

AGENDA

FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY, ALASKA
COUNCIL CHAMBERS
CITY HALL
March 19, 2019
6:30 p.m.

*The meeting will be preceded by a workshop beginning at 6:00 p.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. ADMINISTRATIVE REPORTS:
 - a. **City Clerk Report:**
7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. CONSENT AGENDA:
 - a. MINUTES: Approval of the Minutes for the Regular March 5, 2019, discussion and action item:
10. NEW BUSINESS:
 - a. Authorizing the City to enter into a rental agreement with Jo Wendel for the rental of Lot 5, Downtown Business District, discussion and action item:
 - b. Authorizing the City to enter into a rental agreement with Sean Kaer for 1 acre of land at the Sort Yard, discussion and action item:

- c. Awarding Bid for Clinic Remodel, discussion and action item:
- d. Awarding Bid for Bay Chalet Remodel, discussion and action item:
- e. Resolution 19-03-19-01, supporting the amendment to Thorne Bay City Code, adding the ability to place liens on property for delinquent accounts, discussion and action item:

11. ORDINANCE FOR INTRODUCTION:

- a. Ordinance 19-04-02-01, amending Title 18-Harbor, adding Section 18.10.020-N-Vessel Length, Section 18.20.040 Payment and Use Fees, discussion and action item:
- b. Ordinance 19-04-02-02, amending Title 13-Utilities, amending language to allow for the Courts to enforce Utility Violations, discussion and action item:
- c. Ordinance 19-04-02-03, amending Title 1-General Provisions, Section 1.16.035-Minor Offense Fine Schedule, Adding Violations for Title 13-Utilities, discussion and action item:

12. ORDINANCE FOR PUBLIC HEARING: NONE

13. EXPENDITURES EXCEEDING \$2,000.00: NONE

14. CONTINUATION OF PUBLIC COMMENT:

15. CONTINUATION OF COUNCIL COMMENT:

16. ADJOURNMENT:

POSTED: March 15, 2019

City Hall, AP Market, The Port, USFS , SISD & Thorne Bay School, Riptide Liquor

City Website: www.thornebay-ak.gov

**MINUTES COMING SOON
FOR THE MARCH 5, 2019 REGULAR MEETING**

RENTAL AGREEMENT

COMMENTS TO CITY COUNCIL

The yellow highlighted areas are changes made to agreement originally to tailor agreement specifically to Jo Wendel.

The blue highlighted areas are changes made from the Agreement draft you all received at the last meeting.

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, Jo Wendel, (hereinafter called the "RENTER").

1. **Rented Premises.** The City does hereby Rent to the Renter Lot 5 of the Downtown Business District Subdivision, located 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 for a term of Five (5) year(s) beginning April 1, 2019, and ending on March 31, 2024. 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 Five (5) 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.

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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.

3. **Monthly Rent Payment.** Renter covenants and agrees to pay City monthly Rent payments in the sum of **One Hundred and Fifty Dollars (\$150)** 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 such past due amount will be assessed and charged to Renter by City. **At the expiration of five-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 (2) times the monthly rent (\$300)**. 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 needs 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.
 5. **Use.** Renter shall use the Rented Premises for the purposed of maintaining and operating there on; **Renter shall use the rented premises for placing thereon any of the following items:**
 - (a) **Building that may be used to house a business venture**
 - (b) **Office Spaces**
 - (c) **Storage of Containers, Materials, Equipment and/or Supplies**
- The Rented Premises shall be used for no other purposes without the prior written consent **of City Planning Official, or City Council in the absence of the Planning Official.**
6. **Utilities and Fees.** Renter shall be responsible for all utility account **fees** and applicable deposits for said accounts. Renter agrees to pay, and keep current, ALL charges, including deposits, for all utilities, including but not limited to water, sewer, refuse collection, electricity, propane, fuel oil and telephone. Failure **to keep current utility accounts will result in disruption of service, and shall constitute a material breach of the Rental Agreement.** A material breach of this contract shall result in termination of the Rental Agreement, and the Renter shall vacate the premises immediately.

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7. **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.
8. **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 improvements remaining on the Rented Premises longer than thirty (30) days after Renter's possessors rights to the Rented Premises have expired shall become Rented Premises of City.
9. **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.
10. **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. **City's Consent to Subletting or Assignment shall not be unreasonably withheld.** 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.
11. **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.

