

**CITY OF CORDOVA, ALASKA
ORDINANCE 1222**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF CORDOVA, ALASKA, ENACTING
TITLE 7 “CITY PROPERTY” AND RELOCATING AND RENUMBERING CMC CHAPTERS 5.12,
5.14, 5.16, 5.22, 5.23, 5.24, 5.28, AND 5.29 TO CHAPTERS 7.10 THROUGH 7.80 OF TITLE 7 OF
THE CORDOVA MUNICIPAL CODE**

WHEREAS, the City of Cordova has not substantively revised its taxation provisions in over 30 years;
and

WHEREAS, the inclusion of provisions governing City-owned property in CMC Title 5, which is
entitled “Revenue and Finance,” creates confusion and results in a lengthy and broad title within the Code;
and

WHEREAS, it is in the City’s best interest to simplify and update the Code to make it easier for
members of the public to navigate and comply with its provisions; and

WHEREAS, the relocation of provisions governing City property and related obligations and laws into
a separate title in the Cordova Municipal Code makes it easier for Council and the public to review and
update those provisions at a later time; and

WHEREAS, while provisions regarding City property previously located in Title 5 “Revenue and
Finance” are best relocated to Title 7, the moved provisions were not reviewed or updated as part of the
relocation,

NOW, THEREFORE, be it ordained by the Council of the City of Cordova, Alaska,

Section 1. That the Cordova Code of Ordinances of Cordova, Alaska, is hereby amended by adding a title,
to be numbered Title 7, which said title reads as follows:

TITLE 7 “CITY PROPERTY”

Chapters

- 7.10 Purchases**
- 7.20 Sale of City Personal Property**
- 7.30 Tidelands**
- 7.40 Disposal of Real Property**
- 7.50 Acquisition of Real Property**
- 7.60 Abandoned Property**
- 7.70 Use of City Equipment**
- 7.80 Local Hire for Public Improvements**

Chapter 7.10 PURCHASES

7.10.010 Definitions.

As used in this chapter:

"City manager" means the city manager or any person designated in writing by the city manager to perform the duties of the city manager under this chapter.

"Construction" means the process of building, altering, repairing, maintaining, improving or demolishing a public highway, structure, building or other public improvement of any kind to real property, and includes services related to planning and design required for the construction.

"Contract" means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

"Contract amendment" means any change in the terms of a contract accomplished by agreement of the parties, including change orders.

"Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a tangible end product other than reports that are incidental to the required performance; however, employment agreements and collective bargaining agreements are not contracts for services.

"Supplies" means any tangible personal property.

7.10.020 Contracting and procurement authority.

The city may, pursuant to an award in accordance with this chapter, contract with any person to acquire any supplies, services or construction required by the city. The city manager shall conduct all procurements of supplies, services and construction for the city under this chapter. All contracts for supplies, services and construction shall be awarded by the city manager, subject to council approval where required under this chapter.

7.10.030 Execution of contracts.

All city contracts for supplies, services and construction, and any amendments thereto, shall be signed by the city manager.

7.10.040 Council approval of contracts.

No contract for supplies, services or construction which obligates the city to pay more than twenty-five thousand dollars may be executed unless the council has approved a memorandum setting forth the following essential terms of the contract:

- A. The identity of the contractor;
- B. The contract price;
- C. The nature and quantity of the performance that the city shall receive under the contract; and
- D. The time for performance under the contract.

7.10.050 Contract amendments.

- A. All amendments to contracts for supplies, services and construction, including change orders, shall be approved in writing by the city manager, subject to council approval where required under this section. Contract amendments shall not be used to avoid procurement by the competitive procedures established under this chapter.
- B. No contract amendment which will cause the total price of the contract, as amended, to exceed the greater of twenty-five thousand dollars or one hundred ten percent of the original contract price may

be executed unless the council has approved a memorandum setting forth any modifications to the essential terms of the contract.

7.10.060 Contracts enforceable against city.

No contract for supplies, services or construction, or any amendment thereto, may be enforced against the city unless its terms have been approved in accordance with this chapter and unless the contract or amendment has been set forth in a writing executed on behalf of the city in accordance with this chapter.

7.10.070 Availability of funds.

No contract for supplies, services or construction may be approved or executed unless funds are available for the city's performance under the contract. No contract amendment that will increase the contract price may be approved or executed unless funds are available for the city's performance under the contract as amended.

7.10.080 Limitation on contract duration.

No contract for supplies, services or construction which by its terms will not be fully executed within five years, and which cannot be terminated by the city upon not more than one month's notice without penalty, may be approved except in the manner prescribed in Section 5-17 of the Charter.

7.10.100 Competitive sealed bidding.

Unless otherwise authorized under this chapter or another provision of law, all city contracts for supplies, services and construction shall be awarded by competitive sealed bidding.

7.10.110 Solicitation and acceptance of bids.

- A. The City Manager shall initiate competitive sealed bidding by issuing an invitation for bids. The invitation for bids shall state, or incorporate by reference, all specifications and contractual terms and conditions applicable to the procurement.
- B. Public notice of the invitation for bids shall be published at least once not less than fourteen days before the last day on which bids will be accepted. The notice also shall be posted at the Cordova post office or such other place in the city designated by the council that is accessible to the public. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid. The City Manager shall mail or otherwise deliver notices to prospective bidders that have registered their names and addresses on a current bidders' mailing list maintained by the City. The City Manager shall keep a written record of the name of each person receiving notice and of the date and manner of delivery. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.
- C. The terms of an invitation for bids may be modified or interpreted only by written addendum issued by the City Manager. Addenda to bids shall be sent to each recipient of the original bid documents. A bid may be considered responsive only if it acknowledges receipt of all addenda except for any addendum that the City Manager determines in writing would have no material effect on the terms of the bid.
- D. Sealed bids shall be submitted by mail, delivery service or in person at the place and no later than the time specified in the invitation for bids. Bids not submitted at the proper place or within the time specified shall not be opened or considered.
- E. Bids shall be opened at the time and place designated in the invitation for bids. All bid openings shall be open to the public. Bids are not open to public inspection until after the notice of intent to award a

contract is issued. The City Manager shall tabulate the amount of each bid and shall record such other information as may be necessary or desirable for evaluation together with the name of each bidder. The tabulation shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder. To the extent the bidder designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a bid document shall be withheld from public inspection.

- F. Bids shall be accepted unconditionally without alteration or correction. No criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used in determining the low bidder and the responsiveness of bids.

7.10.120 Procedure for award.

- A. Contracts shall be awarded by written notice issued by the city manager to the lowest responsive and responsible bidder.
- B. If the lowest responsive and responsible bid exceeds the amount of funds available for the procurement, and if sufficient additional funds are not made available, the city manager may:
 - 1. Issue a new invitation for bids that reduces the scope of the procurement so that its estimated cost does not exceed the amount of available funds; or
 - 2. Upon finding that the efficient operation of the city requires that the contract be awarded without delay, negotiate a reduced procurement with the lowest responsive and responsible bidder or not more than three of the lowest responsive and responsible bidders, and award the reduced procurement based upon the best negotiated price and terms.

