binding only upon execution and delivery by Lessee and Lessor.
11. This Amendment shall be governed by and construed in accordance with the laws of the State of Alaska and each of the parties hereto submits to the non-exclusive jurisdiction of the courts of the State of Alaska in connection with any disputes arising out of this Amendment.
12. In the event of a dispute arising under this Amendment, the prevailing party shall be entitled to recover all reasonable attorneys' fees.
13. Time is of the essence with respect to this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates written below.

LESSOR:
CITY OF THORNE BAY,
an Alaska municipal corporation

LESSEE:
ALASCOM, INC.,
an Alaska corporation
d.b.a AT&T ALASCOM

By: _____
Name: _____
Title: _____
Date: _____

By: *Helt Albi*
Name: *Hanket Orloski*
Title: *Portfolio Manager*
Date: *12/15/15*

LESSOR ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ALASKA)
) ss.:
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Alaska that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

LESSEE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.:
COUNTY OF Contra Costa)

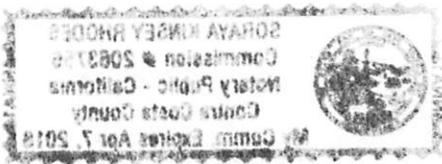
On December 15, 2015 before me, Soraya Kinsey Rhodes, Notary Public, personally appeared Hamlet Orloski, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: *Soraya Kinsey Rhodes*





CITY OF THORNE BAY
ORDINANCE 16-01-05-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA,
AMENDING TITLE 15-BUILDINGS AND CONSTRUCTION, CHAPTER 15.04-
SETBACKS, ADDING SECTION 15.04.020-DEVELOPMENT PLANS

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA

- Section 1. Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. Amendment of Section. The title and chapter of Title 15-Buildings and Construction, Chapter 15.04-Setbacks, and adding Section 15.20.020-Development Standards, is hereby amended.
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED January 5, 2016

James Gould, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: December 15, 2015]
[Public Hearing: January 5, 2016]

TITLE 15-BUILDINGS AND CONSTRUCTION
CHAPTER 15.04-SETBACKS
ADDING SECTION 15.04.020-DEVELOPMENT PLANS

15.04.020 Development Plans.

1. Purpose: to make the public aware of setback requirements and eliminate building encroachments into rights-of-ways, easements and other properties.

2. Plan Required. No ~~commercial~~ structure shall be erected, constructed, enlarged, relocated or extended without a development plan permit issued by the city. No existing use of a ~~commercial~~ structure shall be converted to another use without a permit issued by the city. Failure to submit a development plan shall be a violation of this chapter.

3. Application. All applications for development plans shall be completed on city forms and accompanied by a site plan that includes:

- a. Property boundaries and dimensions;
- b. Scale with north arrow;
- c. All existing and proposed structures and their dimensions;
- d. Distance of structures to all lot lines;
- e. Rights-of-way and easements adjacent to the property;
- f. Off-street parking spaces with their dimensions;
- g. Location of utility poles, and water and sewer lines;
- h. Access and driveways;
- i. Any topographical features that may affect the development of the property;
- j. Proposed use of the new structure and current use of any existing buildings.

Applications for development plans and driveway site plans shall be kept on file at City Hall. A record of plans shall also be kept on an annual basis.

4. After a site inspection to confirm the site plan, the city zoning official shall approve or deny the permit within five business days. Decisions of the administrative official

may be appealed to the planning commission. See Section 17.04.060

5. Complaints and Violations. If a violation occurs, any citizen may file a complaint at City Hall. The city zoning official shall record and investigate all complaints.

6. Stop-work Orders. If any construction work is being done contrary to this provision or without a development plan, the city zoning official or the VPSO may issue a stop-work order. This order shall be in writing and shall be posted in a conspicuous location at the building site and shall be sent to the property owner by certified mail. No person may proceed in construction or moving/relocating a building at a site so posted until authorized by the city zoning official or VPSO to proceed. A development plan may be revoked if the permit issued is in error based on incorrect information, or the permit is in violation of other regulations or provisions of ~~this~~ **Thorne Bay Municipal** code.