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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.

12. **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.
13. **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.
14. **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 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.
15. **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

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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.

16. **Taxes.** Renter shall be solely and fully responsible for the payment of all applicable federal, state, and Thorne Bay municipal taxes including all ~~Monthly~~ **Quarterly** Sales Taxes due the City.

17. **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 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 Stature 34.35.065.

18. **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

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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.

19. **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.

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20. **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.
21. **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.
22. **Changes.** No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the parties hereto and such representatives of the parties as have been duly authorized to make such changes.
23. **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.
24. **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.
25. **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

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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 **or those materials necessary for the processes related to the production of artwork including, but not limited to, lapidary, small-scale fiber dyeing, metal and metal clay work.** ~~and operation of a restaurant.~~

26. **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 **surface condition.** **Renter has not conducted soil sampling, and is not responsible for any soil contamination that existed prior to the rental period.** 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 regarding the condition of Rented premises or their suitability for Renter's uses under this Rent.

27. **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.

28. **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

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modification of the agreements contained herein except by written instrument signed by both parties.

29. **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.
30. **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.
31. **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 **P.O. Box Thorne Bay, AK 99919**, or at such other address as either party may designate in writing to the other.
32. **City's Right of Entry.** The City shall have the right to enter Rented premises at all reasonable times, **with a minimum of 24 hours notification**, to examine the condition of same.

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

CITY:
THE CITY OF THORNE BAY

By _____
Harvey McDonald, Mayor "City"

RENTER:
Jo Wendel

By _____
Jo Wendel "Renter"

ATTEST:

Teri Feibel, Certified Municipal Clerk

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, **Sean Kaer**, (hereinafter called the "RENTER").

1. **Rented Premises.** The City does hereby Rent to the Renter **one (1) acre plus or minus of land at the Sort Yard** 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 **Two (2)** year(s) beginning **April 1, 2019 and ending March 31, 2021**. 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 **Two (2)** 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.

3. **Monthly Rent Payment.** Renter covenants and agrees to pay City monthly Rent payments in the sum of **One Hundred Fifty Dollars (\$150) 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 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 **Three-Hundred Dollars (\$300)**. 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 waived 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 purpose of maintaining and operating there on, **Storage of Equipment and Supplies**. The Rented Premises shall be used for no other purposes without the prior written consent of City.
6. **Utilities and Fees.** Renter shall be responsible for all utility accounts and applicable deposits for said accounts. Renter agrees to pay, and keep current, ALL charges, including deposits, for all utilities, including but not limited to water, sewer, refuse collection, electricity, propane, fuel oil and telephone. Failure to do so will result in the utility being shut off. Activation of a city shutoff shall constitute a material breach of the Rent Agreement resulting in the City's termination of the Rent Agreement. Absent an approved Rental Agreement the Renter shall vacate the premise immediately.
7. **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.
8. **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 improvements remaining on the Rented Premises longer than thirty (30) days after Renter's possessors rights to the Rented Premises have expired shall become Rented Premises of City.

9. **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.
10. **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.
11. **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.

12. **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.

13. **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.
14. **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 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.

15. **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.
16. **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.
17. **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 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

18. **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.

19. **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 relet 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.

20. **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.

21. **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.

22. **Changes.** No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the parties hereto and such representatives of the parties as have been duly authorized to make such changes.

23. **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.

24. **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.

25. **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. 651et 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.

26. **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 regarding the condition of Rented premises or their suitability for Renter’s uses under this Rent.
27. **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.
28. **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.
29. **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.

30. **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.

31. **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.

32. **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.

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

CITY:

RENTER:

THE CITY OF THORNE BAY

By _____
Robert Hartwell, Mayor Pro-Tem "City"

By _____
Sean Kaer "Renter"

ATTEST:

Teri Feibel, City Clerk

BID RECEIVED FOR CLINIC/BAY CHALET

CLINIC REMODEL & BAY CHALET REPAIRS

Bid Opened: March 11, 2019, Time: 9:45 a.m.
(Date)

Bid Response Company Information:

Business Name: Island Building LLC, Owner: Travis Tripple.