7.10.130 Competitive sealed proposals.

- A. If the city manager determines in writing that use of competitive sealed bidding is not practicable, the city may procure supplies, services or construction by competitive sealed proposals under this section.
- B. The city manager shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposal must respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors. Public notice of a request for proposals shall be given in accordance with Section 7.10.110(B). A request for proposals may be modified or interpreted only in the manner provided in Section 7.10.110(C).
- C. Sealed proposals shall be submitted by mail, delivery service or in person at the place and no later than the time specified in the request for proposals. Proposals not submitted at the place or within the time so specified shall not be opened or considered.
- D. Proposals shall be opened so as to avoid disclosing their contents to competing proposers before notice of intent to award a contract is issued. Proposals, tabulations and evaluations thereof shall be open to public inspection only after notice of intent to award a contract is issued. To the extent the proposer designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a proposal document shall be withheld from public inspection.
- E. In the manner provided in the request for proposals, the city manager may negotiate with those responsible proposers whose proposals are determined by the city manager to be reasonably responsive to the request for proposals. Negotiations shall be used to clarify and ensure full understanding of the requirements of the request for proposals. The city manager may permit proposers to revise their proposals after submission and prior to award to obtain best and final offers. Proposers deemed eligible for negotiations shall be treated equally regarding any opportunity to discuss and revise proposals. In conducting negotiations or requesting revisions, the city shall not disclose any information derived from proposals of competing proposers.

- F. Award shall be made by written notice to the proposer whose final proposal is determined to be the most advantageous to the city. No criteria other than those set forth in the request for proposals, including all specifications and addenda, may be used in proposal evaluation.

7.10.135 Innovative procurement process.

- A. If the city manager determines in writing that competitive sealed bidding or proposals are not in the best interests of the city, the city may procure supplies, services or construction by innovative procurement procedures under this section.
- B. Conditions for Use of Innovative Procurement.
 - 1. A request to use an innovative procurement procedure shall be submitted to the council in writing by the city manager. The written request must include an explanation of the proposed innovative procurement procedure, how this procedure will achieve the best value, or why it is advantageous to the city due to new city needs, unique city needs, changed industry practice or new technologies.
 - 2. Following approval under subsection (1) of this section, the city manager shall submit a detailed procurement plan to the city attorney for review and approval before issuing public notice as required under Section 7.10.110(B). The plan shall, at a minimum, address the method of solicitation, scope, method of award, protest procedures, and proposed contract provisions. If the plan is submitted for a construction contract, the plan may address the use of a bonus in lieu of preferences.
- C. Procurement Methods. Innovative procurement process would include, but not be limited to, such procurement methods as "design/build" and "General Contractor/Construction Manager" ("GC/GM").

7.10.140 Open market procedure.

- A. The city manager may procure all supplies, services and construction having an estimated value of not more than twenty-five thousand dollars on the open market without formal advertising or other formal bid procedures. The city manager shall keep a written record of all bids received and awards made under this section.
- B. Whenever practicable, at least three informal bids or quotations shall be solicited for any procurement under this section. The solicitation may be either oral or written, and shall be in a form reasonably calculated to yield the lowest responsive bid by a responsible bidder. Whenever practicable, the contract shall be awarded to the lowest responsive and responsible bidder.

7.10.150 Sole source procurements.

- A. The city may procure supplies, services or construction without competition where the city manager determines in writing that one of the following circumstances applies:
 - 1. Supplies, services or construction that reasonably meet the city's requirements are available from only one vendor;
 - 2. The supplies, services or construction have a uniform price wherever purchased;
 - 3. The supplies, services or construction may be purchased from or through another governmental unit at a price lower than that obtainable from private vendors;
 - 4. The price of the supplies, services or construction is fixed by a regulatory authority; or
 - 5. The contract is for professional services that the council by resolution determines to procure without formal competition.
- B. The award of any contract under this section shall be subject to prior council approval in accordance with Section 7.10.040.

7.10.160 Emergency procurements.

The city may procure supplies, services or construction without competition, formal advertising or other formal procedure where the city manager determines in writing that an emergency threatening the public health, safety or welfare requires that the contract be awarded without delay. The award of any contract under this section shall be subject to prior council approval in accordance with Section 7.10.040.

7.10.170 Award to responsible bidder or proposer.

A contract award under this chapter shall be made only to a responsible bidder or proposer. The city manager shall determine whether a bidder is responsible on the basis of the following criteria:

- A. The skill and experience demonstrated by the bidder in performing contracts of a similar nature;
- B. The bidder's record for honesty and integrity;
- C. The bidder's capacity to perform in terms of facilities, equipment, personnel and financing;
- D. The past and present compliance by the bidder with laws and ordinances related to its performance under the contract; and
- E. The bidder's past performance under city contracts. If the bidder has failed in any material way to perform its obligations under any contract with the city, the city manager may consider the bidder to be not responsible.
- F. The bidder's past performance of financial obligations to the city. If at the time of award the bidder is delinquent, overdue or in default on the payment of any money, debt or liability to the city, the city manager shall consider the bidder to be not responsible.

7.10.180 Rejection of bids or proposals.

If the city manager determines that it is in the best interest of the city to do so, the city may reject all bids or proposals submitted for a procurement.

7.10.190 Waiver of irregularities.

The city manager may waive irregularities in any and all bids or proposals, except that timeliness and manual signature requirements shall not be waived.

7.10.200 Local bidder preference.

All evaluations of bids or proposals based on price shall be made after a local bidder preference of fifteen percent has been applied. In this section, "local bidder" means a person who:

- A. Holds a current city business license;
- B. Submits a bid or proposal for supplies, services or construction under the name that appears on the person's current city business license;
- C. Has maintained a place of business within the city staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- D. Is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, or is a partnership and all partners are residents of the state; and
- E. If a joint venture, is composed entirely of ventures that qualify under subsections A through D of this section.

Chapter 7.20 SALE OF CITY PERSONAL PROPERTY

7.20.010 Disposal authority.

The council may by motion authorize the disposal of any property or equipment the estimated market value of which is one thousand dollars or less.

7.20.020 Procedure.

Sales of property, material or equipment the estimated value of which is over one thousand dollars shall be as follows:

- A. By publishing a notice of sale for a period not less than fourteen days prior to date of sale. The notice of sale shall also be posted on the bulletin board in the City Hall and in one other public place.
- B. Bids shall be sealed bids and accompanied by a deposit of not less than ten percent of the amount bid.
- C. No conditions of sale shall be considered except payment in full within seventy-two hours after acceptance of bid. Deposits of the three highest bidders will be held seventy-two hours or until the balance is paid on the bid of first successful bidder. If bid is not completed, sale shall be made to next highest bid or if otherwise acceptable.
- D. No bid may be withdrawn subsequent to the opening of bids, and in the event a successful bidder does not complete the purchase, the deposit shall become the property of the city as liquidated damages.

7.20.030 Advertisement.

All advertisements shall contain the following information:

- A. Reference to this chapter;
- B. Object offered for sale;
- C. Reference to sealing of bids;
- D. Deadline for submission of sealed bids;
- E. Amount of deposit on bid;
- F. Date and place of opening.

Such shall be in substantially the following form:

Pursuant to Title 5, Chapter 7.20 of the Code of the City of Cordova, the City of Cordova offers for sale and will accept sealed bids on (object) until 5: P.M. on (date) at the office of the City Clerk. All bids must be accompanied by a deposit of at least 10% of the total amount bid. Bids shall be publicly opened and read at P.M. on (date) in City Hall. Final acceptance of the successful bid shall be at such time as the Council shall determine on the above date or later.

(Signed)

City Manager or City Clerk

7.20.040 One bid per bidder.

No bidder may submit more than one bid on any object to be sold.

