

AGENDA

FOR THE REGULAR MEETING OF THE CITY COUNCIL

FOR THE CITY OF THORNE BAY, ALASKA

COUNCIL CHAMBERS OF CITY HALL

120 FREEMAN DRIVE

Tuesday September 3, 2019

6:30 p.m.

There will be a Workshop of the City Council beginning at 6:00 p.m.

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. MAYOR'S REPORT:
6. ADMINISTRATIVE REPORTS:

- a. City Administrator's Report:
 - b. City Clerk Report:
-

7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. CONSENT AGENDA:

- a) August 6, 2019, Regular City Council Meeting Minutes, discussion and action item:
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10. NEW BUSINESS:

- a) Review and Discussion EMS Agreement between the City of Thorne Bay and City of Klawock, discussion and action item:
- b) Appointing Adora Oatman as Interim-EMS Coordinator, discussion and action item:
- c) Accepting Tlingit & Haida Central Council placement of Village Public Safety Officer, Jonathan Bates to the City of Thorne Bay and appointing VPSO Bates as the VPSO for Thorne Bay, discussion and action item:
- d) Renewal of Pacific Airways Harbor Use Rental Agreement, discussion and action item:
- e) Resident request to adopt ordinance that would require all properties providing housing for more than one residence, install "bear proof" garbage cans, discussion and action item:

11. ORDINANCE FOR PUBLIC HEARING:

- a) **Ordinance 19-09-03-01**, amending Title 1-General Provisions, Chapter 1.16-General Penalty Sections, Section 1.16.035-Minor Offense fine Table, adding fines for violation of TBMC Title 15-Buildings and Construction, Chapter 15.04-Setbacks, Section 15.04.020-Development Plans, and amending fines for violation of Title 17-Zoning, discussion and action item:
- b) **Ordinance 19-09-03-02**, amending Title 15-Buildings and Construction; Chapter 15.04-Setbacks, Section 15.04.020-Development Plans

12. ORDINANCE FOR INTRODUCTION:**13. EXPENDITURES EXCEEDING \$2,000.00:**

- a) Authorizing the expenditure of \$2,500.00, to NexGeneration for Multicolor Scrolling LED Sign, discussion and action item:
- b) Authorizing the expense of \$2,238.90 to CMI Machinery for labor expense on Excavator repairs discussion and action item:

14. EXECUTIVE SESSION: The Council May adjourn to executive session for the purpose of discussing Subjects that tend to prejudice the reputation and character of any person.

- a) Executive Session discussion of City Administrator Contract, discussion and action item:

15. CONTINUATION OF PUBLIC COMMENT:**16. CONTINUATION OF COUNCIL COMMENT:****17. ADJOURNMENT:**

POSTED: August 30, 2019

Bulletins: City Hall, AP Market, The Port, USFS, SISD & Thorne Bay School, Riptide Liquor
City Website: www.thornebay-ak.gov

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

MINUTES

FOR THE REGULAR MEETING OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY, ALASKA
COUNCIL CHAMBERS OF CITY HALL
120 FREEMAN DRIVE
Tuesday August 6, 2019
6:30 p.m.

The meeting was preceded by a workshop at 5:30 p.m. discussion was dedicated to the Ordinance requesting that the question of increasing sales tax be placed on the October 1, 2019, Ballot to fund an emergency services coordinator position.

1. CALL TO ORDER:

McDonald called the meeting to order at 6:30 p.m.

2. PLEDGE TO FLAG:

The audience and council stood for the pledge to the flag.

3. ROLL CALL:

Those present were McDonald, Burger, Carlson, Williams, Minnillo, Slayton & Edenfield,

4. APPROVAL OF AGENDA:

McDonald moved to approve agenda as written. Williams seconded the motion.
There was no further discussion.

MOTION: Move to approve the agenda.

F/S McDonald/Williams

YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton, Edenfield,

NAYS: None

STATUS: Motion Passed.

5. MAYOR'S REPORT:

McDonald provided the following Mayor's Report:

LEPC Emergency Planning Committee Meeting.

Ordinances for introduction tonight include the following amendments:

6. ADMINISTRATIVE REPORTS:

a. City Administrator's Report:

Meetings Attended and Updates:

- A. Thorne Bay Days was again a great success. Good weather always helps. Kayaks, human foosball and the soapbox races were all a success as was another great dinner and desert tasting.
- B. Now that there is ferry service, I am on my way south and will be back Aug. 16.

Tasks and Projects:

- A. Busy with daily Construction inspection and pictures for VSW and DOWL to track progress. Painting of ceiling and walls has started and should be complete by end of week. Electrical and mechanical will get started when the walls and ceilings are finished.

New Business:

- A. Resolution 19-08-0-01 supporting the continued road improvements and upgrades of the South Thorne Bay / Kasaan Road. Kasaan requested the previous resolution be modified to be more specific.
- B. Resolution 19-08-06-02 adopts Code Enforcement Officer Job Description, and Policy and Procedures.

Ordinances for Public Hearing:

- A. Ordinance 19-08-06-01 an ordinance that would place the question of increasing sales tax by one half of a percent to be used for Emergency Services and Law Enforcement Officer. This extra money would help fund emergency services which now are mostly funded through the revenue sharing and fund raising.