Bid Received: March 6, 2019 @ Prior to 4:00 p.m.
(date and time of receipt)

Received By: Dana Allison, Finance Officer
City Employee Name

Clinic Remodel Bid: \$ 32,760.00

Bay Chalet Bid: \$ 32,660.00

Total Bid Amount: \$65,420.00

Business Location: Thorne Bay, Alaska 99919

CITY OF THORNE BAY
RESOLUTION 19-03-19-01

A RESOLUTION OF THE THORNE BAY CITY COUNCIL RECOMMENDING THE CITY CLERK DRAFT AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF LIENS ON REAL AND PERSONAL PROPERTY TO SECURE PAST DUE ACCOUNT FEES

WHEREAS, the City Council is the governing body of the City of Thorne Bay; and

WHEREAS, during the 2017 Legislative Session, Senate Bill 100 (SB100) was introduced in the Alaska Legislature which would restore the opportunity for a municipality to create, record and notice a lien on real or personal property to secure payment of past due utility fees; and,

WHEREAS, in July of 2015, the Thorne Bay City Council passed Resolution 15-07-21-03, increasing the utility rates by ¼ their rate for four years in an attempt to have each enterprise account pay for itself. These increases totaled fifty-one dollars and four cents (\$51.04) in the water and sewer departments (\$21.16 in water fees, and \$29.88 in sewer fees); and

WHEREAS, enacting an ordinance to place a lien on real or personal property to collect debts, will increase the City's collection rate and decrease the annual amount of "bad debt" incurred, thus allowing for utility rates to stabilize; and

WHEREAS, SB100 amending provisions of Alaska Statutes was enacted by the Legislature and signed in to law by the Governor; and,

WHEREAS, a Municipality must affirmatively codify the provisions within City Ordinance to allow utilization of liens to aid in collection of delinquent fees; and,

WHEREAS, the City Administration Department recommends the City Council Sponsor an amendment of the Thorne Bay Municipal Code to allow for the City to pursue liens to secure past due utility fees on accounts.

NOW THEREFORE BE IT RESOLVED that the City Council for the City of Thorne Bay Thorne Bay recommends the City Clerk draft a proposed Ordinance with the assistance of the City’s Attorney, that would allow the utilization of liens process to aid in collection of delinquent fees.

PASSED AND APPROVED this 19th Day of March 2019

Robert Hartwell, Mayor Pro-Tem

ATTEST:

Teri Feibel, CMC

THORNE BAY CITY CLERK COMMENTS:

Meeting Date: March 19, 2019

LIENS ON REAL AND PERSONAL PROPERTY TO SECURE PAST DUE UTILITY FEES

The Legislature enacted Senate Bill 100, enabling legislation codifying the ability for municipalities to adopt Ordinances that allow liens to be placed on real and personal property for unpaid debts to municipalities, including utilities.

The City currently utilizes small claims procedures through the Alaska Court System, but the ability to file liens will enhance collection efforts and provides another opportunity to collect for services rendered.

The proposed Ordinance can allow for a lien against the real property without subjecting the owner to personal liability. (Example, real property tax: the debt is essentially owed by the property itself because the property receives the benefit of the services.)

While the Ordinance is proposed to cover both real and personal property, the real property lien tends to be the better of the two because (1) liens on real property are often satisfied without any enforcement action upon sale of the property or because the lien is an event of default under an existing mortgage; and (2) many consumers who do not pay their utility bills do not have any personal property worth placing a lien on. Still, it is an additional enforcement mechanism, which has already proven its value in connection with commercial entities.

RECOMMENDED ACTION:

That the City Council adopt Resolution 19-03-19-01, which directs the City Clerk to draft an ordinance with the assistance of the City Attorney, that will amend the City Code to include the necessary language for the City to place a lien on real and personal property for delinquent accounts in an attempt to collect a debt for services rendered.

CITY OF THORNE BAY
ORDINANCE 19-04-02-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, -
AMENDING TITLE 18-HARBOR; CHAPTERS 18.10-GENERAL PROVISIONS AND
CHAPTER 18.20-REGISTRATION AND STALL ASSIGNMENT, SECTIONS 18.10.020-
DEFINITIONS AND SECTION 18.20.040 PAYMENT OF RENTAL AND USE FEES

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, adding fines for offenses listed in Title 13-Utilities, hereby amended and added to the Thorne Bay Municipal Code. The Fine Schedule for all offenses in Title 13-Utilities are added as written on page 2 & 3 of this ordinance.

Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED April 2, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: March 19, 2019]
[Public Hearing: April 2, 2019]

Amending
Title 18 Harbor
Amending Chapters:
18.10-General Provisions,
18.20 – Registration and Stall Assignment

Amendment of Sections:
Sections 18.10.020-Definitions
Section 18.20.040-Payment of Rental and Use Fees

ADDITION TO SECTIONS:
Adding Subsection 18.10.020 (N) "length of vessel"
Adding Subsection: 18.20.040-Subsection B – "Billing of vessel computed by length"

Chapter and Sections of Title 18-Harbor shall read as follows:

18.10.020 DEFINITIONS.

Whenever the following words or terms are used in this title, they shall have the meaning ascribed to them in this section, unless the context makes such meaning repugnant thereto:

- A. "Boat grid"** means all facilities maintained, leased or owned by the city for use while repairing, bottom scraping or painting vessels by allowing said vessels to go dry on low tides.
- B. "City's harbor jurisdiction"** means the harbor facility and all navigable waters situate within the city's tideland lease area.
- C. "Commuter vessel"** means any vessel not used for commercial activities (including the embarking or disembarking of passengers as part of such commercial activities), home-ported in the city which is used by a resident of the city for the main purpose of transporting that resident or his family from place of residence to the main town site for purposes of attending work, obtaining materials and supplies, or attending school or school-related activities.
- D. "Constituting a nuisance"** means any vessel which is not kept and regularly pumped free of excess water inside her hull, or is submerged, or creates a fire, health or navigation hazard, or is a derelict, or has become a nuisance because of nonpayment of fees.
- E. "Derelict vessel"** means a vessel that has been left unattended for a continuous period of more than twenty-four hours, if:
 - 1. The vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or
 - 2. The vessel has been moored or otherwise left in the city boat harbor, and if:
 - I. The vessel's certificate of number or marine document has expired, and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state department or the United States Coast Guard; or
 - II. The last registered owner of record disclaims ownership and the current owner's name, or address cannot be determined; or
 - III. The vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or
 - IV. The vessel registration records of a state department and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented, and the owner's name cannot be determined.
- F. "Finger float"** means the numbered floats attached and connected to the master floats. Finger floats shall be identified by numbers. All floats now or hereafter installed, whether or not connected with master floats, shall be suitably identified.

- G. **"Float"** means all floating or stationary walkways and structures appurtenant thereto to which vessels may be moored, which are owned or maintained by the city.
- H. **"Harbor facility"** means any float, piling, dock, ring, buoy, stall, seaplane float, boat ramp, vehicle parking area, structure, submerged lands and uplands directly associated with submerged lands use or other harbor improvement constructed, maintained, or owned or leased by the city.
- I. **"Residence"** means the dwelling unit where one actually resides; one's home.
- J. **"Seaplane"** means an airplane which is capable of landing in water.
- K. **"Transient/guest vessel"** means any vessel not home-ported in Thorne Bay by designation or transactional utilization.
- L. **"Vehicle"** means all trucks, automobiles, motorcycles, all-terrain vehicles and non-motor vehicles of every kind and description, pleasure and commercial.
- M. **"Vessel"** means all ships, boats, skiffs and craft of every kind and description, pleasure and commercial, including a seaplane, on the water, used or capable of being used as a means of transportation on or through the water.
- N. **"VESSEL LENGTH" LENGTH OF A VESSEL FROM STERN TO STEM, INCLUDING ALL FIXED PROTUBERANCES.**
- O. **"Vessel owner, master or agent"** means the individual, partnership or corporation renting a stall or mooring space in the city boat harbor, or someone acting for that individual or corporation. (Ord. 97-22 § 3(part), 1997; Ord. 92-17 § 4, 1992; Ord. 89-30 § 5(part), 1989)

