

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 17, 2020

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) September 3, 2019, Regular City Council Meeting Minutes, discussion and action item:
-

10. NEW BUSINESS:

- a) Renewal of Cornerstone Excavation Sort Yard Lease Agreement, discussion and action item:
- b) 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:
- c) Appointing Election Workers for the October 1st, Regular Municipal Election:
Election Workers for the Polls in the City Hall Council Chambers:
 1. Linda Rollins,
 2. Sue Edson
 3. Jo Wendel

Election Workers for Absentee Voting on Election Day at Davidson Landing:

1. Connie Olsen
2. Paula Hartzell
3. Jon Stram

11. ORDINANCE FOR PUBLIC HEARING:

- A) ORDINANCE 19-09-17-01, AMENDING TITLE 17-ZONING, CHAPTER 17.05-AUTHORITY TO ENFORCE, SECTION 060-NOTICE OF VIOLATIONS AND 070-REMEDICATION AUTHORITY TO ENFORCE, DISCUSSION AND ACTION ITEM:

12. ORDINANCE FOR INTRODUCTION:

13. EXPENDITURES EXCEEDING \$2,000.00:

- a) Authorizing the expenditure of \$3,500.00, for moving expenses of the VPSO, discussion and action item:
- b) Authorizing the expenditure of \$4,608.05, to BlueBook USA for two new Water Pumps for the water treatment plant, discussion and action item:
 - a. Pump No. 1 - \$2,276.50
 - b. Pump No. 2 - \$2,331.55.
- c) Authorizing the expenditure of \$3,750.00, to First City Electric for labor and generator hookup at the water department, 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.

15. CONTINUATION OF PUBLIC COMMENT:

16. CONTINUATION OF COUNCIL COMMENT:

17. ADJOURNMENT:

POSTED: September 13, 2019

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 September 3, 2019
6:30 p.m.

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

1. CALL TO ORDER:

Mayor McDonald called the meeting to order at 6:32 p.m.

2. PLEDGE TO FLAG:

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

3. ROLL CALL:

Those present were Edenfield, Carlson, Burger, McDonald, Minnillo, Slayton and Williams.

4. APPROVAL OF AGENDA:

McDonald moved to approve the agenda, removing item 10(a) under New Business. Edenfield seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda removing item 10(e) to the next regular meeting
F/S: McDonald/Edenfield
YEAS: Edenfield, McDonald, Burger, Carlson, Williams, Minnillo and Slayton
NAYS: None
STATUS: Motion Passed.

5. MAYOR'S REPORT:

Mayor McDonald provided the following report:

- The City's attorney provided his opinion that the Fisheries Association was an association that was under the City Council and that they should operate as such by adopting a Conflict of Interest Policy and adhere to the Open Meetings Act. McDonald stated he had met with the President of the Fisheries Association and provided him with a copy of the attorney's opinion. McDonald stated the President of the Fisheries Association did not agree with the opinion and stated that there was information the attorney did not have that may have changed his opinion. McDonald provided the council a copy of the Attorney's letter. on the matter of the Fisheries Association and the responsibility of the City within that committee. McDonald stated he was not moving forward with any recommendation or action until the Fisheries Association could get the information he had to the Attorney.

- Upcoming Municipal Election candidates.

SEAT: A 3-YEAR TERM:

Candidate: Roger Longbotham
Raymond G. Slayton (Incumbent)
Everett R. Cook

SEAT: B 3-YEAR TERM:

Candidate: Eric L. Rhodes
Risa J. Carlson (Incumbent)

SEAT: C 1-YEAR TERM:

Candidate: Abby Cook
Thom A. Cunningham
Roselyn Hert

- There have been problems with people not following the code on the operation of ATV's within the City Limits. The city put out information to the public on what the rules were and to provide the parents of the children that had been operating them with a copy.

6. ADMINISTRATIVE REPORTS:

c. City Administrator's Report:

Administrator read his report.

Meetings Attended and Updates:

- A. The Mayor and I will be at Southeast Conference Sept 17-20. The conference is in Sitka.
- B. There will be at Prince of Wales Landscape Assessment (POWLAT) meeting either Sept 26 or 27 to discuss how to spend \$25,000 that was not used in the initial work.

