



AGENDA
CITY COUNCIL WORK SESSION
JUNE 11, 2019 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, AK 99611
<http://www.kenai.city>

- A. Call to Order
- B. Introduction – Mayor Gabriel
- C. Public Comment (limited to 3 minutes per speaker; 30 minutes' aggregate)
- D. Presentation on Land Sale and Leasing Policies and Procedures by City Manager Paul Ostrander and Assistant to City Manager Christine Cunningham
- E. Additional Public Comment (limited to 3 minutes per speaker; 30 minutes' aggregate)
- F. Council Discussion
- G. Adjournment

An aerial photograph of a coastal town and airport. The town is built on a peninsula with a rocky coastline. The airport is located inland from the town. In the background, there are mountains with snow-capped peaks under a blue sky with light clouds. The water is a deep blue-green color.

LAND SALE AND LEASING

POLICIES AND PRACTICES

Land Sale and Leasing
Policies and Practices
Working Group:

City Manager Paul Ostrander
Assistant to City Manager Christine Cunningham
Finance Director Terry Eubank
Airport Manager Mary Bondurant
City Planner Elizabeth Appleby
City Attorney Scott Bloom

June 11, 2019

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Draft Land Management Plan
Draft KMC Revisions Title 22

INTRODUCTION

One of the City's greatest assets is its land inventory. Utilizing City lands to spur economic growth and improve the quality of life for Kenai residents is key to the long-term viability of the City. Major initiatives for the upcoming year include creating an environment to attract businesses and industries that are necessary to maintain and grow the local economy and continuing work towards a Land Management Plan, which includes an inventory of all City-owned lands.

A working group of City staff involved in land management met over the past two years to evaluate and develop recommendations related to City-owned lands. In 2018, the group focused on proposals to simplify and streamline the City's lease program on the Airport to encourage growth, development, and a thriving business community through reasonable and responsible land policies and practices. The initial recommendations included a City-wide Land Management Plan, Kenai Municipal Code revisions for Airport Reserve properties, updates to forms and procedures, and affirmative marketing of Airport Lands.

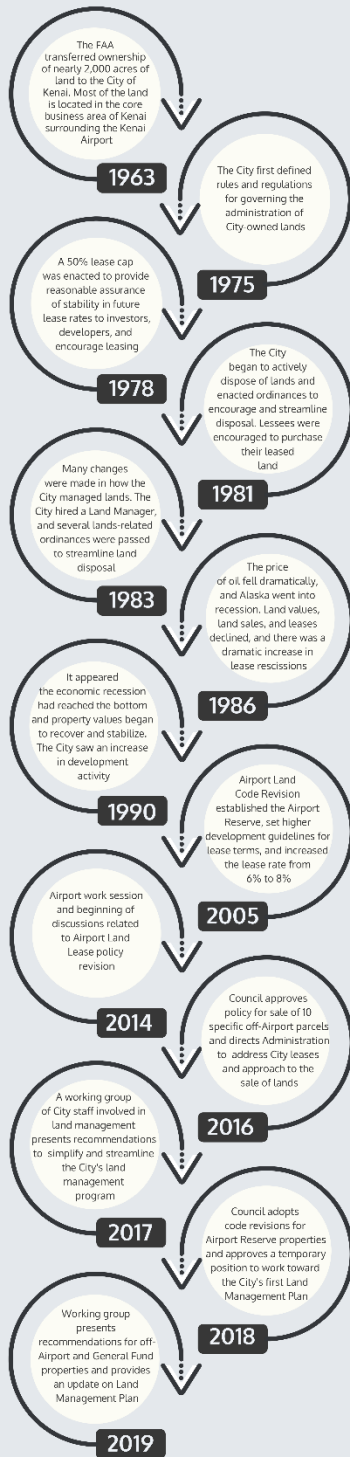
The following recommendations expand on the previous Airport Reserve recommendations to include all City-owned properties both on and off the Airport as part of the City's Land Management Plan.



