

AGENDA

FOR THE REGULAR MEETING
OF THE CITY COUNCIL FOR
THE CITY OF THORNE BAY, ALASKA
TUESDAY, JANUARY 19, 2021
TIME: **6:30 p.m.**

LOCATION: TELECONFERENCE/VIDEO CONFERENCING LINE

Phone Number: 1-408-418-9388

Meeting Weblink:

<https://cityofthornebay.my.webex.com/cityofthornebay.my/j.php?MTID=m8f396c7262dc7a9cade451e77dd77d00>

Meeting number (access code): 142 089 1758

Meeting password: yDESCAwG282 (93372294 from phones and video systems)

- 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:
 - b) City Clerk:
- 7) PUBLIC COMMENTS:
- 8) COUNCIL COMMENTS:
- 9) CONSENT AGENDA
- 10) NEW BUSINESS:

More ways to join on WebEx

Tap to join from a mobile device (attendees only)

Join by video system

Dial 1268999991@webex.com

You can also dial 173.243.2.68 and enter your meeting number: **142 089 1758**

Join by phone

+1-408-418-9388 United States Toll

Access code: **142 089 1758**

Password: 93372294 from phones and video systems

- a) Resolution 21-01-19-01, authorizing the City to open an account in the TFCU Bank to be designated as the fund for developing & construction of a new Community Center at Davidson Landing, discussion and action item:
 - b) Discussion of Thorne Bay's participation with OVK on 2021 FLAP Grant for the continued maintenance and reconstruction of the Kasaan/Goose Creek Road, discussion and action item:
 - c) Renewal of AT&T Alascom, lease of City Property located on Sandy Beach Road, discussion and action item:
- 11) **ORDINANCE FOR INTRODUCTION:**
- a) Ordinance 21-02-02-01, amending Thorne Bay Municipal Code Title 2-Administration and Personnel, Chapter 2.28-Elections, adding section 2.28.015-designating two polling locations for Thorne Bay; discussion and action item:
- 12) **ORDINANCE FOR PUBLIC HEARING:**
- b) Ordinance 21-01-19-01, amending Thorne Bay Municipal Code Title 17-Planning and Zoning, Chapter 17.05-Enforcement, adding Section 17.05.065-Emergency Order, discussion and action item:

- c) Ordinance 21-01-19-02, amending Title 10-Vehicles and Traffic, Chapter 10.20-Parking, Standing and Stopping, adding Section 10.20.045-Winter Parking Restrictions, and 10.20.010 (i)-Restrictions & Exceptions - Authority, discussion and action item:

13) EXPENDITURES EXCEEDING \$2,000.00:

- a) Authorizing the expense of \$6,422.00, to Cascade Columbia for Nalco for treatment of the City Water, discussion and action item:

14) EXECUTIVE SESSION: City Council will adjourn to executive session to discuss subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; Topic to be discussed is:

- a) CITY ADMINISTRATOR 6-MONTH EVALUATION - PERFORMANCE REVIEW DISCUSSION AND ACTION ITEM:

15) CONTINUATION OF PUBLIC COMMENT:

16) CONTINUATION OF COUNCIL COMMENT:

17) ADJOURNMENT:

POSTED: January 15, 2021

HOW TO PARTICIPATE:

City Council Meeting

Tuesday, January 19, 2021 6:30 pm | 1 hour 30 minutes | (UTC-09:00) Alaska

Meeting Link:

<https://cityofthornebay.my.webex.com/cityofthornebay.my/j.php?MTID=m8f396c7262dc7a9cade451e77dd77d00>

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

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

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

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

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

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

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

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

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

LESSOR:
CITY OF THORNE BAY,
an Alaska municipal corporation

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

By: Harvey McDonald
Name: Harvey McDonald
Title: Vice Mayor
Date: 1-7-16
*for Jim Gould
Mayor*

By: [Signature]
Name: Hamlet Orloski
Title: Port Folio Manager
Date: 12/15/15

LESSOR ACKNOWLEDGMENT

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

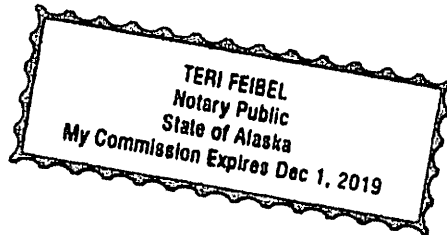
STATE OF ALASKA)
) ss.:
COUNTY OF Prince of Wales)

On January 7, 2016 before me, Teri Feibel, Notary Public, personally appeared Harvey McDonald, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Teri Feibel



LESSEE ACKNOWLEDGMENT

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

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

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

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

WITNESS my hand and official seal.