Tasks and Projects:

- A. Continuing daily inspections of the work in progress at the water and sewer facilities. Last Thursday and Fri I was on site a lot documenting the installation of the underground electrical conduit. Next is the sidewalk around the building, siding, window and doors, and roofing. The materials will be delivered Thursday. This will finish the major construction work at the water plant. Next into the interior with electrical and mechanical.
- B. Teri and I will be working on a surplus property sale. We have electronics from the library, admin office and other misc. items that it's time to get rid of. Once the mayor declares the items surplus, we will start the advertising.

New Business:

- A. Review and Discussion of EMS Agreement between the City of Thorne Bay and the City of Klawock. This is only discussion at this time to see if the city would rather cancel the agreement with Klawock and re-establish the Thorne Bay EMS program.
- B. Appointing Adora Oatman as Interim-EMS Coordinator. Cindy can explain more on this item.
- C. Accepting Tlingit and Haida Central Council placement of VPSO Jonathan Bates to the City of Thorne Bay and appointing VPSO Bates as the VPSO for Thorne Bay. Finally, we have someone on site. Having spent some time with Jonathan I think he will be a good fit for TB.
- D. Renewal of Pacific Airways Harbor Use Rental Agreement. Have not heard back from PAC yet but there are rumors that PAC will be cutting back winter service.
- E. Resident request to adopt ordinance that would require all properties providing housing for more than on residence, install bear proof garbage cans. I think this should extend to everyone must have bird proof containers.

Ordinances for Public Hearing:

- A. Ordinance 19-09-03-01, amending Title 1-General Provisions by adding fines for violations of TBMC Title 15 Building and Construction-setbacks, development plans and amending fines for violation of Title 17 Zoning. This amendment reduces the fine amounts.
- B. Ordinance 19-09-03-02, amending Title 15-Buildings and Construction, Setbacks and Development plans. This amendment adds Code Enforcement Officer and where the penalties for violations are in the code.

Ordinances for Introduction:

- A. Ordinance 19-09-17-01 amending Title 17 clarifying issuing citations for minor offense.

Expenditures over \$2000:

- A. \$2500 to NexGeneration for Multicolor Scrolling Sign for use by the city to advertise events, which is planned somewhere near the current sign for city hall, library and clinic.
- B. \$2238.90 to CMI for labor expense on excavator repairs. The excavator is still operating properly so maybe it is fixed.

Executive Session: Yes, to discuss administrator employment contract.

Harbors and Parks:

- A. One more tour boat on Sept 13th. Been a good season and thanks to Allen Marine for the \$2500 donation for benches (locations yet to be determined). In response to last meeting, a float plane dock and break water are part of the master plan as are more slips. They were not built as the grant money that built Davidson Landing recent improvements did not include those items. Float planes can and have used the existing facility.

Streets and Roads:

- A. Now that the excavator is operating Max and Josh are getting ready to start screening sand for this winter. One critical item being researched is a new or good rebuilt 5 to 7 yd sander. The city has been putting together another sign order and will be including some no hunting signs.

Water and Sewer:

Sam and Dave continue to keep Operations going in the middle of all the remodel.

Solid Waste:

With the excavator Josh has been busy cleaning up around the solid waste site. The submittal time is open for a community block grant. That might be a good direction for a new baler. I am doing some research as I believe the City in the past submitted a community development block grant for a study of water, sewer and solid waste.

Law Enforcement:

The City now has a new VPSO Jonathan Bates who will be on limited duty until he completes the academy the first part of 2020.

FIRE/EMS:

For those that are interested in volunteering for Fire or EMS there is an application and interview process that you must go through before you can legally participate as a volunteer on either squad.