7.20.050 Basis on which property is sold.

All property, material, or equipment are sold on an "as is-where is" basis, and no guarantee of any sort, express or implied, by a city official or employee of the city shall be binding upon the city. Bidder shall inspect the offered object in his own manner, and the submitting of the bid shall be conclusive that he has satisfied himself as to the condition and location of the object bid on.

7.20.060 Acceptance or rejection of bids.

The city reserves the right to reject any and all bids and to accept the bid which in its opinion is most advantageous to the city even though such bid is not among the three highest. The council shall at the time of bid award determine those bids which are acceptable and on which deposits will be held seventy-two hours and authorize the return of deposits to the other bidders.

7.20.070 Sale when no bid received.

Any material, equipment or property that has been put up for bid in the manner set forth in this chapter at least twice and which has received no bid acceptable to the council, may be sold thereafter by the city manager with approval of the city council.

7.20.080 Reference to chapter—Familiarity with provisions required.

All advertisements and sales agreements shall refer to this chapter, and it shall be the obligation of the bidder to familiarize himself with the provisions of the rules set forth in this chapter.

Chapter 7.30 TIDELANDS

7.30.010 Adoption of provisions—Statutory authority.

These regulations are adopted by the city council pursuant to authority vested in that body by the Charter of the city and by AS 38.05.320 as amended.

7.30.020 Purpose.

These regulations implement, interpret and apply the provision of the Alaska Land Act concerning use and disposal of tidelands and related matters and extend to and include the applicable provisions of Section 6 of Public Law 85—508 (71 Stat. 330), admitting the state to statehood in the United States of America and applicable provisions of the Act of March 3, 1899, pertaining especially to establishment of harbor lines, as well as applicable provisions of Public Law 85—303 (31 Stat. 623).

7.30.030 Applicability.

These regulations apply to all tide and contiguous submerged lands within or seaward of the boundaries of the city (except those provided for hereafter) from the meander line as established on ATS 220 and seaward to a line agreed upon by the city and the state and shown on ATS 220. These regulations pertain to the use and disposal of city-owned tide and contiguous submerged land. The regulations may be referred to as the Cordova tideland regulations.

7.30.040 Definitions.

For the purposes of this chapter, the following terms shall be defined as follows:

1. "Accretion" means the gradual and imperceptible addition of new land to old by the natural deposition of sediments, i.e., sedimentation.
2. "Act" means the Alaska Land Act as now constituted or as hereafter amended.
3. "Apportionment survey cost" means that cost prorated to each subdivided tide and submerged land tract.
4. "Class I Preference Right." A Class I preference right shall be extended to persons who occupied and developed tide and contiguous submerged lands seaward of the city on and prior to September 7, 1957, after executing a waiver to the state and the city of all rights such occupancy may have had pursuant to Public Law 85-303. Upon execution of the waivers, such persons, or their successors in interest, have the right to acquire such occupied and developed tide and contiguous

- submerged land from the city for a consideration not in excess of the cost of survey, transferring and conveying title.
5. "Class II preference right." A Class II preference right shall be accorded to Class I preference right claimants who refuse to execute a waiver to the state and city of any rights such occupants may have acquired pursuant to Public Law 85-303. It shall be mandatory for the city to honor the application from the occupant after the Secretary of the Army has submitted to the Secretary of the Interior, the Governor of the state and the city manager, maps showing the pierhead line established by the Corps of Engineers with respect to the tract granted.
 6. "Class III preference right" means the preference right extended to persons who occupied and developed tide lands after September 7, 1957, and who continued to occupy the same on January 3, 1959. Such persons, or their successors in interest, have the right to acquire such occupied and developed tidelands for a consideration not in excess of the cost of appraisal, administering and transferring, plus the appraised fair market value thereof, exclusive of any value occurring from improvements or development, such as fill material, building or structures thereon.
 7. "Coastline" means the line of ordinary low water along any portion of city limits and is the line marking the seaward limit of inland waters.
 8. "Commissioner" means the Commissioner of the Department of Natural Resources of Alaska.
 9. "Director" means the Director of the Division of Lands of the Department of Natural Resources.
 10. "Division" means the Division of Lands within the Department of Natural Resources.
 11. "Fair market value" means the highest price, described in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.
 12. "Fill" means earth, gravel, rock, sand or other similar materials placed upon tide or contiguous submerged lands for the purpose of elevating the lands above the high water line for a specific useful purpose. The placement of earth, gravel, rock, sand or other similar materials on tide or contiguous submerged land solely for the purpose of spoils disposal and thereafter abandoned and not used for any beneficial purpose shall not be considered fill.
 13. "Final tideland plat" means that survey plat compiled of the tide and submerged lands under the direction and authority of the Division of Lands and the city that shows the subdivision of the tide and submerged lands and upon which each subdivided tract is identified by a letter and a number.
 14. "Harbor line" is defined as that line fixed by the Secretary of the Army which is the limit to which piers, wharves, bulkheads or other work may be extended in navigable waters without further authorization.
 15. "Improvements" means buildings, wharves, piers, drydocks and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreation, residential or other beneficial uses or purposes. In no event shall fill be considered a permanent improvement when placed on the tidelands solely for the purposes of disposing of waste or spoils; however, fill material actually utilized for beneficial purposes by the applicant shall be considered a permanent improvement.
 16. "Land" means all tide and submerged lands under the jurisdiction of the city.
 17. "Mean high tide" means the tidal datum plane of the average of all the high tides as may be or has been established by the United States Coast and Geodetic Survey. "Mean high water line" means the intersection of the datum plane of mean high water with the shore.
 18. "Mean lower low water" means the tidal datum plane of the average of the lower of the two low waters of each day as has or may be established by the United States Coast and Geodetic Survey.

19. "Mean low water" means the tide datum plane of the average of the low tides as has or may be established by the United States Coast and Geodetic Survey.
20. "Natural resources" means and includes, without limiting the generality thereof, oil, gas and all other minerals, but does not include fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp and other marine, animal and plant life, or water power, or the use of water for the production of power.
21. "Occupant" means any person as defined in this section, or his successor in interest, who actually occupied for any business, residential or other beneficial purpose, tidelands or tidelands and submerged lands contiguous thereto, within the corporate boundaries of the city on or prior to January 3, 1959, with substantial, permanent improvements. The holder of a permit of clearance in respect to interference with navigation, or of a special use permit from a government agency will not qualify as an occupant unless such entry on the land had, through exercise of reasonable diligence, resulted in actual occupancy and substantial permanent improvements, as hereinafter mentioned. No person shall be considered an occupant by reason of having:
 - a. Placed a fish trap in position for operation or storage upon the tide, shore or submerged land;
 - b. Placed a setnet or piling therefor, or any other device or facility for the taking of fish;
 - c. Placed piling or dolphins for log storage or other moorage;
 - d. Placed floats or vessels upon the tide, shore or submerged land;
 - e. Placed telephone, power or other transmission facilities, roads, trails or other improvements not requiring exclusive use or possession of tide or contiguous or submerged land; or,
 - f. Claimed the land by virtue of some form of constructive occupancy. Where land is occupied by a person other than the owner of the improvements thereon, the owner of the improvements shall, for the purposes of these regulations, be considered the occupant of such lands.
22. "Occupied" or "developed" means the actual use, control or occupancy, but not necessarily residence, of the tide and contiguous submerged land by the establishment thereon of substantial permanent improvements.
23. "Permit preference" means that privilege of the upland owner to acquire first choice over other nonpreference right claimants to a permit for like use and enjoyment of the city-owned tide or contiguous submerged lands abutting his property.
24. "Person" means any person, firm, corporation, cooperative association, partnership or other entity, legally capable of owning land or an interest therein.
25. "Pierhead line" means a line fixed by the Corps of Engineers of the Department of the Army that is parallel to existing line of mean low tide at such distance offshore from the line of mean low tide that said pierhead line shall encompass, to the landward, all stationary, manmade structures (but shall not encompass any part of breakwaters, bridges, or piers used for vessel dockage which part extends beyond such a parallel line marking the seaward extremity of other manmade structures) which were in existence as of February 1, 1957, to seaward of the city.
26. "Preference right," subject to the classifications thereof established in this section, means and includes the right of an occupant to acquire, by grant, purchase or otherwise, at the election of the occupant, except as otherwise limited or prescribed in these regulations, any tract or tracts of tideland, or tideland and submerged land contiguous thereto, occupied or developed by such occupancy on and prior to January 3, 1959.
27. "Reclaimed or constructed tide or contiguous submerged lands" means those lands resulting by purposeful filling of tide or contiguous submerged lands.