Signature: Soraya Kinsey Rhodes





ORDINANCE INTRODUCTION CITY OF THORNE BAY
ORDINANCE 21-02-02-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING TITLE 2.28-ELECTIONS, ADDING SECTION 2.28.015-POLLING LOCATIONS, AMENDING SECTIONS 2.28.260-TIME FOR OPENING AND CLOSING POLLS, 2.28.390-CANVASS COMMITTEE-MEETING-POSTPONING CANVASS, 2.28.440 – RESULTS OF ELECTION – PUBLIC DECLARATION, 2.28.470-SECTION B – ABSENTEE BALLOT – VOTING, FILING

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

Section 1. Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.

Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.

Section 3. Amendment of Section. The title and chapter of Title 2-Administration and Personnel, Chapter 2.28-Elections, Adding Section 2.28.015-Polling Locations, Amending Sections 2.28.260-Time for Opening And Closing Polls, 2.28.390-Canvass Committee-Meeting-Postponing Canvass, 2.28.440 – Results Of Election – Public Declaration, 2.28.470-Section B – Absentee Ballot – Voting, Filing, is hereby amended and added to the Thorne Bay City Code and shall read as shown on pages 2 & 3 of Ordinance 21-02-02-01.

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

PASSED AND APPROVED February 2, 2021

Cindy Edenfield, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: January 19, 2021]
[Public Hearing: February 2, 2021]
[Sponsored: Wes Craske & Jon Stram]

CHAPTER 2.28 - ELECTIONS.... ERROR! BOOKMARK NOT DEFINED.

2.28.015 POLLING LOCATIONS	2
2.28.260 TIME FOR OPENING AND CLOSING POLLS.....	2
2.28.390 CANVASS COMMITTEE-MEETING-POSTPONING CANVASS.....	2
2.28.440 RESULTS OF ELECTION-PUBLIC DECLARATION.	3
2.28.470 ABSENTEE BALLOT-APPLICATION-FILING.	3

2.28.015 POLLING LOCATIONS

THERE SHALL BE TWO POLLING PLACES ESTABLISHED WITHIN THE MUNICIPAL BOUNDARIES OF THORNE BAY.

1. THORNE BAY CITY HALL
2. DAVIDSON LANDING

2.28.260 TIME FOR OPENING AND CLOSING POLLS.

- A. On the day of any election, each election board shall open the polls for voting at eight in the morning FOR REGULAR MUNICIPAL ELECTIONS AND SEVEN IN THE MORNING DURING A PRESIDENTIAL VOTING YEAR, and shall close the polls for voting at eight in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at seven thirty in the morning of an election day.
- B. Ten minutes before the closing of the polls, a judge or clerk shall announce to all persons present the time remaining before the polls close. When the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed. (Ord. 96-24 § 4(part), 1996)

2.28.390 CANVASS COMMITTEE-MEETING-POSTPONING CANVASS.

The canvass committee will meet on the first Friday after ~~the~~ ANY MUNICIPAL election and canvass all absentee and questioned ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding three days in total. (Ord. 96-24 § 4(part), 1996)

2.28.440 RESULTS OF ELECTION-PUBLIC DECLARATION.

- A. If a contest is not begun under the provisions of Article VIII of this chapter, the results of the **REGULAR OR MAYORAL** election shall be publicly declared by the council and entered in the minutes of a special meeting of the council on the first Monday following the **REGULAR OR MAYORAL MUNICIPAL** election.
- B. If a contest is declared and resolved, the result of the election shall be publicly declared by the council and entered in the minutes of a special meeting of the council within a week after the contest is resolved. (Ord. 96-24 § 4(part), 1996)

2.28.470 ABSENTEE BALLOT-APPLICATION-FILING.

- A. A person who seeks to vote by absentee ballot may file either in person or by mailing his written application to the city clerk.
- B. An application made by mail must be received by the city clerk, no less than five days before a city election. An application made in person must be filed with the city clerk not earlier than 30 days before the city election date, and no later than **CLOSING OF THE POLLS ON ELECTION DAY** ~~the close of business on the day before a~~ city election.
- C. The application must be signed by the applicant and show his place of residence.
- D. Nothing in this section is intended to limit the city clerk in personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the city clerk's office for an absent voter's ballot. (Ord. 96-24 § 4(part), 1996)