Library:

Ads are still out for a new librarian and Teri and I will be reviewing the applications we have as it would be great if we could have someone hired by next week.

d. City Clerk Report:

The City Clerk reported on the following:

- A Fireworks Permit issued to Alaskan Escapes allowing for them to have a display of fireworks on September 7th at 8:30p.m. in celebration of their wedding ceremony.
- Election to be held October 1, 2019 for the purpose of filling three (3) vacant seats on the Thorne Bay City Council and voting on two ballot propositions.
 - a. PROPOSITION NO. 1 SALES TAX.
 - i. Shall the City of Thorne Bay, Alaska increase its sales tax rate from six percent (6%) to seven percent (7%), if the sales tax revenue generated by the rate increase is dedicated to funding an Emergency Services Coordinator for the Emergency Services Department and sunset after 4-years (December 31, 2023)?
 - b. PROPOSITION NO. 2 ELECTION OF MAYOR.
 - i. Shall the Thorne Bay Mayor be elected by the popular vote of the people at large, from the council per AS 29.20.230 (d)?
 - c. LOCATION OF POLLS ON ELECTION DAY:
 - City Hall Council Chambers, 120 Freeman Drive, Thorne Bay, AK 99919
 - POLLS WILL OPEN: 8:00 A.M. OCTOBER 1, 2019
 - POLLS WILL CLOSE: 8:00 P.M. OCTOBER 1, 2019
 - b. ABSENTEE VOTING ON ELECTION DAY:
 - Davidson Landing Fire Hall, Davidson Landing Harbor, Thorne Bay Road, South Thorne Bay Subdivision, Thorne Bay, AK 99919

- POLLS WILL OPEN: 8:00 A.M. OCTOBER 1, 2019
- POLLS WILL CLOSE: 8:00 P.M. OCTOBER 1, 2019

c. ABSENTEE VOTING IN PERSON: Anyone wishing to vote by absentee ballot may do so by requesting an absentee ballot in person or by mail from the municipality. Absentee ballots may be requested no sooner than SEPTEMBER 3RD, 2019, nor later than SEPTEMBER 30TH, 2019, BY 4:00 P.M. The application must be signed by the applicant and show his/her physical place of residence in the City of Thorne Bay.

- For the expense exceeding \$2,000, to NEXGEN is for a lit reader board that will provide notice to the public for upcoming activities and events. The reader board the City is looking to purchase has a 3-year warranty, and the expense to install the board would be less than \$500.00

7. PUBLIC COMMENTS:

Roger Longbotham:

- Suggested the council consider having a 4-wheeler safety training to teach youth how to drive and the consequences for driving too fast.

Robert Hartwell, Code Enforcement Officer reported the following:

- There have been 2 complaints filed since August 15th. Hartwell stated he was currently investigating one of them for a possible zoning use violation.
- Explained that if people have a complaint, they must come into City Hall and submit a written complaint in order to have it investigate.
- Stated he would be out from September 12th through October 3rd.
- Stated he provided to the School with the City Ordinance on what is required to operate an ATV in Thorne Bay. Hartwell stated he had been speaking with the kids when he sees them operating ATV's and has provided their parents with the regulations also.

8. COUNCIL COMMENTS:

Lee Burger commented on the following:

- ATV operation rules in Thorne Bay. Burger stated that in order to operate an ATV in Thorne Bay currently, the operator had to hold a valid learner permit or driver's license.

Risa Carlson commented on the following:

- Carlson suggested the City send out an annual reminder on ATV rules and regulations in Thorne Bay.
- Thanked Bob Hartwell for going out and talking to the Kids and the Parents.

9. CONSENT AGENDA:

b) August 6, 2019, Regular City Council Meeting Minutes, discussion and action item:

McDonald moved to approve the minutes from the August 6th, 2019, Regular City Council Meeting. Carlson seconded the motion. Carlson stated there were a few typos found in the minutes and have been provided to the Clerk for correction. There was no further discussion.

MOTION: Move to approve the minutes from the August 6, 2019, Regular City Council Meeting.
F/S: McDonald/Carlson
YEAS: Edenfield, McDonald, Burger, Carlson, Williams, Minnillo and Slayton
NAYS: None
STATUS: Motion Passed.