28. "Shore lands" means all lands which are covered by nontidal waters that are navigable under the laws of the United States up to ordinary high water mark as heretofore or hereafter modified by natural accretion, erosion or reliction.
29. "Submerged lands" means those lands covered by tidal waters between the line of mean low water and seaward to a distance of three geographical miles, or as may hereafter be properly claimed by the city.
30. "Substantial permanent improvement" shall for these regulations have the same meaning as improvements as defined in subsection 15 of this section.
31. "Tideland review committee" means that committee appointed by the city council to decide on matters pertaining to the administration, adjudication and disposal of tideland preference right applications.
32. "Tidelands" means those lands which are periodically covered by tidal waters between the elevation of mean high and mean low tides.
33. "Upland owner" means that owner whose upland property abuts the line of mean high tide.

7.30.050 Declaration of ownership.

Except as otherwise provided in this chapter, the city, by virtue of Section 47-2B-35 (3) ACLA, 1959 Supp., and Tideland Patent No. 120 issued June 15, 1964 recorded in Cordova Recording District under Number 64-233 and any other patents hereafter issued to it, reserves and has succeeded to all right, title and interest of the state in tide and submerged lands lying seaward of the city, including lands, improvements, reclaimed lands or natural resources in all lands up to the original GLO meander line of town site survey number 449 and all additions thereto and seaward to the Director's Line as defined in said Tidelands Patent No. 120 or on any succeeding patents; provided, however, that those lands and rights therein lawfully vested in others by Acts of Congress prior to January 3, 1959, shall not be infringed upon and; provided further, that title to natural resources therein shall be reserved to the state until such time as the state may convey such title to the city.

7.30.060 Exceptions—Federal priority.

The following tidelands and tide and contiguous submerged lands are reserved pursuant to Section 3, Public Law 85-303, (71 Stat. 623) 1957:

All tracts or parcels of land, together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from the state or from any part in whom title has vested under the laws applicable to the state or the law of the United States, all lands expressly retained by or ceded to the United States, all land acquired by the United States by gift or by proceedings under eminent domain, all lands filled in, built up, or otherwise reclaimed by the United States for its own use as long as so used, and any rights that the United States has in lands presently and actually occupied by the United States under claim or rights.

7.30.070 Authority to grant leases or permits.

When in the best interest of the city, the city council may grant leases or permits for the use of city-owned tidelands.

7.30.080 Permit—Issuance preference.

The city council may issue permits for the use and/or improvement of city-owned tidelands. Council shall give such preference to the use of the land as will be of greatest economic benefit to the city; provided, that first preference shall be granted to the upland owner over other nonpreference applicants for the use of

tideland and contiguous submerged land seaward of the upland property and which is needed by such owner for the purpose or purposes for which it may be granted.

7.30.090 Permit—Application.

Application for a tideland permit shall be submitted to the city manager. The city manager shall submit the application to the city council for their approval or disapproval, whereupon council may, with or without a public hearing or posted notice, grant or reject the requested permit.

7.30.100 Permit—State approval required when.

Prior to any construction or development by any persons or governmental agency that will use, divert, obstruct, pollute or utilize any of the waters of the state or materials from such water areas, the Commissioner of the Alaska Department of Fish and Game shall be notified and a letter of approval obtained by the applicant pursuant to Chapter 94, Article I, Section 31, SLA 1959, as amended.

7.30.110 Permit—Term—Revocation—Removal of improvements.

- A. Permits issued shall not exceed five years in duration, but are renewable at the option of the city council. All permits shall be revocable when used contrary to the conditions under which they are granted, or when council in its judgment determines that the best interests of the city would be served by revocation. If any permit expires or is revoked, all improvements placed on the tide or contiguous lands shall be removed by the permittee within sixty days; provided, however, that the city manager may extend this time for removing such improvements in cases where hardship is shown. A permittee may, with the consent of the city manager, sell his improvements to any succeeding permittee.
- B. Any improvements or chattels having an appraised value in excess of ten thousand dollars which are not removed within the time allowed shall be sold at public sale and the net proceeds thereof, if any, paid to the permittee after paying all expenses of the sale and charges due to the city. If there are no other bidders, the city may bid on the property for the total amount of permittee's indebtedness to the city. Any improvements having a value of less than ten thousand dollars which are not removed within the time allowed shall revert to and become the absolute property of the city.

7.30.120 Permit—Rights-of-way and easements.

Permits may be issued by the city manager and after approval by city council for utility lines and services of all types and for necessary rights—of—way. Such permits shall be revocable at the option of the city.

7.30.130 Disposal of material—Applications.

Applications for the free use or the purchase of material on city-owned tideland or contiguous submerged lands shall be submitted to the city manager and he shall present his recommendations to the city council and the city council shall determine the conditions of disposal; provided, that when such disposals are deemed not in the best interest of the city, the city council shall reject the applications.

7.30.140 Leases and sales—Development plan submission.

City-owned tide and submerged land shall be leased or sold in accordance with the Charter and the code of the city. In addition to any requirements therein set forth, the applicant shall submit a development plan that shall state:

- A. The purpose of the proposed construction improvement, if any;
- B. The type of construction;
- C. The date construction will begin and the estimated date of completion;

D. Any other data, survey plats or information deemed necessary by the city manager.

7.30.150 Leases and sales—Appraisal—Deposit.

The city manager may require applicants to deposit with the city clerk a sum sufficient to cover all, or any portion of, anticipated costs of appraisal and/or advertisement. Such deposit shall be made within thirty calendar days after request for deposit. Failure to comply shall result in cancellation of the application. Any sum above the actual cost shall be returned to the applicant. In the event the land applied for is disposed of to other than the applicant within thirty days after offering, the successful applicant shall be required to pay any survey, appraisal or advertising cost and the original deposit will be returned to the depositor. If the depositor cancels his application, or fails to accept the contract or title when offered by the city, the deposited money shall be forfeited, but if the city does not grant the application, all sums in excess of costs incurred shall be refunded. It shall be the responsibility of the city following the receipt of any deposit required to perform or have performed any appraisal, and/or advertisement required or deemed necessary.