[READ FULL ELECTIONS CHAPTER HERE](#)



CITY OF THORNE BAY
ORDINANCE 21-02-02-02

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, - AMENDING TITLE 10-VEHICLES AND TRAFFIC, CHAPTER 10.20-PARKING, STANDING AND STOPPING, AMENDING SECTION 10.20.010-RESTRICTIONS & EXCEPTIONS - AUTHORITY ADDING SUBSECTION (i), AND, ADDING SECTION 10.20.045-WINTER PARKING RESTRICTIONS

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 10-Vehicles & Traffic, Chapter 10.20-Parking, Standing & Stopping, Section 10.20.020-Parking Prohibited, subsection (f)-No Parking on public roadway between November 1st and April 1st each year; is hereby amended and added to the Thorne Bay Municipal Code.

That section of the Thorne Bay Municipal Code is hereby amended and shall read as follows:

ADDING SUBSECTION (I)

10.20.010 RESTRICTIONS AND EXCEPTIONS - AUTHORITY.

- I. TO PROHIBIT PARKING BETWEEN NOVEMBER 1ST AND APRIL 1ST EACH YEAR, UPON EITHER OR BOTH SIDES OF ANY STREET OR HIGHWAY WHEN SUCH PARKING HAS BEEN DETERMINED TO INTERFERE WITH TRAFFIC, SNOW REMOVAL OR CREATE A HAZARDOUS SITUATION BASED ON THE STANDARDS SET FORTH UNDER TITLE 10.20.010, C. NO PERSON SHALL PARK A VEHICLE IN VIOLATION OF SUCH SIGNS.

ADDING SECTION 10.20.045

10.20.045 WINTER PARKING RESTRICTIONS FOR SNOW REMOVAL

THERE IS NO PARKING UPON ANY STREET OR HIGHWAY DURING THE MONTHS NOVEMBER 1ST THROUGH APRIL 1ST WHERE POSTED FOR THE PURPOSE OF SNOW REMOVAL

- Section 4. Effective Date.** This ordinance shall become effective upon adoption.
PASSED AND APPROVED January 19, 2021

Cindy Edenfield, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: January 19, 2021]
[Public Hearing: February 2, 2021]
[Sponsored by: Thom Cunningham]

ADDITIONS ARE IN BOLD AND BLUE INK

AMENDING THE THORNE BAY MUNICIPAL CODE
TITLE 10 VEHICLES AND TRAFFIC
CHAPTER 10.20-PARKING STANDING & STOPPING
SECTION 10.20.010 – RESTRICTIONS AND EXCEPTIONS – AUTHORITY

ADDING SUBSECTION (I)

That section of the Thorne Bay Municipal Code is hereby amended and shall read as follows:

10.20.010 RESTRICTIONS AND EXCEPTIONS - AUTHORITY.

The mayor or his/her designee is authorized to determine when and where parking, standing or stopping restrictions or exceptions enumerated in this section are required, or will contribute to the safe and orderly flow of traffic, or will contribute to the efficient use of public streets or public places or property; and to implement such restrictions or exceptions by causing signs to be erected:

- A. To authorize parking on the left-hand side of certain one-way streets where such parking would otherwise be prohibited;
- B. To prohibit parking or standing on the left-hand side of any one-way street. No person shall park or stand a vehicle in violation of such signs;
- C. To prohibit parking upon any street or highway when the width of the roadway does not exceed twenty-four feet, or upon one side of a street or highway as indicated by such signs when the width of the roadway does not exceed thirty-six feet. No person shall park a vehicle in violation of such signs
- D. To prohibit parking upon either or both sides of any street or highway adjacent to any school property when such parking would in his opinion, interfere with traffic or create a hazardous situation. No person shall park a vehicle in violation of such signs;
- E. Limiting the length of time, a vehicle may occupy a parking space. No person shall park a vehicle in violation of such signs;
- F. To prohibit parking, standing, or stopping of vehicles during certain hours of the day or night. No person may park, stand or stop a vehicle in violation of such signs;
- G. To prohibit the parking of any of certain large vehicles such as trailers, travel homes, trucks, etc., on designated streets within the central business district between the hours of six a.m. and eight p.m. No person may park any such vehicle in violation of such signs;
- H. To prohibit parking, standing or stopping where such would create an especially hazardous condition or would cause an unusual delay in traffic. No person may stop, stand or park a vehicle in violation of such signs.
- I. TO PROHIBIT PARKING BETWEEN NOVEMBER 1ST AND APRIL 1ST EACH YEAR, UPON EITHER OR BOTH SIDES OF ANY STREET OR HIGHWAY WHEN SUCH PARKING HAS BEEN DETERMINED TO INTERFERE WITH TRAFFIC, SNOW REMOVAL OR CREATE A HAZARDOUS SITUATION BASED ON THE STANDARDS SET FORTH UNDER TITLE 10.20.010, C. NO PERSON SHALL PARK A VEHICLE IN VIOLATION OF SUCH SIGNS;**