Ordinances for Public Hearing:

- A. Ordinance 19-08-20-01 amending Title 2-Administration and Personnel, Planning Commission Duties. This removes the section of code that references the Coastal Management program which was eliminated by the vote of the people in 2014. Other sections of TBMC referencing the costal management have been deleted.
- B. Ordinance 19-08-20-02 amending Title 9-Public Peace Safety and Morals, Protection of Water Lake and Litter Control. This ordinance is clarification as to who does the enforcement of any watershed issues or litter control issues plus adds junked vehicles as litter.
- C. Ordinance 19-08-20-03 amending Title 2-Administration and Finance, Law Enforcement Department and Department Chief. Again, this ordinance revision is clarification as to Code Enforcement officer and VPSO

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

- D. Ordinance 19-08-20-04 amending Title 16-Subdivision. The revision is adding to allow the Code Enforcement Officer to be appointed as the planning official.
- E. Ordinance 19-08-20-05 amending Title 17-Zoning Enforcement Authority. This new section sets forth the enforcement authority and procedures for the Code Enforcement Officer.

Harbors and Parks: Ron has been very busy lately with guests and parking

Streets and Roads: Been hauling sand to town for winter operations and waiting to get the excavator repaired. Seems the mechanic did not realize our machine had two high pressure fuel pumps, so we are in a holding pattern while another pump is ordered.

Water and Sewer: All is going good and Sam and Dave have been providing input to the upgrades

Solid Waste: Waiting for word back about time frame to install new brains in the baler. The baler has been cleaned and the only issue is where we can get enough trash to operate the baler through all the test cycles.

Law Enforcement: A contract has yet to be signed but a person from Wrangell has accepted the Thorne Bay VPSO position. Paperwork should be signed August 23 with the arrival of the new VPSO in Thorne Bay on August 28. Until the paperwork is signed the person could opt out but according to Mr. Wilson this person is very committed. Once the paperwork is signed there will be an official announcement and the appointment will be brought before the City Council.

FIRE/EMS: Suggest the City Council consider appointing a new fire chief.

Library: Lana is no longer the librarian and Libby Nyland has volunteered to fill in while search for a new librarian.

b. City Clerk Report:

TONGASS FEDERAL CREDIT UNION

| Name | Available Balance | Name | Available Balance |
|------------------------|--------------------|-----------------------|---------------------|
| <u>HEALTH PREMIUM</u> | <u>\$35,012.73</u> | <u>CHECKING</u> | \$337,613.53 |
| <u>OCCUPANCY GEN.</u> | \$5,015.38 | <u>SALES TAX 60%</u> | <u>\$203,667.66</u> |
| <u>SALES TAX 40%</u> | \$100,050.54 | <u>HARBOR</u> | \$69,422.41 |
| <u>OCC TAX EMS/FIR</u> | \$9,653.75 | <u>FISHERIES</u> | <u>\$22,068.04</u> |
| <u>OCC TAX TOURISM</u> | \$5,961.05 | ACCOUNT TOTALS | \$813,060.00 |
| <u>OCC TAX PARKS</u> | \$8,266.39 | | |

7. PUBLIC COMMENTS:

Karen Petersen commented on the following:

- Friends of the library, update on Rasmussen Grant received for the Computer upgrades
- Received a donation from the Allen Marine Cruise Ship of \$2,500 to put benches in around town. We identified four locations and they are marked on the map provided to you. *(map included as attachment (a) of the August 6, 2019, Council Minutes)*
- Encouraged people to visit the library and see what the Neiland's had done with the wood that Councilmember Williams donated.
- Will be moving forward on the repair of the end of the library and skirting with the funds approved by the city council at a prior meeting.
- Informed the council and public of the upcoming Rural Resiliency Workshop to be held in Craig from September 10th through the 12th, intended for all. Petersen explained that the idea was if Cascadia was to happen how resilient are we to go without barge services during the repairs of those disasters.....
- Karen commented on Store's resiliency...Ben Williams commented that there was a study done for the store that showed three weeks of supply. Williams explained there was a plan in place for AP Market to get supplies, should a disaster like Cascadia happen.
- Petersen encouraged people to Contact Brian Templin if interested.

Robert Hartwell commented on the following:

- JS had stated they would also donate wood for the library repairs also.

Roger Longbotham – town hall meeting on the 19th of August at the Baptist Church.

Laura Clark

- Informed all of the Wise Woman Health program that will be provided by SEARHC in Thorne Bay, including Weight Watchers. The clinic had informed her that they would be doing this for free for getting clinic up and running again.

Thom Cunningham commented on the following:

- Code Enforcement Officer and the codes provided in here. There are issues with people already starting business and not checking with the zoning and allowance.

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

- Suggested the City implement a business license registration fee that would have the enforcement officer review these businesses every so many years. It should not be up to the residents to submit these complaints.
- I have issues with the Seaford's pit again. More vehicles and more people moving in.
- It should be the code enforcement officer that checks they are in compliance with their original conditional use permits.

8. COUNCIL COMMENTS:

Edenfield commented on the following:

- There has to be a complaint for there to be a response.

Ben Williams commented on the following:

- We had a system in place if there were a disaster, to get products to the island by having warehouses storing supplies in Minneapolis that could get supplies through Prince Rupert. Southeast is not totally without a backup.

Mark Minnillo commented on the following:

- Along the lines of what Thom is saying. We had a blight ordinance before the council in the past, and it needs to come up again. I walk around town here and I see things that are eye sores. I think we need to do something about a blight ordinance.