10. NEW BUSINESS:

d) Review and Discussion EMS Agreement between the City of Thorne Bay and City of Klawock, discussion and action item:

McDonald explained that the City had entered into a contract with the City of Klawock for Emergency Medical Services in Thorne Bay until Thorne Bay could get their squad built back up and running. Minnillo inquired if the City would be voting on whether to renew the EMS agreement with Klawock. Williams stated there was a committee formed to discuss the Thorne Bay Emergency Services and determine how they would move forward if the ballot proposition to increase city sales to pay for an Emergency Services Coordinator passed. Williams stated that the City should not terminate the agreement with Klawock until such time that Thorne Bay has an operating squad.

e) Appointing Adora Oatman as Interim-EMS Coordinator, discussion and action item:

McDonald appoint Adora Oatman as interim EMS Coordinator for Thorne Bay.
Williams seconded the motion. There was no further discussion.

MOTION: Move to appoint Adora Oatman as interim EMS Coordinator for Thorne Bay
F/S: McDonald/Burger
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson and Williams
NAYS: None
STATUS: Motion Passed.

f) 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:

McDonald accept Tlingit & Haida Central Council's placement of VPSO Jonathan Bates in Thorne bay and appoints Jonathan Bates as the new VPSO for Thorne Bay. Burger seconded the motion. There was no further discussion.

MOTION: Move to accept Tlingit & Haida Central Council's placement of VPSO Jonathan Bates in Thorne bay and appoints Jonathan Bates as the new VPSO for Thorne Bay
F/S: McDonald/Burger
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson and Williams
NAYS: None
STATUS: Motion Passed.

g) Renewal of Pacific Airways Harbor Use Rental Agreement, discussion and action item:

McDonald moved to renew the Pacific Airways Harbor Use Rental Agreement. Williams seconded the motion. Williams

MOTION: Move to renew the Pacific Airways Harbor Use Rental Agreement
F/S: McDonald/Williams
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson and Williams
NAYS: None
STATUS: Motion Passed.

- h) 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:

POSTPONED UNTIL THE SEPTEMBER 17th REGULAR MEETING

11. ORDINANCE FOR PUBLIC HEARING:

- b) 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:

McDonald moved to approve Ordinance 19-09-03-01. Edenfield seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-09-03-01
F/S: McDonald/Edenfield
YEAS: Minnillo, Slayton, Carlson, Williams, Edenfield, McDonald and Burger
NAYS: None
STATUS: Motion Passed.

- c) Ordinance 19-09-03-02, amending Title 15-Buildings and Construction; Chapter 15.04-Setbacks, Section 15.04.020-Development Plans

McDonald moved to approve Ordinance 19-09-03-02. Carlson seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-09-03-02
F/S: McDonald/Carlson
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson, Williams
NAYS: None
STATUS: Motion Passed.

12. ORDINANCE FOR INTRODUCTION:

- a) Ordinance 19-09-17-01, Amending Title 17-Zoning, Chapter 17.05-Authority to Enforce, Section 060-Notice of Violations And 070-Remediation Authority to Enforce, Discussion and Action Item:

McDonald moved to approve Ordinance 19-09-17-01. Burger seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-09-17-01
F/S: McDonald/Burger
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson, Williams
NAYS: None
STATUS: Motion Passed.

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:

McDonald moved to authorize the expense of \$2,500.00, to NexGeneration for Multicolor Scrolling LED Sign. Edenfield seconded the motion.

MOTION: Move to authorize the expense of \$2,500.00, to NexGeneration for Multicolor Scrolling LED Sign
F/S: McDonald/Edenfield
YEAS: Edenfield, McDonald, Burger, Minnillo, Slayton, Carlson and Williams
NAYS: None
STATUS: Motion Passed.

- b) Authorizing the expense of \$2,238.90 to CMI Machinery for labor expense on Excavator repairs discussion and action item:

McDonald moved to approve the expenditure of \$2,238.90, CMI. Slayton seconded the motion. There was no further discussion.

MOTION: Move to approve the expenditure of \$2,238.90 to CMI Machinery for labor expense on Excavator repairs
F/S: McDonald /Slayton
YEAS: Minnillo, Slayton, Carlson, Williams, Edenfield, McDonald and Burger
NAYS: None
STATUS: Motion Passed.

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:

McDonald moved to adjourn to executive session to discuss the City Administrator Contract. Burger seconded the motion. The City Clerk and Administrator were invited to attend the executive session. There was no further discussion.