18.20.040 PAYMENT OF RENTAL AND USE FEES.

- A. All use of any harbor facilities shall be payable in advance, moorage and other fees are payable in advance. Guest or transient use fees shall be based on the fees established by the City Council for daily rates. Permanent use fees (contracts) shall be based on the fees established by the City Council for monthly, biannually, or annually rates.
- B. **BILLING WILL BE COMPUTED BY LENGTH OF VESSEL OVERALL (STERN TO STEM).**
- C. Use of Harbor Facilities for less than 1 month will be charged daily guest rates or charged the appropriate monthly rate with a signed contract. All new harbor contracts without a deposit on file shall be required to pay a deposit equal to two-times the monthly rate charged.
 - 1. Deposits shall not exceed the maximum deposit requirement as set forth by resolution for any account. Contracts shall begin at the first of the month. (Ordinance 18-12-04-02, § A (part), prior Ordinance 18-09-18-03, § A (part))
- D. The billing clerk shall send a bill to persons renting a stall or mooring space on or about the first day of each month. Said bill shall be due and payable on the twentieth day of the month. Such bill will also contain a statement for additional services which have been rendered during the prior month. Bills not paid by the due date shall be subject to a two percent monthly service charge. (Ordinance 18-09-18-03, § B (part), Prior Ord. 13-04-02-04; Prior Ordinance 05-06-21-02 & Ord. 89-30 § 5(part), 1989)

CITY OF THORNE BAY
ORDINANCE 19-04-02-02

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, - AMENDING
TITLE 13-UTILITIES;

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, adding fines for offenses listed in Title 13-Utilities, and amending Title 13 Utilities;
- Section 4.** Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED April 2, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: March 19, 2019]
[Public Hearing: April 2, 2019]

Amending Title 13-Utilities
Chapter and Sections shall read as follows:

CHAPTER 13.14 - SEWAGE SERVICE RATES

13.14.030 PAYMENT OF BILLS.

All bills shall be mailed on ~~or before the last~~ THE FIRST working day of the month. All charges for sanitary sewer service shall be due when the bill containing the service charges is mailed.

13.14.040 COLLECTION OF DELINQUENT ACCOUNTS.

The city may use all legal means and pursue all legal remedies to collect unpaid sanitary sewer service charges. The city, in addition to the foregoing, shall terminate all water service supplied by the city to the premises owned or occupied by a person who has failed to pay the sewer service charges when due in accordance with the procedure set out in Sections 13.14.050 through 13.14.070. (Ordinance 18-10-08-01)

13.20.050 PENALTY FOR VIOLATION.

~~Any person violating any of the provisions contained in this chapter shall, upon conviction thereof, be punished as provided in Chapter 1.16.~~

- A. 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
- B. IF A VIOLATION CONTINUES, EACH DAY'S VIOLATION SHALL BE DEEMED AS A SEPARATE VIOLATION.

CHAPTER 13.40 - SERVICE REGULATIONS

13.40.090 STANDBY FIRE PROTECTION SERVICE CONNECTIONS VIOLATIONS OF REGULATIONS.

If water is used from a standby pipe connection service in violation of Chapters 13.28 through 13.68, **VIOLATORS WILL BE CONSIDERED GUILTY OF AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN SECTION 1.16.035 OF THE THORNE BAY MUNICIPAL CODE.**

~~an estimate of the amount used will be computed by the department. The customer shall pay for the water used at the regular rates, including the minimum charge based on the size of the service connection and subsequent bills rendered on the basis of the regular water rates.~~

13.44.70 METER INSTALLATION DETERMINATION.

- A. The council shall from time to time determine the premises, or classifications of premises, on which water meters shall be required. The department shall make such installations as are directed by the council.
- B. Before making any installation of a meter, the occupant of the premises on which a meter is to be installed shall be informed of the necessity for such installation and notify the occupant that access is necessary to make the installation at a time convenient to the department.
- C. **ANY PERSON REFUSING TO GRANT ACCESS FOR SUCH PURPOSE OF METER INSTALLATION OR METER READING, SHALL HAVE SERVICES DISCONTINUED AND SHALL BE GUILTY OF AN INFRACTION AND PUNISHED BY THE FINE ESTABLISHED IN 1.16.135 OF THE THORNE BAY MUNICIPAL CODE. IF VIOLATION IS NOT LISTED IN 1.16.035, THEN BY THE FINE IN 1.16.030.**
- ~~D. If any person refuses to grant access for such purpose and allow the installation at a suitable place approved by the department, the clerk shall give the customer receiving service to the premises five days' written notice that water service will be discontinued for failure to allow the installation and access for such purpose. At the expiration of such period, if the meter has not been installed with permission of the customer and person in possession, water service to such persons on those premises shall be discontinued. If any person refuses or prevents access to premises for the purpose of reading, repairing or replacing any meter, service to such premises shall after such notice be discontinued.~~

CHAPTER 13.48 – WATER RATES

13.48.030 NOTICES FROM CUSTOMERS.

Notices from the customer to the department may be given by the customer or his authorized representative ~~orally or~~ in writing at the office of the clerk at city hall or to an agent of the department duly authorized to receive notices or complaints.