7.30.160 Leases and sales—Appraisal—Performance.

Appraisal of the tract shall be made by a qualified appraiser to be appointed by the tideland review committee. Such appraisal is to be made on the basis of fair market value of the tidelands exclusive of any value resulting from improvements or developments, such as fill material, building or structures thereon.

7.30.170 Leases and sales—Appraisal—Costs.

The cost of the appraisal shall be borne by the applicant with the fee to be determined by the tideland review committee.

7.30.180 Preference right—Application—Required.

All persons claiming a preference right to any tideland tract shown on the final tideland plat ATS 220 shall submit an application to the city clerk on a form to be supplied by the city and approved by the tideland review committee.

7.30.190 Preference right—Application—Time limit.

An occupant claiming a Class I, Class II, or Class III preference right may make, and the city will accept, applications for preference rights at any time during normal working hours within two years from the effective date of the ordinance adopting these regulations. Any preference right for which an application is not filed within this period shall be lost.

7.30.200 Preference right—Final tideland plat—Survey costs—Disposal notice.

- A. The final tideland survey plat showing completed subdivision and monumentation and signed by the city manager and the director shall be known as "Final Tidelands Plat ATS 220." The final plat shall serve as the basis upon which all tideland preference right disposals shall be made.
- B. The survey cost of each preference right tract shall be computed by multiplying the total square feet of the preference right tract by a square foot cost factor to be established by the city council with concurrence of the Director of the Division of Lands.
- C. Tideland and contiguous submerged lands as well as any material therefrom owned by the city shall be sold, granted, leased or otherwise disposed of only through action of the city council. No land or material in the tidelands shall be sold, granted, leased or otherwise disposed of until council has received a recommendation thereon from the city manager. Before such lands or any interest therein is disposed of, the city clerk shall post a notice for three consecutive weeks preceding the time of disposal as stated in the notice, in at least two common posting places; provided, the sale, lease or

disposal of lands shall be held not less than one week nor more than three weeks following the last date of the posted notice. The notice shall set forth the following:

1. The name and address of person, persons, corporation or agencies requesting the sale, grant, lease or interest therein;
2. The location and description of the lands or interest therein and the improvements thereon;
3. The preference or preference right claims, if any, and the length of time including dates the claimant occupied the land;
4. The date, time and place, and the general terms, including the minimum bid, if any, of the sale, lease, or other disposal;
5. The dates of the advertisement of posting.

7.30.210 Preference right—Application—Approval or disapproval.

- A. Each complete preference right application submitted to the city clerk shall be forwarded to the tideland review committee. The tideland review committee through its chairman may request the applicant to submit additional information or proof of ownership as deemed necessary.
- B. The tideland review committee shall, within sixty days from the date the application is received by the city clerk, notify the city manager of their approval or disapproval of the application.
- C. If the application is approved, the tideland review committee shall notify the city manager of all moneys owed the city by the applicant which pertains to the tideland application, and he shall then recommend that a resolution be passed conveying said tract to the applicant.
- D. If the application is not approved, or if it is determined that the applicant possesses a different preference right than that claimed, the tideland review committee shall so notify the applicant by registered mail and state their reasons for disapproval. The tideland review committee shall then advise the city manager.

7.30.220 Preference right—Application—Additional land to be considered.

In approving any application for a preference right, the city shall include as part of the tract conveyed, and in addition to the occupied or developed lands, such additional tide and contiguous submerged lands as shall be reasonably necessary in the opinion of the tidelands review committee for the occupant's use and enjoyment of the occupied or developed land; provided, however, that any such conveyance shall not include an area which would unjustly deprive any other applicant from reasonable use and enjoyment of the lands for which he applies or any area which would interfere with navigation.

7.30.230 Preference right—Appraisal deposit.

Each Class III preference right claimant shall deposit with the city clerk the sum of fifty dollars to cover the cost of appraisal. Any amount exceeding this shall be charged to the applicant and any surplus shall be returned to him.

7.30.240 Preference right—Class I cost payment.

Upon approval of each Class I preference right application, the tideland review committee shall notify the applicant of all moneys owed the city pertaining to the tideland application, including, but not limited to, the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in Section 7.30.200. Upon receipt of notice from the tideland review committee, the applicant shall have thirty days to make payment or enter into a purchase agreement as set forth in Section 7.30.270. If payment is not made, or a purchase agreement is not entered into within the thirty-day period, the application shall be voidable at the city's option.

7.30.250 Preference right—Class III cost payment.

Upon approval of each Class III preference right application, the tideland review committee shall notify the applicant of all moneys owed the city pertaining to the tideland application including, but not limited to, the fair market value of the tideland tract and the applicant's proportionate share of the survey cost. The proportionment of the survey cost shall be computed as stipulated in Section 7.30.200. If payment is not made, or a purchase agreement is not entered into within the thirty-day period, the application shall be voidable at the city's option.

7.30.260 Preference right—Independent survey required for boundary relocation.

If two or more qualified preference right claimants agree to a boundary relocation, approval of the tideland review committee and concurrence of the Director of the Division of Lands must be obtained by letter. All independent surveys shall be performed by a registered engineer or surveyor and the total cost shall be borne by the claimants. The final plat shall conform to the requirements of the State of Alaska Tideland Regulations and shall not be considered final until approved by the tideland review committee and concurred in by the Director of the Division of Lands.

7.30.270 Purchase agreement—Terms.

Persons eligible to receive tideland conveyance from the city may enter into a purchase agreement. Purchase agreements shall require the applicant to pay to the city according to a payment schedule that shall be agreed upon between the purchaser and the city; however, in no event shall the final payment under said agreement be made beyond April 5, 1967.

7.30.280 Purchase agreement—Limitations.

Purchase agreements shall be allowed for only the payment of the fair market value of the tideland tract and for the proportionment cost of survey.

7.30.290 Appeal—Permitted—Time limit for decision.

Any action taken by the tideland review committee may be appealed to the city council. The city council shall render their decision within sixty days from the date the appeal is submitted. Any person shall have the right to appeal in person before the city council or present his views in writing or be represented.

7.30.300 Appeal—Form.

Any appeal submitted to the city council must:

- A. Be filed within thirty days after receipt of notice of the action by the tideland review committee;
- B. Be filed at the office of the city clerk;
- C. Specify the action or actions to be reviewed by the city council;
- D. Specify the grounds urged for the reversal or modification of the action.

7.30.310 Appeal—Finality of decision.

The city council shall, within sixty calendar days after receipt of the notice of appeal, render their decision which shall be final so far as the city is concerned, but without prejudice to any other remedy or remedies the applicant may have.

7.30.320 Protest—Time limit for filing.

Anyone may file a protest with respect to the grant, sale, lease or other disposal of tidelands or materials thereon or therein. Such protest shall be in writing and contain a statement as to the nature and reason for the protest. Each protest so made shall be filed with the city clerk during but not later than the last date

provided in the past notice. The party protesting shall be required to notify by registered or certified mail the party whose action he is protesting. The postmark date of the addressee's post office will govern. Failure to protest shall constitute a waiver.

7.30.330 Protest—Review.

The city clerk shall, upon receiving a protest, indicate upon it the time and date received, then submit it to the city manager, who shall review the protest. The city manager shall upon review submit his findings to the city council. The city council shall notify the protestant of their findings within thirty days of the date the protest was received by the city clerk.