CITY OF KENAI LAND LEASING AND SALES



How has the City of Kenai restructured its land leasing and sales policies over the years?



Today, the City is experiencing a renewed interest in City-owned lands and has taken a City-wide approach to land management. Recommendations provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

BACKGROUND

In 1963, the FAA transferred ownership of nearly 2,000 acres of land to the City of Kenai. Most of the property is located in the core business area of Kenai surrounding the Kenai Airport, and the sale of some of these lands formed the basis for economic development in Kenai. The 1963 deed requires the land be managed for airport activities and support of the Airport and requires the written consent of the FAA to sell or lease land for non-airport activities. Subsequent deeds of release have been obtained, allowing some properties to be leased or sold.

The City has also received title to lands over the years from the State of Alaska and Bureau of Land Management as well as through Kenai Peninsula Borough foreclosures or private donations. Many of the conveyance documents contain restrictions, reversionary clauses, or are otherwise restricted by ordinances setting the land aside for a public purpose. However, the land deeded to the City by the FAA has been the focus of most of the City's lands policy decisions.

In 1975, the City first defined rules and regulations governing the administration of City-owned lands. In 1978, a provision for a 50% lease cap was enacted to provide reasonable assurance of stability in future lease rates to investors, and developers, which would encourage leasing.

In 1981, the City began to actively dispose of lands and enacted ordinances to encourage and streamline disposal. When applicable, lessees were encouraged to purchase their leased land. With the City entering into a program of land sales, use of the lease rate cap, which required increasing transfers from the General Fund to the Airport Fund, had outlived its usefulness and was restricted to property used for aeronautical purposes.

In 1983, the City made many changes to land management policies. The City hired a Land Manager, and several lands-related ordinances were passed to streamline land disposal. However, the price of the oil fell dramatically in 1986 and Alaska went into recession. This was a year of decline in land values, land sales, and leases. As property values continued to drop in 1987, there was a dramatic increase in lease rescissions. By 1990, it appeared that the economic recession had reached the bottom and was taking a gradual upturn.

In 2006, the Airport land sale and leasing code sections were repealed and reenacted as a result of recommendations in the Supplemental Airport Master Plan. The new code established the Airport Reserve, prohibited land sales within the Reserve, amended guidelines for setting the length of the lease terms with higher investment requirements and a maximum 35-year

term. The revised policy added additional requirements for lease applicants, eliminated the ability of new lessees to have the right to purchase once a development plan had been completed, increased the capitalization rate used to calculate rental rates from 6% to 8%, and established a new method of setting and adjusting land rents based on an airport-wide zone-based appraisal.

The City deviated from the new code provisions through non-code Ordinances to enter into each new lease between 2007 and 2018 as well as to facilitate negotiated sales of land. In 2015, Administration conducted an economic analysis of income (revenue) to the Airport, which compared leasing versus sale of two unsolicited offers to purchase properties assuming a 50-year period. It was determined that the Airport would lose revenue in a sale, and the City declined the offers.

In 2016, the City updated zoning within the Airport Reserve and relocated the Airport Reserve boundary. That same year, the City Council approved a policy for the sale of ten specific Airport leased lands with substantial constructed leasehold improvements. The policy is in effect for five years (expires in July of 2021) and, recognizing the value of a lease with a guaranteed revenue stream, approves a sale at 125% of fair market raw land appraisal with the lessee paying for appraisal costs.

Although the City's land leasing and sale program has been restructured over the years, the approach has been to manage land as situations arise and without an active management plan or strategy. In 2018, City Council approved recommended revisions to the leasing program in the Airport Reserve, amended the sale policy for ten specific Airport Fund properties to provide alternatives to encourage investment, and approved a City-wide approach to land management through the development of the City's first Land Management Plan.



WHERE WE ARE

The City is unique in its ownership of a large and diverse amount of public land, owning a total of 356 subdivided parcels of which 233 are designated General Fund, and 126 are designated Airport Fund. Nineteen (19%) of City-owned parcels are currently under lease, generating an annual revenue of approximately \$653,356.