9. CONSENT AGENDA:

a. MINUTES:

1. Approval of Minutes from the July 2, 2019, Regular City Council Meeting, discussion and action item:
2. Approval of Minutes from the July 16, 2019, Regular City Council Meeting, discussion and action item:

McDonald Moved to approve the consent agenda. Edenfield seconded the motion.

MOTION: Move to approve the consent agenda consisting of the minutes for the July 2nd and 16th Council Meeting.

F/S McDonald/Edenfield

YEAS: Burger, Carlson, McDonald, Williams, Slayton, Minnillo, Edenfield,

NAYS: None

STATUS: Motion Passed.

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

10. NEW BUSINESS:

- a) Resolution 19-08-06-01, a resolution of project sponsorship for the Community Transportation Program Application and maintenance commitment for repairs, maintenance and reconstruction of the Kasaan/South Thorne Bay Road, discussion and action item:

McDonald moved to approve Resolution 19-08-06-01. Burger seconded the motion. There was no further discussion.

MOTION: Move to approve
F/S McDonald/ Burger
YEAS: Burger, Carlson, Williams, McDonald, Minnillo, Slayton, Edenfield,
NAYS: None
STATUS: Motion Passed

- b) Resolution 19-08-06-02, adopting the Code Enforcement Officer Job Description & Policies and Procedures, discussion and action item:

McDonald moved to approve Resolution 19-08-06-01. Edenfield seconded the motion. There was no further discussion.

MOTION: Move to approve
F/S McDonald/ Edenfield
YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton, Edenfield,
NAYS: None
STATUS: Motion Passed.

11. ORDINANCE FOR PUBLIC HEARING:

- a) Ordinance 19-08-06-01, an ordinance that would place the question of increasing sales tax by one-half (1/2) of a percent to be used for Emergency Services (EMS/FIRE) Responders and Law Enforcement Officer, discussion and action item:

McDonald moved to approve Ordinance 19-08-06-01. Williams seconded the motion. Williams moved to amend the ordinance to increase the ballot question of 1% increase adding a sunset 4-years. Slayton seconded the motion.

MOTION: Move to approve Ordinance 19-08-06-01
F/S McDonald/Slayton
YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton, Edenfield,
NAYS: None
STATUS: Motion Passed.

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

MOTION: Move to approve Ordinance 19-08-06-01 with amendment to increase the ballot measure sales tax rate from 6.5% to 7%

F/S McDonald/Williams

YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton, Edenfield,

NAYS: None

STATUS: Motion Passed.

12. ORDINANCE FOR INTRODUCTION:

- a) **Ordinance 19-08-20-01**, amending Title 2-Administration and Personnel, Chapter 2.48-Planning Commission, Section 2.48.200-Commission Duties, discussion and action item:

McDonald moved to approve Ordinance. Carlson seconded the motion. There was no further discussion.

MOTION: Move to approve

F/S McDonald/ Carlson

YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton, & Edenfield

NAYS: None

STATUS: Motion Passed

- b) **Ordinance 19-08-20-02**, amending Title 9 – Public Peace Safety and Morals, Chapter 9.16-Protection of Water Lake Watershed & Chapter 9.20-Litter Control, discussion and action item:

McDonald moved to approve Ordinance 19-08-20-02. Burger seconded the motion. Burger requested an overview of the ordinance be read for the records

MOTION: Move to approve

F/S Williams/Burger

YEAS: Edenfield, McDonald, Burger, Carlson, Williams, Minnillo & Slayton

NAYS: None

STATUS: Motion Passed.

- c) **Ordinance 19-08-20-03**, amending Title 2-Administration and Finance, Chapter 2.36 – Law Enforcement Department, Section 2.36.030-Department Chief, discussion and action item:

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

McDonald moved to approve Ordinance 19-08-20-03. Carlson seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-08-20-03
F/S McDonald/Carlson
YEAS: McDonald, Burger, Carlson, Williams, Minnillo, Slayton & Edenfield,
NAYS: None
STATUS: Motion Passed

- d) Ordinance 19-08-20-04, amending Title 16-Subdivisions, discussion and action item:

McDonald moved to approve Ordinance 19-08-20-04. Carlson seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-08-20-04
F/S McDonald/Carlson
YEAS: Edenfield, Carlson, McDonald, Burger, Slayton, Williams & Minnillo
NAYS: None
STATUS: Motion Passed.

- e) Ordinance 19-08-20-05, amending Title 17-Zoning, adding Chapter 17.05-Enforcement Authority, discussion and action item:

McDonald moved to approve Ordinance 19-08-20-05. Edenfield seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-08-20-05
F/S McDonald/Edenfield
YEAS: Edenfield, Carlson, McDonald, Burger, Slayton, Williams & Minnillo
NAYS: None
STATUS: Motion Passed.

13. EXPENDITURES EXCEEDING \$2,000.00: NONE

14. EXECUTIVE SESSION: NONE

15. CONTINUATION OF PUBLIC COMMENT:

Thom Cunningham commented on the following:

- Inquired if the complaints filed for code compliance would be confidential?

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

Jim Nieland commented on the following:

- Earlier spoke of the grant for the benches. He commented that he had walked around and took photos of possible locations for the benches and one spot to mention is the park area near the boat launch ramp. Nieland continued that the location was beautiful, but there were many derelict and unregistered boats and vehicles there. Nieland encouraged the City to move these items as they are unsightly and a hazard.