ADDING TO THE THORNE BAY MUNICIPAL CODE
TITLE 10 VEHICLES AND TRAFFIC
CHAPTER 10.20-PARKING STANDING & STOPPING
ADDING SECTION 10.20.045 – WINTER PARKING RESTRICTIONS

That section of the Thorne Bay Municipal Code is hereby amended and shall read as follows:

10.20.045 WINTER PARKING RESTRICTIONS

THERE IS NO PARKING UPON EITHER OR BOTH SIDES OF ANY STREET OR HIGHWAY BETWEEN NOVEMBER 1ST AND APRIL 1ST EACH YEAR, WHERE POSTED FOR THE PURPOSE OF SNOW REMOVAL.



CITY OF THORNE BAY
ORDINANCE 21-01-19-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, -
AMENDING TITLE 17-PLANING AND ZONING; CHAPTER 17.05-ENFORCEMENT;
ADDING SECTION 17.05-065-EMERGENCY ORDER

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 17 – Planning and Zoning, Chapter 17.05-Engorcement, adding a section to be numbered 17.05.065-Emergency Order; is hereby amended and added to the Thorne Bay Municipal Code.

That section of the Thorne Bay Municipal Code is hereby amended and shall read as follows:

17.05.065 EMERGENCY ORDERS

- A. WHEN IT IS FOUND, AFTER INVESTIGATION, THAT A PERSON IS CAUSING, ENGAGING IN OR MAINTAINING A **CONDITION OR ACTIVITY THAT, CLEARLY DEMONSTRATES** AN IMMINENT OR PRESENT DANGER TO THE HEALTH, SAFETY, OR WELFARE OF THE PEOPLE OF THE MUNICIPALITY, AND IT APPEARS TO BE PREJUDICIAL TO THE INTEREST OF THE PEOPLE OF THE MUNICIPALITY TO DELAY ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED, THE CODE ENFORCEMENT OFFICER, WITHOUT PRIOR HEARING, MAY ORDER THAT PERSON BY NOTICE TO DISCONTINUE, ABATE, OR ALLEVIATE THE CONDITION OR ACTIVITY. THE PROSCRIBED CONDITION OR ACTIVITY SHALL BE IMMEDIATELY DISCONTINUED, ABATED OR ALLEVIATED.
- B. UPON RECEIPT OF AN ORDER OF THE CODE ENFORCEMENT OFFICER MADE UNDER SUBSECTION A OF THIS SECTION, THE PERSON AFFECTED HAS THE RIGHT TO BE HEARD AND TO PRESENT PROOF TO THE CITY COUNCIL THAT THE CONDITION OR ACTIVITY DOES NOT CONSTITUTE AN ACTUAL OR POTENTIAL SOURCE OF IRREVERSIBLE OR IRREPARABLE DAMAGE TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR TO THE WATER LAKE WATERSHED PROTECTION AREA.
- C. IN THE CHIEF EXECUTIVE OFFICER'S DISCRETION OR UPON APPLICATION MADE BY THE RECIPIENT OF AN ORDER WITHIN SEVEN DAYS OF RECEIPT OF THE ORDER, THE CHIEF EXECUTIVE OFFICER SHALL SCHEDULE A HEARING BEFORE THE CITY COUNCIL AT THE EARLIEST POSSIBLE TIME. THE HEARING SHALL BE SCHEDULED WITHIN FIVE DAYS AFTER RECEIPT OF THE APPLICATION. THE SUBMISSION OF AN APPLICATION OR THE SCHEDULING OF A HEARING DOES NOT STAY THE OPERATION OF THE CODE ENFORCEMENT OFFICER'S ORDER MADE UNDER SUBSECTION A OF THIS SECTION.