7.30.340 Reservations.

Each and every contract for the sale, lease or grant of, and each deed to city tide and contiguous submerged land, properties or interest therein, made under the provisions of this chapter, shall be subject to a reservation to the city or to the state, whichever shall be entitled thereto, which shall be substantially in the following form: "The party of the first part, City, hereby expressly saves, excepts and reserves out of the grant hereby made unto itself (or to the State of Alaska) its lessees, successors, and assigns forever, all oils, gasses, coal, ore, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gasses, coal, ores, minerals, fissionable materials, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, (or to the State of Alaska), its lessees, successors, and assigns forever the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gasses, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as foresaid, generally all rights and power in to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

7.30.350 Herring spawn covenant.

The lease or sale of any city tide and submerged lands shall contain a restrictive covenant pursuant to Section 2, Chapter 34, SLA 1959, as now or as hereafter amended.

7.30.360 Conveyance of title.

When all requirements have been satisfied by the applicant, the city council shall direct the city clerk to convey title. 7.30.370 Right of entry for investigation.

The city through its authorized representative shall have the right to enter upon any city-held tidelands that are leased, or upon which a permit was granted, to make any and all examinations or investigations that are deemed necessary.

7.30.380 City authority over structures affecting navigation.

The city shall have authority pertaining to the construction and placement by itself or by others of solid fill and/or open pile structures that will extend to the harbor line as established by the U.S. Army, Corps of

Engineers, except as provided in Sections 10 and 11 of the River and Harbor Act of 1899 (39 Stat. 1151; 33 U.S.C. 403 and 404).

7.30.390 Payment of damages.

No rights shall be exercised under the reservation set forth in Section 7.30.340 by the city or the state or their lessees, successors or assigns until provision has been made by the city or the state or their lessees, successors or assigns, to pay to the owner of the land, upon which the rights, herein reserved to the city or the state or their lessees, successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner by reason of entering upon said land; provided, that if said owner for any cause whatsoever refuses or neglects to settle said damages, the city or the state or their lessees, successors, assigns or any applicant for a lease or contract from the city or the state for the purpose of prospecting for valuable minerals or option contract or lease for mining coal, or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the city council or the director, as the case may be, in a company qualified to do business in Alaska and in a form as determined by the city council, or the director, as the case may be, after due notice and opportunity to be heard, to be sufficient in amount and security to secure said owner full payment for all such damages, to enter upon the land in the exercise of said reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer.

7.30.400 Waste or injury to land prohibited—Penalty for violation.

It shall be unlawful for any person to commit waste or other injury upon city-owned tide and contiguous submerged land and the person so offending shall, in addition to being civilly liable for any damages caused, upon conviction be punished in accordance with Chapter 1.28 of this code.

Chapter 7.40 DISPOSAL OF REAL PROPERTY

7.40.010 Disposal authority.

Except where state statute, the Charter or this code establishes a specific mandatory procedure for disposing of city real property, the city may dispose of city real property by resolution of the council.

7.40.020 Documentation of conveyance.

Every document conveying an interest in city real property under this chapter shall include the terms that are required by this chapter and any additional terms that the council or city manager requires, and shall be executed by the city manager, attested by the clerk, and approved as to form by the city attorney.

7.40.030 Land disposal map.

- A. The City shall maintain and update annually a map of city owned real property. The following designations shall be applied to the land disposal map:
1. Available: These properties are available to purchase or lease.
 2. Available—Subdivision Required: These properties are available to purchase or lease, but a subdivision of the land may be required.
 3. Tidelands: Tidelands are considered as "Available" designation but shall require review and recommendation from the Harbor Commission. Disposal of tidelands shall follow the procedures set forth in CMC 7.30.
 4. Not Available: These properties are currently in use for city uses and operations but can be the subject of a letter of interest per the procedures set forth in this chapter.

5. Leased: These properties are currently under lease and not considered available but can be the subject of a letter of interest during the final year of the lease term.
- B. Once per year, the City Planner shall review, with the Planning and Zoning Commission, the land disposal map to consider possible changes to the current designations or to add or remove properties to accurately reflect the status of City real property. The Planning and Zoning Commission shall then forward a recommendation to the City Council for adoption.
- C. The land disposal map may be modified throughout the year at the request of the public through the submission of a letter of interest, under the procedures set forth in this chapter.
- D. The City Planner shall provide public notice when real property is added to the land disposal map, or when the "Not Available" designation is proposed to be removed from an existing property. The notice shall:
 1. Include the name of the proponent, the location of the property, the proposed use and project description, and information on how the public can comment on the proposal.
 2. Be posted on the property in a location visible and legible from the right-of-way, beginning thirty days prior to the Planning Commission delivering its recommendation to the City Council.
 3. Be posted at City Hall, Cordova Public Library, and the Post Office beginning thirty days prior to the Planning Commission delivering its recommendation to the City Council.
 4. Be mailed to all property owners within three hundred feet of the perimeter of the subject property thirty days prior to the Planning Commission delivering its recommendation to the City Council.

7.40.040 Letter of interest to lease or purchase.

- A. A person may submit a letter of interest to the city raising an interest in the purchase or lease of city property. Except as otherwise provided in this chapter, a letter of interest shall be submitted to the city manager and must include the following information:
 1. The name of the interested party and any other names under which the party does business;
 2. The interested party's mailing address and the address of the interested party's registered office in the state, if applicable;
 3. The use or purpose for which the interested party proposes to lease or purchase the property, and any additional information required by the city manager, school board, city planner or the planning commission.
- B. The city manager shall refer a letter of interest from a qualified interested party to the city planner. If the city planner finds that the real property is available for lease or purchase, the city planner shall schedule the letter of interest for review by the planning commission.
- C. The planning commission shall review the letter of interest and recommend to the city council whether to offer the real property interest for disposal by one of the methods as described in Section 7.40.060(B).
- D. The city council shall review the letter of interest and the planning commission's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods as described in Section 7.40.060(B).

7.40.050 Letter of interest to lease or purchase school building property.

- A. A letter of interest to lease or purchase an interest in a school building shall be submitted directly to the school board and shall include all the information required in Section 7.40.040.
- B. Upon receipt of a letter of interest, the school board shall have authority to draft a resolution recommending action on the letter of interest and including recommended terms and conditions for any sale or lease of city owned real property with a school located on it.

- C. The city council shall review the letter of interest and school board's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods described in Section 7.40.060(B).

7.40.060 Methods of disposal.

- A. Except as this chapter provides otherwise, all disposals of interests in city real property shall be for no less than fair market value. The city may accept in exchange for an interest in city real property any consideration of sufficient value not prohibited by law.
- B. In approving a disposal of an interest in city real property, the city council shall select the method by which the city manager will conduct the disposal from among the following:
 - 1. Negotiate an agreement with the party who submitted a letter of interest to lease or purchase the property;
 - 2. Invite sealed bids to lease or purchase the property;
 - 3. Offer the property for lease or purchase at public auction;
 - 4. Request sealed proposals to lease or purchase the property.
- C. If the city elects to dispose of an interest in city real property under one of the competitive methods described in subsections (B)(2) through (B)(4), notice of the disposal shall be published in the manner which the city manager deems most likely to inform the public of the proposed disposal for a period of at least thirty days. At a minimum, the notice shall describe the interest in city real property to be disposed of, the method of disposal, and the time and place for submitting bids or proposals.
- D. An invitation for bids to lease or purchase city real property shall specify any minimum price requirement and any required terms.
- E. A request for proposals to lease or purchase city real property shall specify the criteria upon which proposals will be evaluated and the minimum rent or purchase price. All proposals submitted in response to a request for proposals shall be reviewed by the planning commission, which shall make a recommendation to the city council to accept or decline any or all of the proposals. The city council shall review the proposals and the planning commission's recommendation and accept or decline any of the proposals.