Eric Roads commented on the following:

- Inquired if the matching funds for the road grant had to be city funds, or if it could come from somewhere else?

Thom Cunningham commented on the following:

- On the library repairs at the end of the building, there is likely years of rot and repairs. I would volunteer looking into that.

Edenfield commented on the following:

- Thorne Bay Days went very well. I would like to suggest more council participation next year. For those who are sitting on the council volunteer, sponsor some games etc.

16. CONTINUATION OF COUNCIL COMMENT:

Minnillo inquired if the derelict boats and vehicles that were mentioned had current parking permits.

17. ADJOURNMENT:

Adjourned the meeting at 7:40

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

NEW BUSINESS (A) RENTAL AGREEMENT RENEWAL

RENTAL AGREEMENT

RENTAL AGREEMENT

This Rental Agreement is entered into by and between the City of Thorne Bay, Alaska, P.O. Box 110, Thorne Bay, Alaska 99919 (hereinafter called the "CITY") and, Pacific Airways, (hereinafter called the "RENTER").

1. Rented Premises. The City does hereby Rent to the Renter' space on the Thorne Bay Float Plane Float to conduct float plane service to and from Thorne Bay.

on municipally owned property within the corporate boundaries of the City of Thorne Bay.

Municipal Code, Title 2, Article III, Incorporated. The provisions of "Title 2, Article III of the Thorne Bay Municipal Code shall apply to the terms of this Rental Agreement unless otherwise amended in this Rental Agreement.

2. Term. The term of this Rental Agreement shall be One(1)year beginning September 1, 2019 and ending August 31, 2020. Monthly rental payments due the City shall commence prior to use of Rented Premises and continue throughout the term of this Rental Agreement. Monthly Sales Taxes due the City shall commence upon the signing of Rental Agreement. Renter shall have the option to renew this Rent for an additional period of time subject to renegotiations of Rent terms and payments acceptable to both the City and Renter. The option to renew and Rent for the additional period can only be effective upon approval by the Thorne Bay City Council. This option to renew shall be exercised by the Renter in writing sixty (60) days prior to the expiration of the original Rent term. The option to renew is specifically waived if not exercised in full compliance with this provision. This Rental Agreement expires automatically on the last day of the One(1)year period absent the approval of a new Rental Agreement by the Thorne Bay City Council. Absent an approved Rental Agreement, the Renter shall vacate the premise on or before the ending date of this Rental Agreement.

In addition to any rights of the City to terminate this Rental Agreement as specified in this Rental Agreement, or as specified in the Thorne Bay Municipal Code, the City shall have all rights to terminate this Rental Agreement in accordance with any provision of applicable law.

Said agreement and monthly rental payment to be reviewed at the end of year 1 and adjustments made, if necessary, based on year one operations.

3. Monthly Rent Payment. Renter covenants and agrees to pay City monthly Rent payments in the sum of Five Hundred (\$500) per month, plus applicable sales tax payable in advance on the first day of each month of the Rent term. In the event any payment required to be made pursuant to this Rental Agreement is more than ten (10) days past due, a late charge equal to ten percent (10%) per annum on

RENTAL AGREEMENT

such past due amount will be assessed and charged to Renter by City. At the expiration of two-year term, the monthly Rent payment shall be reviewed and adjusted in accordance with the provisions of Section 2.56.210 of Title 2, Article III of the Thorne Bay Municipal Code.

- 4 **Deposits.** Renter shall deposit with the City an amount equal to **TWO TIMES THE MONTHLY RENTAL RATE.** Upon termination of the Rental Agreement the Renter shall vacate the premise leaving it in the same clean condition as presented at the time said Rental Agreement was initiated. If the premise is in need of cleaning, repairs or the Renter is in default in payments said deposit shall be used to offset such costs. In the event the Rented Premise is clean and in need of no repairs the deposit will be refunded in full. First and last month may be waved in lieu of improvements to the Rented Premises or other City Facilities as provided by Renter per "Exhibit A".
- 5 **Use.** Renter shall use the Rented Premises for the purposed of maintaining and operating thereon, **A LOCKED STORAGE FACILITY FOR SECURING INCOMING/OUTGOING FREIGHT AND MAIL, AND LANDINGS AT THE FLOAT PLANE DOCK FOR CONDUCTING FLOAT PLANE SERVICE TO AND FROM THORNE BAY.** The Rented Premises shall be used for no other purposes without the prior written consent of City.
- 6 The Rented Premises shall be used for no other purposes without the prior written consent of City.
- 7 **Utilities and Fees.** *N/A.*
- 8 **Repairs, Maintenance and Compliance with Laws.** Renter shall maintain the Rented Premises at Renter's sole cost and expense and at all times keep the. Rented Premises neat, clean and in a sanitary condition. Renter shall keep and use the Rented Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of all governmental authorities. Renter shall permit no waste, damage or injury to the Rented Premises. Renter's use of the Rented Premises in violation of any law or regulation of any governmental entity related to public health or safety or environmental pollution shall be a material breach of the Rental Agreement and grounds for City's termination of the Rental Agreement. Renter is required to obtain building permit authorization from the City for construction of any and all structures placed on or in the Rented Premises.
- 9 **Signs, Alterations and Improvements.** All signs or symbols placed on or about the Rented Premises shall be subject to City's prior written approval. After prior written consent of City, Renter may make alterations and improvements to the Rented Premises, at Renter's sole cost and expense. City may elect to require Renter to remove any such alterations and improvements upon termination of this Rental Agreement at Renter's sole cost and expense. Any of Renter's

RENTAL AGREEMENT

improvements remaining on the Rented Premises longer than thirty (30) days after Renter's possessor's rights to the Rented Premises have expired shall become Rented Premises of City.