7. Exemption From the Development Plan Requirement. Providing all setback requirements are met where applicable, the following ~~commercial~~ structures do not require a development plan:

- a. Fences constructed up to the property line;
- b. Retaining walls not over four feet;
- c. Platforms, walls and driveways not more than thirty inches above grade;
- d. Temporary structures such as booths and other similar structures.

8. Plans Required Prior to Utility Hookup. No hookup for sewer, water, or water meter shall be made for any ~~commercial~~ structure, ~~commercial~~-mobile home or ~~commercial~~ trailer within the city until a development plan is issued.

9. Penalties for Violations. When a violation of the provisions of this title occur, the property owner shall incur a civil penalty not to exceed one hundred dollars for each day of continuing violation. (Ord. 93-23 § 6(part), 1993)

The above wording is currently in the Thorne Bay Municipal, 17.04.030 Public Zone C. Development Plans., with the additional wording as bolded and deletion of wording as shown crossed out.

CITY OF THORNE BAY
ORDINANCE 16-01-05-02

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY,
ALASKA, AMENDING TITLE 17-ZONING, CHAPTERS 17.04 –PLANNING AND
ZONING, SECTIONS 17.04.022-Residential zone, 17.04.023 Deer Creek residential,
17.04.024 Mixed residential/commercial I, 17.04.025 Mixed residential/commercial II,
17.04.026 Mixed residential/commercial III, 17.04.027 Commercial zone, 17.04.028
Industrial zone, 17.04.029 Waterfront development zone, 17.04.030 Public zone

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA

- Section 1. Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. Amendment of Section. The title and chapter of Title 17-Zoning, Chapter 17.04-Planning and Zoning, Sections 17.04.022-Residential zone, 17.04.023 Deer Creek residential, 17.04.024 Mixed residential/commercial I, 17.04.025 Mixed residential/commercial II, 17.04.026 Mixed residential/commercial III, 17.04.027 Commercial zone, 17.04.028 Industrial zone, 17.04.029 Waterfront development zone, 17.04.030 Public zone, are hereby amended.
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED January 5, 2016

James Gould, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: December 15, 2015]
[Public Hearing: January 5, 2016]

Additions are in bold

17.04.022 Residential zone. The purpose of the residential zone is to maintain property values and to provide for aesthetically pleasing neighborhoods by permitting single-family houses, duplexes and modular homes with a limited range of compatible uses. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

17.04.023 Deer Creek residential. The purpose of this zone is to create an aesthetically pleasing residential subdivision consisting of permanent single-family housing. Lot DC14B shall be exempt from this title for the duration of municipal ownership. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

17.04.024 Mixed residential/commercial I. The purpose of this zone is to maintain property values and to provide for aesthetically pleasing neighborhoods by permitting single-family houses, duplexes and modular homes with a limited range of compatible uses. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

17.04.025 Mixed residential/commercial II. The purpose of this zone is to provide for an aesthetically pleasing neighborhood and to maintain property values by permitting single-family houses, duplexes and mobile homes plus accommodating present mixed commercial uses. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

17.04.026 Mixed residential/commercial III. The purpose of this zone is to be as open and unrestrictive as possible by allowing many different, compatible uses, yet still provide protection to all property owners in the subdivision. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

17.04.027 Commercial zone. The purpose of the commercial zone is to accommodate a wide range of commercial and compatible light industrial uses. **Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.**

Additions are in bold

17.04.028 Industrial zone. This zoning designation is intended to provide an area that is suitable for both heavy and light industrial uses such as manufacturing, processing, repairing and assembling.

Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.

17.04.029 Waterfront development zone. The purpose of this zone is to reserve areas with direct waterfront access for water-dependent or water-related uses and to give these uses first priority.

Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.

17.04.030 Public zone. The purpose of this zone is to reserve public lands for uses generally associated with government administration, and that benefit the public health, safety and welfare and local economy.

Section 15.04.020 stipulates that “Development Plans” are required of All building to make the public aware of setback requirements and eliminate building encroachments into right-of-way, easements and other properties.