13.48.060 MAILING BILLS.

All bills shall be mailed on ~~or before~~ the first business day of the month, or as reasonably close.

13.48.080 DELINQUENCY NOTICE.

The clerk's office may, but shall not be required to, send a notice of delinquent account ~~ten~~ **FIFTEEN** days after the account becomes delinquent.

CHAPTER 13.52 - DISCONTINUANCE OF WATER SERVICE

13.52.080 UNAUTHORIZED TURN-ON.

DELETING:

~~Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the department plus twenty five (25) percent overhead, but not less than five dollars. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the department has reasonable assurance that the violation will not reoccur. (Ordinance 18-10-08-01)~~

ADDING:

- A. IT IS UNLAWFUL FOR ANY CUSTOMER OR OTHER UNAUTHORIZED PERSON TO TURN-ON WATER SERVICES WHERE SERVICES HAD BEEN DISCONTINUED FOR ANY REASON. VIOLATORS ARE SUBJECT TO THE PENALTIES AS DESCRIBED IN TBMC CHAPTER 1.16.035.**
- B. UNAUTHORIZED TURN ON BY ANY PERSONS SHALL BE DEEMED AN INFRACTION, AND PUNISHABLE BY A FINE AS SET FORTH IN CHAPTER 1.16.035 OF THE TNBMC. (Ordinance 18-10-08-01)**

CHAPTER 13.60 - FIRE HYDRANTS

13.60.010 OPERATION.

No persons or persons other than those designated and authorized by the department shall open any fire hydrant belonging to the department, attempt to draw water from it or in any manner damage or tamper with it. ~~Any violation of this regulation will be prosecuted according to law.~~ No tool other than special hydrant wrenches shall be used to operate a hydrant valve. In cases where a temporary service has been granted and received water through a fire hydrant, an auxiliary external valve will be provided to control the flow of water.

CHAPTER 13.70 - SOLID WASTE

13.70.030 PARTICIPATION IN SOLID WASTE SERVICE REQUIRED.

- A. All customers who participate in water OR sewer ~~or electrical~~ service must participate in solid waste utility service unless otherwise approved by the department.
- B. It is unlawful for any person to place, deposit or permit to be deposited in any manner upon public or private property within the city or on city property or in any area under the jurisdiction of the city any garbage which is not designated as a solid waste disposal site, trash or other waste which ordinarily is regarded as solid waste or industrial waste. (Ord. 88-48 § 5(part), 1988)

13.70.150 SOLID WASTE RATE SCHEDULE.

The solid waste rate schedule to be charged for service, landfill users, and dumpster permits shall be as set forth in the most current solid waste rate schedule adopted and approved by resolution of the city council and incorporated herein by reference.

~~Service customers are required to pay service fees as hereinafter provided in this chapter. Landfill users are required to pay all landfill fees at the landfill gate prior to being admitted into the landfill. Dumpster permit fees are required to be paid at the office of the city clerk on or before the first of each month.~~ (Ord. 90-18 §5(part), 1990)

13.70.220 BILLING PERIOD.

Billings shall be mailed ~~once~~ **ONCE ON THE FIRST BUSINESS DAY OF THE MONTH, OR AS REASONABLY CLOSE.** ~~a month~~. (Ord. 88-48 § 5(part), 1988)

13.70.260 BILLS-DISCONTINUANCE-DELINQUENCY NOTICE FOR DELINQUENCIES.

~~On or about five~~ **FIFTEEN** days after an account becomes delinquent, a discontinuance/delinquency notice shall be sent to the customer, stating the date on which the solid waste service will be discontinued if the delinquent account is not paid in full prior thereto. The stated discontinuance date shall be no sooner than ten days following the date of mailing or personal delivery of the discontinuance notice to the customer. The discontinuance notice shall contain a statement informing the customer of his right to an informal hearing before the mayor or his/her designee (during regular office hours, on any day at least one day prior to the stated discontinuance date), such hearing to be held only upon the request of the customer, and for the purpose of providing an opportunity for the customer to present any facts he may have that place the delinquency of his account in dispute. (Ord. 03-01-16-02 § 3(part), 2003: Ord. 88-48 § 5(part), 1988)

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CITY OF THORNE BAY
ORDINANCE 19-04-02-03

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, -
AMENDING TITLE 1-GENERAL PROVISIONS; SETTING A SCHEDULE OF FINES FOR
VIOLATIONS OF TITLE 13-UTILITIES

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, adding fines for offenses listed in Title 13-Utilities, hereby amended and added to the Thorne Bay Municipal Code. The Fine Schedule for all offenses in Title 13-Utilities are added as written on page 2 & 3 of this ordinance.
- Section 4. Effective Date.** This ordinance shall become effective upon adoption.