- 10 Insolvency.** In the event Renter becomes insolvent, bankrupt or if a receiver, assignee or other liquidating officer is appointed for the business of Renter, City, in City's sole discretion may immediately terminate this Rental Agreement and require that Renter vacate the Rental Premises.
- 11 Subletting or Assignment.** Renter shall not sublet the whole or any part of the Rented Premises nor assign this Rental Agreement without the prior written consent of City. This Rental Agreement shall not be assignable by operation of law. All terms and conditions of the Rental Agreement shall be binding upon any sub Renter or assignee of this Rental Agreement and Renter shall remain fully responsible to City for performance of this Rental Agreement.
- 12 Permits and Compliance with Law.** Renter shall obtain all necessary local, state and federal permits necessary for the operation of Renter's business and shall comply with all local, state and federal laws, rules and regulations.

Failure to comply with any requirements of this section shall constitute a material breach of the Rental Agreement. Failure to remedy the violation within 30 days will result in the City's termination of the Rental Agreement. Absent an approved Rental Agreement, the Renter shall vacate the premise immediately.

- 13 Insurance.** General Liability Insurance: The Renter shall procure and maintain during the life of this agreement, General Liability Insurance on an "occurrence basis" with limits of liability not less than \$1,000,000 per occurrence and /or aggregate combined single limit, personal injury, bodily injury and property damage.

Proof of Insurance shall be provided to City within thirty (30) days after the parties have executed this agreement and prior to public use of said premises. City shall be notified at least thirty (30) days before the cancellation or termination of any policy.

City shall be named as additional insured.

- 14 Accidents and Liability.** City or its agent shall not be liable for any injury or damage to the persons or property sustained by Renter or others, in and about the Rented Premises.
- 15 Indemnification and Waiver of Subrogation.** To the fullest extent permitted by law, the Renter agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, employees and volunteers against any and all liabilities, claims, demands, lawsuits, or losses, including costs and attorney fees incurred in

RENTAL AGREEMENT

defense thereof, arising out of or in any way connected or associated with this agreement.

To the extent permitted by law, the Renter hereby re-Rents the City, its elected and appointed officials, employees and volunteers from any and all liability or responsibility to the Renter or anyone claiming through or under the Renter by way of subrogation or otherwise, for any loss or damage to the property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of the City, its elected or appointed officials, employees or volunteers. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of the Renter's occupancy or use.

Renter understands that the City accepts no responsibility whatsoever for loss of, or damage to Renter's property.

- 16 Removal of Renter's Property and Repair of Rented Property.** All buildings, fixtures and equipment of whatsoever nature, that Renter shall have acquired and installed upon Rented premises, whether permanently affixed or otherwise, shall continue to be the property of the Renter and must be removed by the Renter at the expiration or termination of this Rental Agreement; and at its own expense, Renter shall repair any injury to Rented Premises resulting from such removal. Renter shall remove all buildings, fixtures, and equipment, and make all repairs, within thirty days of the date the Renter vacates Rented Premises. If the Renter fails to remove its buildings, fixtures, and equipment, and fails to make the necessary repairs, the City may do so, and seek reimbursement from the Renter for the full amount of the repairs, without any deduction for the value of any buildings, fixtures, or equipment left on the premises by the Renter. If City determines that it is in City's best interest to acquire the improvements, it may negotiate to purchase Renter's buildings, fixtures, and equipment at a price equal to or less than fair market value.
- 17. Taxes.** Renter shall be solely and fully responsible for the payment of all applicable federal, state, and Thorne Bay municipal taxes including all Monthly Sales Taxes due the City.
- 18 Liens.** Renter shall maintain Rented Premises free of any and all liens. Renter will not permit any mechanics', laborers' or materialmen's liens to stand against the Rented Property or improvements for any labor or materials furnished to Renter or claimed to have been furnished to Renter, or to Renter's agents, contractors, or sub-Renters, in connection with work of any character performed or claimed to have been performed on Rented premises or improvements by or at the direction or sufferance of Renter; provided, however, Renter shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Renter shall give to the City such reasonable security as may be demanded by the City to insure payment of such lien or such claim of lien. Renter will immediately pay any judgment rendered with all proper costs

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and charges and shall have such lien re-Rented or judgment satisfied at Renter's own expense. Renter agrees to indemnify, hold harmless and to defend the City and Rented premises from such liens. Renter consents to the City's recording of and posting of a statutory notice of non-responsibility in accordance with Alaska Statute 34.35.065

- 19. Default by Renter.** Each of the following shall be deemed a default by the Renter and a breach of the Rental Agreement:
- (a) A failure to make payment of any installment, of rent or of any other sum herein specified to be paid by Renter, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to make payment;
 - (b) Upon shut off of utilities;
 - (c) A default in the performance of any other covenant or condition on the part of the Renter to be performed for a period of thirty (30) days after receipt by Renter of a notice specifying the particular default or defaults;
 - (d) The filing of a petition by or against Renter for adjudication as a bankrupt, or for reorganization or arrangement within the meaning of the Bankruptcy Act;
 - (e) The dissolution or the commencement of any action or proceeding for the dissolution or liquidation of the Renter or for the appointment of a receiver or trustee of Rented Premises of the Renter;
 - (f) The taking possession of Rented Premises of the Renter by any governmental officer of agency pursuant to statutory authority for the dissolution or liquidation of the Renter;
 - (g) The making by the Renter of an assignment for the benefit of creditors;
 - (h) Renter vacates or abandons the Rented Premises; and
 - (i) A failure that continues for five (5) days or more to have the City named as an additional insured as required under paragraph 18, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to name the City as an additional insured.