MOTION: Move to executive session for the purpose of discussing Administrator Contract
F/S: McDonald/Burger
YEAS: Burger, Minnillo, Slayton, Edenfield, McDonald, Carlson and Williams
NAYS: None
STATUS: Motion Passed.

Adjourned for Executive Session at 7:15 p.m. McDonald reconvened the meeting at 7:38 p.m.

15. CONTINUATION OF PUBLIC COMMENT:

No public comment.

16. CONTINUATION OF COUNCIL COMMENT:

Edenfield commented on the following:

-
- Informed the public that she was made aware the Southeast Island School District had planned to sell the café and had given the current operators 60-days to vacate the building.
 - Edenfield explained that the AK49 Café was owned by Brian and Roxy Wilson of Coffman Cove, and that the restaurant building was leased from the School District.
 - Edenfield requested that the public nicely approach the district and let them know how important it is for the community to keep AK49 in Thorne Bay.
 - Edenfield stated that the loss of AK49 would mean losing thousands of dollars each year in fundraising for the school that the café hosted for them and would also mean that 6 people would be out of employment.

17. ADJOURNMENT:

McDonald adjourned the meeting at 7:30 p.m.

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

ORDINANCE FOR PUBLIC HEARING

CITY OF THORNE BAY
ORDINANCE 19-09-17-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING TITLE 17-ZONING, CHAPTER 17.05-AUTHORITY TO ENFORCE; SECTIONS 17.04.060-NOTICE OF VIOLATIONS AND 17.04.070-REMEDIATION MEASURES, AUTHORITY TO ENFORCE

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. Amending Title 17-Zoning, Amending Chapter 17.05-Enforcement Authority, Section 17.05.060 -070 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 17, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction Hearing: September 3, 2019]
[Public Hearing: September 17, 2019]

ADDITIONS ARE IN BOLD AND UNDERLINED

~~Deletions are stricken and in red~~

TBMC
TITLE 17 ZONING
AMENDING CHAPTER 17.05 -
ENFORCEMENT AUTHORITY
SECTIONS 17.05.060 & 17.05.070

CHAPTER 17.05 ENFORCEMENT AUTHORITY

17.05.060 NOTICE OF VIOLATIONS:

- C. Nothing in this section shall require the issuance of a notice of violation prior to the **ISSUANCE OF A CITATION.** ~~commencement of civil or criminal violation proceedings.~~

17.05.070 REMEDIATION MEASURES – AUTHORITY TO ENFORCE

- A. The VPSO, Code Enforcement Officer or designee shall enforce the provisions of this ordinance **INCLUDING ISSUING CITATIONS FOR MINOR OFFENSE VIOLATIONS.** In addition, the chief administrator or designee is authorized to make safe any structure, in whole or part, which in the opinion of the chief administrator or designee, is an imminent threat to the health or safety of any person or persons due to the conditions of such structure.
- B. No person shall, by threat or use of violence or physical force, or by threatening to do or doing any other act that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this chapter.
- C. The Code Enforcement Officer, City Planning Official or designee is authorized to make reasonable and necessary rules and regulations to carry out provisions of the ordinance. All such rules and regulations shall be approved by the city council after a public hearing.

RENTAL AGREEMENT

This Rental Agreement is entered by and between the City of Thorne Bay, Alaska, P.O. Box 110, Thorne Bay, Alaska 99919 (hereinafter called the "CITY" and, Tim Lindseth, (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 October 1, 2019 and ending September 30, 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 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

RENTAL AGREEMENT

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 N/A . 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. 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 purposed of maintaining and operating there on, Firewood Processing, Log Storage and burning of wood waste created from firewood process. 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 shutoff. 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 always 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.

RENTAL AGREEMENT

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.

RENTAL AGREEMENT

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.

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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 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 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.

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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.

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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 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

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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.

1. **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.
2. **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.
3. **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.
4. **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.

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5. **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 19403, Thorne Bay, AK 99919, or at such other address as either party may designate in writing to the other.

6. **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:
THE CITY OF THORNE BAY

RENTER:

By _____
Harvey, Mayor "City"

By _____
Tim Lindseth "Renter"

ATTEST:

Teri Feibel, City Clerk