7.40.070 Disposal for less than fair market value.

- A. The city may dispose of an interest in city real property for less than fair market value to the United States, the state of Alaska or any political subdivision thereof, or a nonprofit or tribal corporation or association, upon a finding by the council that the disposal will allow the use of the real property for a purpose beneficial to the city.
- B. The city may lease city real property for less than fair market value where a commercial or industrial facility or use will be established and maintained on a continuous, year-round basis under the lease, if the council finds each of the following:
 - 1. The reduction in rent below fair market value substantially increases the likelihood that the facility or use will be located in Cordova; and
 - 2. The operation of the facility or use in the city will confer an economic benefit on the city and no equivalent benefit could be obtained by leasing the real property at its fair market value.
- C. The city shall publish notice of a proposed disposal of an interest in city real property for less than fair market value at least one week before the date on which the council will consider the agreement for the disposal. At a minimum, the notice shall describe the real property, summarize the terms on which it may be disposed of, identify the proposed lessee or purchaser, and state the date and time of the meeting at which the council will consider the proposal.

7.40.090 Disposal by lease.

In addition to the other requirements in this chapter, a lease of city real property shall conform to the following requirements:

- A. The lease may not be assigned without the approval of the city, which may be granted at the sole discretion of the city council.
- B. The term of the lease may not exceed thirty years, including renewals, unless the city council approves a longer term upon finding that the longer term will be beneficial to the city or the citizens of Cordova in light of the purpose of the lease, the use of the premises and the nature of any improvements to be constructed thereon.
- C. A lease having a term longer than two years may be subject to a rental adjustment at intervals no less frequent than every two years, but no such adjustment shall cause a reduction in the rent under the lease.
- D. A lease may grant the lessee one or more options to renew, provided that:
 1. The term, including all available renewal terms, does not exceed the term permitted under subsection (B); and
 2. Upon each renewal, the lease shall be subject to all provisions of this code in effect at the time of the renewal.
- E. The lease shall reserve to the city the right to designate or grant rights-of-way or utility easements across the leased premises without compensation; provided, that the lessee shall be compensated for any resulting, taking or destruction of improvements owned by the lessee, and provided further that the rent shall be adjusted to reflect any resulting reduction in the fair market value of the leased premises.
- F. The lessee's performance under a lease shall be secured in the manner that the city council may require, including without limitation, a security deposit, surety bond or guaranty.
- G. Unless the council provides otherwise in authorizing the lease, the lessee shall pay rent to the city on an annual basis, in advance, with payments due upon commencement of the term and on each anniversary thereof during the term.
- H. The lease shall provide for payment of interest or a late fee for rent past due, and provide for recovery by the city of attorneys' fees and costs to the maximum extent allowed by law in the event the city is required to enforce the lease in court, and such additional provisions pertaining to defaults and remedies as the city manager may determine to be in the city's interest.
- I. A lease of space within a city school building shall provide that payments received for rent shall be made payable to the school district and assigned to a special revenue fund designated by the city council in consultation with the school board.

7.40.100 Deposit—Disposal costs.

- A. When disposal of an interest in city real property is by the method in Section 7.40.060(B)(1), the interested party shall deposit the sum of one thousand dollars, and shall deposit such additional sums as the city manager may from time to time require to cover ongoing expenses incurred by the city in connection with the transaction, including without limitation staff time, appraisal costs, attorney's fees and costs, surveying and platting fees and costs, closing costs and escrow fees. The interested party shall reimburse the city in full at or before the closing of a sale or exchange, or the execution by the city of the lease or other document conveying the property interest, for all fees and costs the city incurred to third-parties in the transaction. Any unexpended deposit shall be applied to this reimbursement obligation. If negotiations with the interested party are terminated by either the city or the interested party and the disposal is not executed the city will keep the deposit to cover expenses incurred by the city in connection with the negotiation. The city will refund any unexpended part of

the deposit to the interested party no later than ten days after consummation or termination of the transaction.

- B. Proposals and bids submitted to the city for disposal of city real property under Section 7.40.060(B)(2) or 7.40.060(B)(4) shall include a deposit less than or equal to ten percent of the minimum purchase price to cover costs associated with the disposal process. The amount of the required deposit shall be indicated in the bidding or proposal documents. The deposit will be put toward the fees and costs the city incurs, including without limitation city staff time, appraisal costs, attorney's fees and costs, and platting fees. In the event that the city notifies an interested party that its proposal or bid has been selected and the interested party subsequently withdraws its proposal or bid, the city will retain the interested party's entire deposit. The city will refund in full an interested party's deposit if the interested party's proposal or bid is not selected by the city or the city withdraws the invitation or request for proposal after selection. Any unexpended portion of a winning bidder's deposit shall be applied toward the property's purchase price or rental rate.

7.40.110 Valuation—Consideration.

Prior to the disposal of any interest in city real property, the city will determine the fair market value of the interest by using a qualified appraisal, tax assessment values, comparable property values or any other method the city determines, in its sole discretion, calculates the fair market value of the interest.

- A. Where the disposal is by lease at fair market value, the minimum annual rent shall be the fair market value as determined by the city.
- B. Where the disposal is by sale or other disposition at fair market value, the minimum purchase price shall be the fair market value of the city's interest.
- C. Where the disposal is to accommodate a structure that encroaches on city property or fails to conform to code requirements in Title 18, the purchase price of the property shall be three times the property's fair market value, which value is determined by the city according to this section.
- D. Where the disposal is for less than fair market value, the city council will determine the rent, purchase price or other consideration owed to the city for the property interest.

7.40.120 Effect of city actions.

No action or inaction by the city council, city manager or any other officer, agent or employee of the city relating to or in furtherance of the development, preparation for disposal or disposal of city real property or any interest therein shall be deemed to constitute an express or implied representation or warranty that such real property, or any interest therein, is suitable or usable for any specific purpose whatsoever. Any such action or inaction shall be deemed to be and constitute performance of a discretionary policy and planning function only and shall be immune and give no right of action as provided in AS [Section] 9.65.070, or any amendment thereto.

Chapter 7.50 ACQUISITION OF REAL PROPERTY

7.50.010 Acquisition authority.

- A. The city may acquire real property for any public purpose, or as otherwise authorized by law.
- B. In accordance with the procedures established by this chapter for acquiring real property, the city may acquire real property in any manner not prohibited by law, including without limitation, by purchase, exchange, trade, bequest and donation.

7.50.020 Approval by council.

In addition to any other council action that may be required by law to authorize the city to acquire real property, the following shall require council approval by resolution after public hearing:

- A. Acquisitions of real property, except:
 - 1. Acquisitions of real property that is specifically located in and authorized for purchase under an approved capital improvement budget.
 - 2. Acquisitions of rights-of-way incidental to a construction project that has been approved by the council.
 - 3. Acquisitions by foreclosure, deed in lieu of foreclosure, or through litigation or settlement of litigation, other than proceedings in eminent domain.
 - 4. Dedications of an interest in real property in connection with city approval of a subdivision plat.
- B. The institution of eminent domain proceedings on behalf of the city.