The City of Kenai is unique in its ownership of a large and diverse amount of public land.

Many vacant parcels are suitable for a variety of business, commercial, industrial, residential, recreational and cultural purposes:

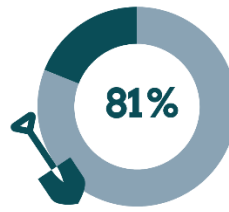
- Retail, Service and Office Space
- Transportation, Aviation and Marine-related Services
- Tourism, Art and Culture
- Warehouse, Production and Manufacturing Facilities
- Youth Sports and Outdoor Recreation
- Single and Multi-Family Housing
- Community Events and Festivals

Inside the Airport Reserve, 27 parcels are currently under lease and approximately 20 subdivided parcels are available for lease. Outside the Airport Reserve, approximately 14 Airport Fund parcels are currently under lease, of which ten specific properties have been approved for sale, and approximately 30 parcels remain available for lease. The General Fund has 22 parcels currently under lease and an undetermined number of lands available for lease or sale. Approximately 30% of City leases are in the latter half of the lease (not including Shorefishery leases renewed in 2016), and another approximately 12% have lease terms with over 80 years remaining and no incentive to maintain or improve the permanent improvements on the premises.

The City received **\$653,356**
in Annual Lease Revenue in 2018



General Fund Parcels Under Lease



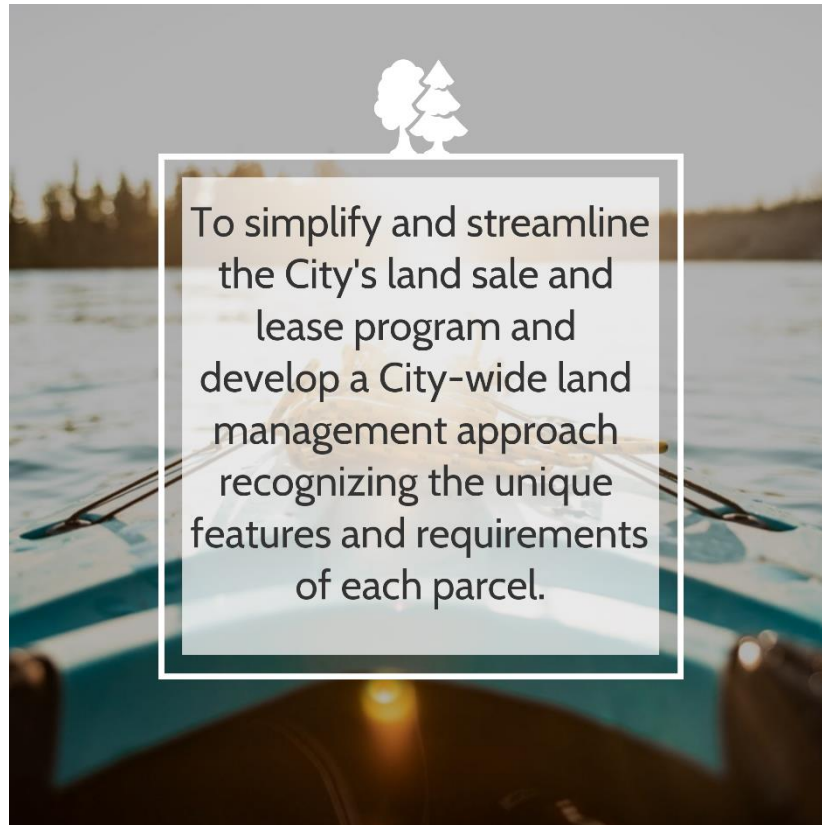
City-wide Unleased Parcels



Airport Fund Parcels Under Lease

OBJECTIVES

Utilizing the 2018 revisions to the leasing program for the Airport Reserve as a starting point, the working group took a City-wide approach to land management that looked at both General Fund and Airport Fund properties outside the Airport Reserve. The goal of the working group was to follow similar changes made for the Airport Reserve properties with regard to lease and expand the objectives to simplify and streamline the City's land management program to provide a uniform approach for both lease and sale.