PASSED AND APPROVED April 2, 2019

ATTEST:

Teri Feibel, CMC

Harvey McDonald, Mayor

[Introduction: March 19, 2019]
[Public Hearing: April 2, 2019]

**Amending
Title 1 General Provisions
Adding Title 13-Utility 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.

**VIOLATIONS OF TITLE 13-UTILITIES ARE HEREBY ADDED TO THE THORNE BAY
MUNICIPAL CODE MINOR OFFENSE FINE SCHEDULE AS FOLLOWS:**

Ordinance Number	Ordinance Description	Offense Appearance type: Mandatory Optional or Correctable	Fine Schedule Amount for Optional / Correctable	Maximum Fine Permitted for Mandatory
	CHAPTER - 13.02 APPLICATION FOR SERVICES:			
TBMC 13.02.010	UTILITY- APPLICATION FORM FAILURE TO COMPLETE APPLICATION FOR SERVICES .	OPTIONAL	\$ 150.00	
TBMC 13.02.020	APPLICATION AMENDMENTS. FAILURE TO NOTIFY CIT OF CHANGES TO SERVICE (APPLICATION AMENDMENTS)	OPTIONAL	\$ 100.00	
TBMC	CHAPTER 13.08 - COLLECTION SYSTEM			
TBMC 13.08.130	CUSTOMER'S PLUMBING.	OPTIONAL	\$ 100.00	
TBMC 13.08.140	REQUIRED CONNECTIONS.	OPTIONAL	\$ 100.00	
	CHAPTER 13.20 - SEWER - PROHIBITED ACTS			
TBMC 13.20.010	SEWER DESIGNATED - UNLAWFUL DEPOSITS INTO SANITATION AL SEWAGE COLLECTION SYSTEM	OPTIONAL	\$ 150.00	
TBMC 13.20.020	SEWER PROHIBITED CONNECTIONS - UNLAWFUL CONNECTION CAUSING WASTE WATER ENTERING SANITARY WATER SYSTEM	OPTIONAL	\$ 150.00	
TBMC 13.20.030	SEWER CONNECTIONS MADE WITHOUT PERMIT - UNLAWFUL CONNECTION TO CITY SERVICE LINES WITHOUT PRIOR PAYMENT AND PERMIT	OPTIONAL	\$ 150.00	
TBMC 13.20.040	SEWER - INTERFERENCE AND TAMPERING - UNLAWFUL TAMPERING OF CITY SEWER INFRASTRUCTURE, MATERIALS, EQUIPMENT AND POND.	OPTIONAL	\$ 150.00	
TBMC	CHAPTER 13.24 - MISCELLANEOUS PROVISIONS			
TBMC 13.24.010	ACCESS TO PROPERTY. FAILURE TO PERMIT UTILITY ACCESS TO UTILITY LINE DURING REASONABLE HOURS	OPTIONAL	\$ 150.00	
TBMC	CHAPTER 13.28 - WATER - GENERAL PROVISIONS			
TBMC 13.28.095	WATER - UNIMPROVED OR DISCONTINUED - FAILURE TO DISCLOSE AMOUNTS OWED ON PROPERTY SERVICE FEES TO NEW OWNERS	MANDATORY		\$ 1,000.00
TBMC 13.28.120	RESALE OF WATER. WITHOUT PERMIT IS PROHIBITED	MANDATORY		\$ 1,000.00
TBMC	CHAPTER 13.40 - SERVICE REGULATIONS			