The specification of events constituting default by the Renter in this Section, are in addition to any defaults specified in the Thorne Bay Municipal Code.

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- 20 City's Remedies for Default.** In the event of any default of the Renter, the City shall have the following rights and remedies - all in addition to any rights or remedies that may be given to the City by statute, common law, or under Thorne Bay Municipal Code.
- (a) Distraint for rent due and subsequent sale of chattels so distrained. The sale of any such chattels shall be in accordance with the procedure set forth in Alaska Statutes.
 - (b) Re-enter Rented Premises and take possession thereof, remove all persons therefrom, and remove Renter's property therefrom and store it in a public warehouse or elsewhere at the cost of Renter, all without service of notice or resort to legal process (all of which Renter expressly waives) and without becoming liable for trespass, forcible entry, detainer, or other tort or for any loss or damage which may be occasioned thereby;
 - (c) Declare the Term ended;
 - (d) Re-let Rented premises in whole or in part for any period equal to or greater, or less, than the remainder of the Term for any sum which is commercially reasonable;
 - (e) Cure any such default, if possible, and demand immediate payment until all costs incurred in curing the default have been reimbursed fully, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska;
 - (f) Collect all reasonable damages, costs and expenses that the City may incur by reason of default by Renter, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska.
 - (g) The City shall use reasonable diligence to re-let Rented Premises in or to mitigate the City's damages, consistent with the uses of Rented Premises, and all applicable Thorne Bay code provisions related to this Rent and Rented Premises.
- 21 Rights and Remedies.** Except insofar as this is inconsistent with or contrary to any provision of this Rent, no right or remedy herein conferred upon reserved to the City or Renter is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.
- 22 Waiver.** Except to the extent that a party may have otherwise agreed in writing, no waiver by a party of any breach by the other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation. Nor shall any forbearance by a party to seek a remedy for any breach of the other party be deemed a waiver of its rights or remedies with respect to such breach.
- 23 Changes.** No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the

RENTAL AGREEMENT

parties hereto and such representatives of the parties as have been duly authorized to make such changes.

- 24 Joint Product.** The language set out in this Rental Agreement represents the joint product of the parties and shall not be construed against one party in favor of the other. Each party hereto has had the option of seeking the advice of legal counsel in the drafting of this Rental

Agreement, and the rule of construction favoring construction against the drafter shall not apply. Renter acknowledges and agrees that Renter has not received any legal advice from the City's attorney or from anyone associated with the City.

- 25 Authority.** The parties and their undersigned representatives warrant that they have full authority to enter into this Rental Agreement and to execute this Rental Agreement.
- 26 Hazardous Materials.** The Renter shall not permit, store, manufacture or dispose on Rented Premises any hazardous material or controlled substance as determined by federal, state, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation and liability Act (42 U.S.C. 9601 et seq.), the Hazardous materials Transportation Act (42 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. 651 et seq.), and Title 46 of the Alaska Statutes as these laws have been and may hereafter be amended or supplemented. "Hazardous Substance" means any pollutant, contaminant, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCB's or any other substance the removal of which is required, or the manufacture, preparation production, generation, use maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any and all federal, state, or municipal statutes or laws now or at any time hereafter in effect. Hazardous material shall not include cleaning supplies used in the routine daily cleaning and operation of a restaurant.
- 27 Acceptance of the Rented Property by Renter.** Renter acknowledges that it has thoroughly examined Rented Premises. Renter accepts Rented Premises in their "AS IS" condition, and the City shall not be required to perform any work to prepare Rented Premises for the Renter. Renter's taking possession of Rented Premises shall be conclusive evidence against it that, at the time possession was taken, Rented Premises were in good and satisfactory condition. Renter acknowledges that, except for those representations and statements regarding the condition of Rented Premises expressly stated herein, Renter has not relied upon any representations or statements of the City or its representatives or agents

RENTAL AGREEMENT

regarding the condition of Rented premises or their suitability for Renter's uses under this Rent.

- 28 Attorneys' Fees and Costs.** Should any dispute and/or legal action arise by reason of any default or breach on the part of Renter in the performance of any of the provisions of the Rental Agreement, Renter agrees to pay all reasonable attorneys' fees and costs incurred by City in connection therewith including City's attorneys' fees and costs incurred on appeal. It is agreed that the venue of any legal action brought under the terms of this Rental Agreement will be the First Judicial District, at Ketchikan, Alaska. Renter specifically

agrees that venue for trial in any action related to this Rent shall be in Craig, Alaska.