D. AFTER A HEARING, THE CITY COUNCIL MAY AFFIRM, MODIFY, OR SET ASIDE THE ORDER. AN ORDER AFFIRMED, MODIFIED, OR SET ASIDE AFTER A HEARING IS SUBJECT TO JUDICIAL REVIEW. THE ORDER IS NOT STAYED PENDING JUDICIAL REVIEW UNLESS THE CITY COUNCIL SO DIRECTS. IF AN ORDER IS NOT IMMEDIATELY COMPLIED WITH, THE CITY ATTORNEY, UPON REQUEST OF THE CHIEF EXECUTIVE OFFICER, MAY SEEK ENFORCEMENT OF THE ORDER.

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

PASSED AND APPROVED January 19, 2021

Cindy Edenfield, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: January 5, 2021]
[Public Hearing: January 19, 2021]
[Sponsored by Cindy Edenfield]

ADDITIONS ARE BLUE AND CAPITALIZED

~~Deletions are red and stricken~~

THORNE BAY MUNICIPAL CODE TITLE 17 - ZONING

CHAPTER 17.05 ENFORCEMENT AUTHORITY

17.05.010 ENFORCEMENT

It shall be the duty of the Code Enforcement Officer, village public safety officer or other designee to enforce the provisions of this title. (Ordinance 19-08-20-05)

17.05.020 OBEDIENCE OF LAW REQUIRED.

It is a violation of this chapter for any person to do any act which is forbidden or to fail to perform any act required to be performed in this title. (Ordinance 19-08-20-05)

17.05.030 OBEDIENCE TO OFFICIALS REQUIRED.

The failure or refusal to comply with any lawful order or direction of the Code Enforcement Officer given in connection with this chapter shall be a violation of this title. (Ordinance 19-08-20-05)

17.05.040 CITIZEN COMPLAINTS - FILING A COMPLAINT

Citizens may file a notice of violation complaint with the city clerk's office. Complaints must be submitted in writing on a form prescribed by the city. (Ordinance 19-08-20-05)

17.05.050 AUTHORITY, INSPECTIONS, FEES.

- A. The city may inspect property to determine compliance with this ordinance.
- B. The designated planning official or Code Enforcement Officer may expand the scope of any inspection to include other city code violations noted during inspection.
- C. Exempted from the operation of this ordinance is large, remote acreage in its natural state, acreage impossible to service with large machinery due to its terrain, property used for governmental purposes, and industrially and commercially zoned areas to the extent zoning permits storage of material ordinarily prohibited by this ordinance. This exemption is not operable when actual and probable danger exists.
- D. If upon inspection, one or more violations of the Thorne Bay Municipal Code exists, the owner or responsible party will be required to correct all violations within a reasonable amount of time.
- E. The city may charge reasonable fees to the owner and responsible party of a property for inspections, including their related activities and administrative functions, other than the initial inspection and the final inspection, conducted pursuant to this chapter. (Ordinance 19-08-20-05)

17.05.060 NOTICE OF VIOLATIONS:

- A. Upon inspection, if the city finds a violation of this ordinance, the city may notify the owner, owner's agent, or responsible party through the issuance of a notice of violation. If a notice of violation is issued, it shall include:
1. Identification of property in violation;
 2. Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
 3. Re-inspection date;
 4. Address and phone number of a city representative to contact;
 5. City's authority to issue citations should owner or responsible party not correct the violation within thirty days; and
 6. Appeal procedures.
- B. Any notice given for any purpose under this chapter shall be deemed effective on the date when written notice is hand-delivered, mailed certified and/or mailed regular, addressed to the property owner, owner's agent, or responsible party. If personal service or mailed service is not practicable, service of notice shall also be deemed effective upon notification through one-time public notice published in a newspaper of general circulation and by posting the property for a period of 30 days. Nothing herein shall preclude the city from giving additional verbal or written notice at its discretion. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situations.
- C. Nothing in this section shall require the issuance of a notice of violation prior to the issuance of a citation. (Ordinance 19-09-17-01; Prior Ord. 19-08-20-05)