7.50.030 Acquisition by conveyance.

Any instrument conveying real property to the city pursuant to an acquisition which is subject to council approval by resolution after public hearing under Section 7.50.020, and which requires execution by the city, shall be signed by the city manager and attested by the clerk.

7.50.040 Exemption from competitive bidding.

Because of the unique nature of real property, the city need not acquire real property by competitive bidding.

Chapter 7.60 ABANDONED PROPERTY

7.60.010 Impoundment of personal property.

- A. Except as this section provides otherwise, any personal property, abandoned by its owner inside the city and subsequently unclaimed by the owner or his agent, shall be impounded by the duly authorized agent of the city and disposed of as provided by this chapter.
- B. Abandoned vehicles found inside the city shall be impounded and disposed of pursuant to Alaska Statutes Sections 28.11.010 through 28.11.110, inclusive.
- C. Junk deposited on city property, including rights-of-way, shall be deemed abandoned, and may be disposed of by the city immediately and without following the procedure in Sections 7.60.020 through 7.60.080 of this chapter. For this purpose "junk" means any abandoned, used, worn out, wrecked, scrapped, partially or fully dismantled or discarded tangible material, or any combination of materials or items including appliances, chemicals, building materials, equipment or parts thereof, fiber, fishing gear, machinery, metal, scrap metal, rags, rubber, paper, plastics, lumber or wood, that cannot be used for its original purpose without repair, alteration or reconditioning.
- D. For the purposes of this chapter, "abandoned" means any non-emergency deposition of material on city or private property without prior authorization.

7.60.020 Holding period.

Abandoned property that is impounded under Section 7.60.010(A) of this chapter shall be held for a period of not less than thirty days for recovery by its owner upon payment to the city of storage and service charges incurred by the city.

7.60.030 Sale permitted—Disposition of proceeds.

If property impounded under Section 7.60.010(A) of this chapter or in accordance with any other chapter of this code authorizing impoundment remains unclaimed by the owner or an authorized agent thereof for a period of thirty days, such property may (upon notice as provided in this chapter) be sold as provided in this chapter by the city manager or his representative and the proceeds of such sale shall be first applied to costs of impoundment, storage and sale and the balance to the general fund of the city.

7.60.040 Notice of sale-Required.

Notice of sale of impounded property shall be given all persons known to claim an interest in such property by the City Manager no less than fifteen days preceding such sale. The City Manager shall exercise reasonable diligence in providing actual notice in writing to known owners by certified mail or personal delivery. Notice by certified mail shall be deemed effective from the date of the posting by the City Manager. In any case, notice shall be deemed sufficient upon

1. Publication of notice of sale three times during three consecutive calendar weeks, one in each week,
2. Posting the notice of sale on the bulletin board in the City Hall, and
3. Posting the notice of sale in one other public place.

7.60.050 Notice of sale—Contents.

All notices required to be delivered or published by the city manager shall accurately describe the property offered, state the date and place impounded, the amount owing for impoundment and other costs, the date and place of sale, and the name of the owner, if known; provided, however, property determined by the city manager to have a cash value not exceeding twenty-five dollars may be described generally and according to general classification only.

7.60.060 Method of conducting sale.

Sale of impounded property shall be either at public auction or by sealed bid, at the discretion of the city manager. All sales shall be final and for cash. In the event the city manager elects to offer property on sealed bid, the sale shall be governed by the provisions of Chapter 5.20 of this code appertaining to the sale of city property of a value exceeding five hundred dollars.

7.60.070 Certificate of sale.

The city manager shall deliver to the purchase of any impounded property sold under this chapter or any other provision in this code, a certificate of sale which shall be in substantially the following form:

**"CERTIFICATE OF SALE OF
IMPOUNDED PROPERTY**

For value received, the City of Cordova pursuant to the provisions of Chapter XIII, Article VI, Cordova Code of Ordinances, which provisions are, by this reference incorporated herein, sells, sets over, transfers and assigns to (Purchaser) without warranty, all its interest, if any it may have, in the following described personal property:

(here insert description as
published in notice.)

Date: _____

By: _____ City Manager

Attest: _____ City Clerk

7.60.080 Sales to be final—City responsibility.

All sales under this chapter shall be final. The city, its agents and employees shall not, in any way, be deemed to make any representation to any person respecting the total value, use, or merchantability of any property in the conduct of any sale hereunder or otherwise and purchasers of impounded property shall take such property without recourse against the city, its agents and employees.

Chapter 7.70 USE OF CITY EQUIPMENT

7.70.010 Equipment and vehicles defined.

For the purposes of this chapter, the terms "equipment" and "vehicles" means those that are owned, leased, rented or otherwise in the use, care, custody or possession of the city.

7.70.020 Operation by other than city personnel prohibited.

No city equipment or vehicle shall be operated by any person or persons who are not employees or officials of the city.

CHAPTER 7.80 LOCAL HIRE FOR PUBLIC IMPROVEMENTS

7.80.010 Local hire required on public improvements.

Contracts for the construction, repair or alteration of public improvements funded in whole or in part by city funds, or funds which, in accordance with a federal grant, state grant or otherwise, the city expends or administers, and to which the city is a signatory to the construction contract, the workers hours shall be performed at least fifty percent by bona fide residents of the city of Cordova. To the extent there are not sufficient city resident workers qualified and available for work, a contractor shall be exempt from the provision of this section to the extent of such unavailability.

7.80.020 Resident defined.

For the purposes of this chapter, a bona fide resident is a person who maintains, and has maintained for at least thirty days, a domicile in the Cordova and/or Eyak Election Precincts. Domicile is the true and permanent home of a person from which that person has no present intention of removing and to which that person intends to return whenever away from that home.

Section 2. City Council authorizes the City Clerk or her designee to update Title 7 “City Property” to relocate any and all footnotes, notes, and references currently included in the renumbered chapters and to update any and all formatting and grammar in the renumbered chapters that are necessary to comply with updated conventions in the Cordova Municipal Code.

Section 3. Cordova Municipal Code Chapter 5.12 “Purchases” is renumbered to CMC Title 7 Chapter 7.10.

Section 4. Cordova Municipal Code Chapter 5.14 “Sale of City Personal Property” is renumbered to CMC Title 7 Chapter 7.20.

Section 5. Cordova Municipal Code Chapter 5.16 “Tidelands” is renumbered to CMC Title 7 Chapter 7.30.

Section 6. Cordova Municipal Code Chapter 5.22 “Disposal of Real Property” is renumbered to CMC Title 7 Chapter 7.40.

Section 7. Cordova Municipal Code Chapter 5.23 “Acquisition of Real Property” is renumbered to CMC Title 7 Chapter 7.50.

Section 8. Cordova Municipal Code Chapter 5.24 “Abandoned Property” is renumbered to CMC Title 7 Chapter 7.60.

Section 9. Cordova Municipal Code Chapter 5.28 “Use of City Equipment” is renumbered to CMC Title 7 Chapter 7.70.

Section 10. Cordova Municipal Code Chapter 5.29 “Local Hire for Public Improvements” is renumbered to CMC Title 7 Chapter 7.80.

Section 11. This ordinance shall be effective January 1, 2025, and in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska.

1st reading: October 2, 2024

2nd reading and public hearing: October 23, 2024

PASSED AND APPROVED THIS 23rd DAY OF OCTOBER 2024.



David Allison, Mayor

ATTEST:

Susan Bourgeois, CMC, City Clerk