- 29. No Waiver of Covenants.** Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future or similar breach. This Rental Agreement contains all the agreements between the parties, and there shall be no modification of the agreements contained herein except by written instrument signed by both parties.
- 30. Surrender of Rented Premises.** Upon termination of this Rental Agreement, Renter agrees to peacefully quit and surrender the Rented premises without notice, remove all of Renter's personal property and leave the Rented premises neat and clean. If City elects to require Renter to remove any alterations or improvements made by Renter, then Renter shall restore the Rented Premises to their previous condition, at Renter's sole expense.
- 31. Binding on Heirs, Successors and Assigns.** The covenants and agreements of this Rental Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of both parties thereto, except as hereinabove provided, and as allowable by law.
- 32. Notice.** Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to City at P.O. Box 19110, Thorne Bay, Alaska 99919, or the Renter at, PO Box, Thorne Bay, AK 99919, or at such other address as either party may designate in writing to the other.
- 33. City's Right of Entry.** The City shall have the right to enter Rented premises at all reasonable times to examine the condition of same.

RENTAL AGREEMENT

IN WITNESS WHEREOF, The parties hereto have executed this Rental Agreement as of the date first set above written.

CITY:

RENTER:

THE CITY OF THORNEBAY "City"

PACIFIC AIRWAYS "Renter"

By: _____
Harvey McDonald, Mayor

By: _____
Stephen Montanus, President

ATTEST:

Teri Feibel, CMC

ORDINANCE FOR INTRODUCTION

ORDINANCE 19-09-03-01 CITY OF THORNE BAY

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, - AMENDING THORNE BAY MUNICIPAL CODE (TBMC); TITLE 1-GENERAL PROVISIONS; SECTION 1.16.035-MINOR OFFENSE FINE SCHEDULE, SETTING FINE AMOUNTS FOR MINOR OFFENSE VIOLATIONS OF TITLE 15-BUILDINGS & TITLE 17-PLANNING AND ZONING

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 chapters of Title 1 - General Provisions, Chapter 1.16 - General Penalty, Section 1.16.035-Minor Offense Fine Schedule, establishing fine amounts for the offenses listed in TBMC Title 15-Buildings & amending fines amounts for offenses listed in Title 17-Zoning. The fines are hereby amended and added to the Thorne Bay Municipal Code.
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED September 3, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: August 20, 2019]
[Public Hearing: September 3, 2019]

ORDINANCE FOR INTRODUCTION

Amending Title 1 General Provisions Adding Title 15-Buildings and amending fines for Title 17-Zoning To the City Fine Schedule of Violations

Chapter and Sections shall read as follows:

1.16.030 VIOLATIONS-SEPARATE OFFENSE.

Every act prohibited by Thorne Bay ordinances is unlawful. Failure to comply with any mandatory requirement of any ordinance is also unlawful. Unless another penalty is expressly provided by a Thorne Bay ordinance for any particular provision or section, each violation of this code is an infraction, punishable by a fine up to three hundred dollars per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense unless stated otherwise in any ordinance. (Ordinance 18-01-02-01; Prior Ord. 88-23 § 5(part), 1988)

1.16.035 MINOR OFFENSE FINE SCHEDULE.

In accordance with as 29.25.070(a), citations for the following offenses may be disposed of as provided in as 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by as 12.55.039 and as 29.25.074.

FINES MUST BE PAID TO THE COURT.

If an offense is not listed on a fine schedule, the defendant must appear in court to answer the charges. The Alaska court system's rules of minor offense procedure apply to all offenses listed below. Citations charging these offenses must meet the requirements of minor offense rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below.

ORDINANCE FOR INTRODUCTION

ADOPTING THE FINE SCHEDULE FOR ALL VIOLATIONS OF TITLE 15-BUILDINGS AND CONSTRUCTION; CHAPTER 15.04-SETBACKS; REVIEW AND AMENDMENT TO FINES SCHEDULE FOR VIOLATIONS OF TITLE 17-ZONING

| Ordinance Number | Ordinance Description | Appearance: Mandatory Optional | Fine Amount for Optional | Max Fine for Mandatory |
|--|--|-----------------------------------|---------------------------------|---------------------------|
| 15.04 SETBACKS | | | | |
| TBMC 15.04.010 | BUILDINGS-LOTS INTERIOR SETBACKS - NON-COMPLIANCE OF SETBACK REQUIREMENTS | OPTIONAL | \$ 150.00 | |
| TBMC 15.04.020 (B) | BUILDINGS-DEVELOPMENT PLANS - DEVELOPMENT PLANS REQUIRED | OPTIONAL | \$ 100.00 | |
| TBMC 15.04.020 (F) | BUILDINGS-DEVELOPMENT PLANS-STOP WORK ORDER - FAILURE TO CEASE DEVELOPMENT AFTER RECEIPT OF STOP WORK ORDER | OPTIONAL | \$ 500.00 | |
| TBMC 15.04.020 (H) | BUILDINGS-DEVELOPMENT PLANS-STOP WORK ORDER - INSTALLATION OF UTILITY HOOKUPS WITHOUT PERMIT | OPTIONAL | \$ 150.00 | |
| Title 16 Subdivisions; 16.40 Violations and Penalties | | | | |
| TBMC 16.40.010 | SUBDIVISIONS-ILLEGAL SALES | OPTION | \$500.00 | |
| TBMC 16.40.010 (B) | SUBDIVISIONS-ILLEGAL FILING | OPTION | \$500.00 | |
| TBMC 16.40.030 | SUBDIVISIONS- <u>UNLAWFULLY</u> SUBDIVIDED- VIOLATION OF TERMS | OPTION | \$500.00 | |
| CHAPTER 17.04 PLANNING AND ZONING | | | | |
| TBMC 17.04.022 | RESIDENTIAL ZONE. FAILURE TO SUBMIT DEVELOPMENT PLANS | OPTIONAL | \$150.00 \$500.00 | |
| TBMC 17.04.022 (B) | RESIDENTIAL ZONE. FAILURE TO OBTAIN CONDITIONAL SPECIAL LAND USE PERMIT | OPTIONAL | \$200.00 | |
| TBMC 17.04.022 (C) | RESIDENTIAL ZONE. PROHIBITED USES | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.022 (D) | RESIDENTIAL ZONE. DEVELOPMENT STANDARDS FAILURE TO ADHERE TO ZONING | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.022 (E) | RESIDENTIAL ZONE. DEVELOPMENT STANDARDS FAILURE TO ADHERE TO ZONING (TRACT B) | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.023 | DEER CREEK RESIDENTIAL. FAILURE TO SUBMIT DEVELOPMENT PLANS | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.023 (B) | DEER CREEK RESIDENTIAL. FAILURE TO OBTAIN SPECIAL LAND USE PERMIT | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.023 (C- 2) | DEER CREEK RESIDENTIAL. PROHIBITED USES-PRIVATE GARBAGE PITS | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.023 (C- 3) | DEER CREEK RESIDENTIAL. PROHIBITED USES-STORAGE OF HEAVY EQUIPMENT | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.023 (C- 4) | DEER CREEK RESIDENTIAL. PROHIBITED USES-STORAGE OF DERELICT VEHICLES OR UNSIGHTLY ACCUMULATION OF PERSONAL PROPERTY | OPTIONAL | \$200.00 \$500.00 | |