17.05.065 EMERGENCY ORDERS

- A. WHEN IT IS FOUND, AFTER INVESTIGATION, THAT A PERSON IS CAUSING, ENGAGING IN OR MAINTAINING A CONDITION OR ACTIVITY THAT, CLEARLY DEMONSTRATES AN IMMINENT OR PRESENT DANGER TO THE HEALTH, SAFETY, OR WELFARE OF THE PEOPLE OF THE MUNICIPALITY, AND IT APPEARS TO BE PREJUDICIAL TO THE INTEREST OF THE PEOPLE OF THE MUNICIPALITY TO DELAY ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED, THE CODE ENFORCEMENT OFFICER, WITHOUT PRIOR HEARING, MAY ORDER THAT PERSON BY NOTICE TO DISCONTINUE, ABATE, OR ALLEVIATE THE CONDITION OR ACTIVITY. THE PROSCRIBED CONDITION OR ACTIVITY SHALL BE IMMEDIATELY DISCONTINUED, ABATED OR ALLEVIATED.
- B. UPON RECEIPT OF AN ORDER OF THE CODE ENFORCEMENT OFFICER MADE UNDER SUBSECTION A OF THIS SECTION, THE PERSON AFFECTED HAS THE RIGHT TO BE HEARD AND TO PRESENT PROOF TO THE CITY COUNCIL THAT THE CONDITION OR ACTIVITY DOES NOT CONSTITUTE AN ACTUAL OR POTENTIAL SOURCE OF IRREVERSIBLE OR IRREPARABLE DAMAGE TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR TO THE WATER LAKE WATERSHED PROTECTION AREA.

- C. IN THE CHIEF EXECUTIVE OFFICER'S DISCRETION OR UPON APPLICATION MADE BY THE RECIPIENT OF AN ORDER WITHIN SEVEN DAYS OF RECEIPT OF THE ORDER, THE CHIEF EXECUTIVE OFFICER SHALL SCHEDULE A HEARING BEFORE THE CITY COUNCIL AT THE EARLIEST POSSIBLE TIME. THE HEARING SHALL BE SCHEDULED WITHIN FIVE DAYS AFTER RECEIPT OF THE APPLICATION. THE SUBMISSION OF AN APPLICATION OR THE SCHEDULING OF A HEARING DOES NOT STAY THE OPERATION OF THE CODE ENFORCEMENT OFFICER'S ORDER MADE UNDER SUBSECTION A OF THIS SECTION.
- D. AFTER A HEARING THE CITY COUNCIL MAY AFFIRM, MODIFY, OR SET ASIDE THE ORDER. AN ORDER AFFIRMED, MODIFIED, OR SET ASIDE AFTER A HEARING IS SUBJECT TO JUDICIAL REVIEW. THE ORDER IS NOT STAYED PENDING JUDICIAL REVIEW UNLESS THE CITY COUNCIL SO DIRECTS. IF AN ORDER IS NOT IMMEDIATELY COMPLIED WITH, THE CITY ATTORNEY, UPON REQUEST OF THE CHIEF EXECUTIVE OFFICER, MAY SEEK ENFORCEMENT OF THE ORDER.

17.05.070 REMEDIATION MEASURES – AUTHORITY TO ENFORCE

- A. The VPSO, Code Enforcement Officer, City Planning Official or designee shall enforce the provisions of this ordinance including issuing citations for minor offenses. 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~~ CLEARLY DEMONSTRATES an imminent threat to the health or safety of any person or persons due to the conditions of such structure. (Ordinance 19-09-17-01)
- 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. (Ordinance 19-08-20-05)

17.05.080 RECORDING A NOTICE OF VIOLATION.

- A. The VPSO, Code Enforcement Officer or designee, shall record the notice of violation with the office of the city clerk. The city clerk shall keep record the notice of violation. Notice of violation shall run with the land and shall constitute notice, for all purposes of this ordinance, to all persons or entities thereafter acquiring an interest in the property. When the property is brought into compliance, if a notice of violation was recorded, a satisfaction of notice of violation shall be recorded. (Ordinance 19-08-20-05)

17.05.090 ENFORCEMENT INDEPENDENT OF OTHER OFFICIALS.

The authority of the city to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of any other chapter of the city code. (Ordinance 19-08-20-05)

17.05.100 VIOLATIONS AND PENALTIES.

- A. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the fine schedule in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$1,000 if the offense is not listed in 1.16.035.
- B. Each day a violation continues shall constitute an additional violation for purposes of assessing fines. An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing violation, the court shall grant injunctive relief to restrain the violation and attorney fees as provided by law.
- C. The owner of record, as recorded in Alaska Recorder's Office records, of the property upon which a violation of this ordinance exists may be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land. This presumption shall not prevent enforcement of the provisions of this ordinance against any person specified in subsection c of this section. (Ordinance 19-08-20-05)