TBMC 13.40.090	STANDBY FIRE PROTECTION SERVICE CONNECTIONS VIOLATIONS OF REGULATIONS.	OPTIONAL	\$ 200.00	
TBMC 13.40.160	CUSTOMER'S PLUMBING – FAILURE TO COMPLY WITH CITY PLUMBING CODE.	OPTIONAL	\$ 200.00	
TBMC 13.40.170	CUSTOMERS PLUMBING - CONTROL VALVES - UNLAWFUL OPERATION OR TAMPERING OF THE METER STOP OR ANY APPURTENANCES ON SERVICE CONNECTION	OPTIONAL	\$ 200.00	
TBMC	CHAPTER 13.44 - WATER METERS			
TBMC 13.44.020	INSTALLATION. UNLAWFUL INSTALLATION OF WATER METERS	OPTIONAL	\$ 300.00	
TBMC 13.44.050	JOINT USE. JOINING OF SEVERAL CUSTOMERS TO TAKE ADVANTAGE OF THE SINGLE MINIMUM CHARGES AND LARGE QUANTITY RATES IS PROHIBITED	OPTIONAL	\$ 500.00	
TBMC 13.44.070	LOCATION DETERMINATION. - FAILURE TO PERMIT ACCESS BY UTILITY FOR INSTALLATION OR READING OF METERS	OPTIONAL	\$ 500.00	
TBMC	CHAPTER 13.52 - DISCONTINUANCE OF WATER SERVICE			
TBMC 13.52.080	UNAUTHORIZED TURN-ON.	OPTIONAL	\$ 200.00	
TBMC	CHAPTER 13.56 - RESPONSIBILITY FOR WATER EQUIPMENT			
TBMC 13.56.030	DAMAGE TO DEPARTMENT EQUIPMENT.	MANDATORY		\$ 1,000.00
TBMC	CHAPTER 13.60 - FIRE HYDRANTS			
TBMC 13.60.010	OPERATION. UNLAWFUL TO TAMPER WITH OR OPEN VALVE OF ANY FIRE HYDRANT	OPTIONAL	\$ 500.00	
TBMC	CHAPTER 13.64 WATER SERVICE – MISCELLANEOUS PROVISIONS			
TBMC 13.64.020	WATER. MISC. PROVISIONS. UNUSUAL DEMANDS. FAILURE TO NOTIFY DEPARTMENT OF LARGE QUANTITY USAGES IN WATER	OPTIONAL	\$ 100.00	
TBMC 13.64.030	ACCESS TO PROPERTY. FAILURE TO PERMIT OPERATOR ACCESS	OPTIONAL	\$ 150.00	
TBMC	CHAPTER 13.70 - SOLID WASTE			
TBMC 13.70.030 (B)	SOLID WASTE SERVICE REQUIRED. UNLAWFUL DEPOSIT OF GARBAGE IN LOCATION NOT DESIGNATED AS SOLID WASTE SITE.	MANDATORY		\$ 1,000.00
TBMC 13.70.172	ALUMINUM SEGREGATION. UNLAWFUL TO DEPOSIT ANYTHING OTHER THAN ALUMINUM WHERE DESIGNATED AS "ALUMINUM ONLY"	OPTIONAL	\$ 150.00	
TBMC 13.70.174	ASH DISPOSAL - UNLAWFUL DISPOSAL OF ASH	OPTIONAL	\$ 100.00	

TBMC 13.70.176	UNLAWFUL DISPOSAL OF SPECIAL WASTE	MANDATORY		\$ 500.00
TBMC 13.70.180	UNLAWFUL ACCESS TO LANDFILL	MANDATORY		\$ 1,000.00
TBMC 13.70.182	PROHIBITED SUBSTANCES. IT IS UNLAWFUL TO DUMP ANY HAZARDOUS OR POISONOUS WASTE INTO RECEPTACLE, CONTAINER, DUMPSTER OR LANDFILL	MANDATORY		\$ 1,000.00
TBMC 13.70.186	UNAUTHORIZED USE OF COLLECTION CONTAINERS, TRASH RECEPTACLES, AND DUMPSTERS	OPTIONAL	\$ 150.00	
TBMC 13.70.320	FRAUD OR ABUSE OF SERVICES SUPPLIED TO RESIDENCE	MANDATORY		\$ 500.00
TBMC 13.70.370	PROTECTION FROM DAMAGE. UNLAWFUL TO DAMAGE OR TAMPER WITH ANY EQUIPMENT, STRUCTURE OR APPURTENANCE BELONGING TO THE SOLID WASTE	MANDATORY		\$ 1,000.00

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