ORDINANCE FOR INTRODUCTION

| | | | | |
|----------------------|---|----------|---------------------------------|--|
| TBMC 17.04.023 (C-5) | DEER CREEK RESIDENTIAL. PROHIBITED USES-RAISING OF ANIMALS, LIVESTOCK AND POULTRY | OPTIONAL | \$200.00 \$500.00 | |
| TBMC 17.04.024 | MIXED RESIDENTIAL/COMMERCIAL I. PROHIBITED ACTS | OPTIONAL | \$200.00 \$500.00 | |

ORDINANCE FOR INTRODUCTION

ORDINANCE 19-09-03-02 CITY OF THORNE BAY

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA - AMENDING
TITLE 15-BUILDINGS AND CONSTRUCTION; CHAPTER 15.04-SETBACKS

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, Section 15.04.020-Development Plans, is hereby amended and added to the Thorne Bay Municipal Code.
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED September 3, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: August 20, 2019]
[Public Hearing: September 3, 2019]

ADDITIONS ARE BLUE AND CAPITALIZED

~~Deletions are stricken~~

AMENDING THORNE BAY MUNICIPAL CODE
TITLE 15 – BUILDINGS & CONSTRUCTION
CHAPTER 15.04 SETBACKS

15.04.020 DEVELOPMENT PLANS.

- A. Purpose: to make the public aware of setback requirements and eliminate building encroachments into rights-of-ways, easements and other properties.
- B. Plan Required. No structure shall be erected, constructed, enlarged, relocated or extended without a development plan permit issued by the city. No existing use of a 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.
- C. Application. All applications for development plans shall be completed on city forms and accompanied by a site plan that includes:
 - 1. Property boundaries and dimensions;
 - 2. Scale with north arrow;
 - 3. All existing and proposed structures and their dimensions;
 - 4. Distance of structures to all lot lines;
 - 5. Rights-of-way and easements adjacent to the property;
 - 6. Off-street parking spaces with their dimensions;
 - 7. Location of utility poles, and water and sewer lines;
 - 8. Access and driveways;
 - 9. Any topographical features that may affect the development of the property;
 - 10. Proposed use of the new structure and current use of any existing buildings.
 - i. 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.
- D. 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.
- E. Complaints and Violations. If a violation occurs, any citizen may file a complaint at City Hall. The **CODE ENFORCEMENT OFFICER OR** city zoning official, **IN THE ABSENCE OF A CODE ENFORCEMENT OFFICER**, shall record and investigate all complaints.

ORDINANCE FOR INTRODUCTION

- F. Stop-work Orders. If any construction work is being done contrary to this provision or without a development plan, the **CODE ENFORCEMENT OFFICER**, 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 **CODE ENFORCEMENT OFFICER**, 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 Thorne Bay Municipal Code.
- G. Exemption from the Development Plan Requirement. Providing all setback requirements are met where applicable, the following structures do not require a development plan:
1. Fences constructed up to the property line;
 2. Retaining walls not over four feet;
 3. Platforms, walls and driveways not more than thirty inches above grade;
 4. Temporary structures such as booths and other similar structures.
- H. Plans Required Prior to Utility Hookup. No hookup for sewer, water, or water meter shall be made for any structure, mobile home or trailer within the city until a development plan is issued.
- I. 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)
1. **ANY PERSON VIOLATING ANY PROVISION OF THIS CHAPTER SHALL BE DEEMED GUILTY OF AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN 1.16.035 IF THE OFFENSE IS LISTED IN THAT FINE SCHEDULE OR IF NOT LISTED IN 1.16.035 THEN BY THE FINE PROVIDED IN 1.16.030**
 2. **IF A VIOLATION CONTINUES, EACH DAY'S VIOLATION SHALL BE DEEMED AS A SEPARATE VIOLATION.**