The working group defined the following objectives to help achieve this goal:

- City-wide Approach to Land Management
- Business-friendly Rules
- Policy Predictability
- Uniform Application of Policies
- Prevent Land Speculation
- Promote Economic Development

The following recommendations apply to all City-owned lands with the exception of on-Airport property and tidelands.

RECOMMENDATIONS

1. LAND MANAGEMENT PLAN

A City-wide Land Management Plan is an active approach that requires an inventory of the City's land holdings. An analysis is needed for each parcel in terms of any conveyance, legislative restrictions or need for public use as well as the potential economic and other benefits to the City.

The Land Management Plan provides a comprehensive evaluation and characterization of each City-owned parcel to guide the decision-making process to include the following elements:

- Property Description (e.g. physical characteristics, zoning, land use)
- Facilities (e.g. parks, trails, structures, rights-of-way, utilities)
- Status (e.g. public use, under active lease, available for lease or sale)
- Recommended highest and best use



In addition to development of the plan itself, Administration would develop procedures and standards for management of City lands with a focus on business-friendly practices and customer service. The advantages of an active approach are improved policy predictability and uniform application of policies as well as the opportunity for increased return from public land assets for the greatest benefit to the residents of Kenai. This active approach gives the City the ability to determine which properties are best suited for a public purpose, lease, sale, devotion, or which properties may be eligible for grants or economic incentives for

development. It also provides a mechanism to evaluate properties on an ongoing basis.

The City began work on the Land Management Plan by hiring a Temporary Land Technician who began researching City parcels and entering information into a new City Lands Database in 2018. To date, the baseline information has been entered into the system for approximately 85% of City-owned lands. When this task has been completed, City staff will review the information and finalize the first draft of the City's Land Management Plan for City Council consideration.

Once approved, the information in the database can be used to develop land use strategies to implement a forward-looking approach to community growth and development. The City will have the information necessary to make informed management decisions about City-owned lands. The public will be able to view parcel-specific data included in the Plan utilizing the City's interactive online mapping.

The Plan will require an ongoing review of current holdings and summary of changes, proposed changes, market research, upcoming events (land sales, lease expirations or leases requiring action) as well as further development of procedure manuals, forms, and databases to ensure efficient and consistent work.

2. KENAI MUNICIPAL CODE (KMC) REVISIONS

The City’s policies and procedures for land leasing and sale for General Fund and Airport Fund property outside the Airport Reserve are in the City’s land code (KMC 22 and 21.15). The working group reviewed the current code and legislative history, the City’s available land data, and the 2018 revisions for on-Airport property, which came about after consultation with real estate appraisers, bankers, surveyors, aviation consultants, and other land professionals. The group also reviewed existing leases to consider the needs of existing leaseholders and the business community to manage land for the greatest benefit of the residents of Kenai.

The following recommended revisions simplify and streamline the City’s land sale and lease program to encourage growth, development, and a thriving business, residential, recreational, and cultural community.

Applicant-Friendly Rules



Applicant-Friendly Rules

Current Process	Recommendations
<ul style="list-style-type: none"> • Applicants must inquire with the City as to which lands are available for lease or sale • Information on lease and sale process available by request or by researching City Code • Applicants must request application form • \$100 application fee for initial lease but no fee for extension, renewal, amendment or assignment • \$4,800 up-front cost-recovery deposit for lease • Applicants must submit business plan, site plan, development plan and KPB compliance certificate with application • Publication notice required for sale only • Negotiated sale at not less than FMV by ordinance or after competitive process, outcry auction, or sealed bid • No appraisal prior to purchase agreement • If applicant for sale is not high bidder, deposit refunded after closing of sale 	<ul style="list-style-type: none"> • \$100 application fee • Standard application form • All forms and FAQs available online and at City Hall • Interactive land listing available online and lands brochure available at City Hall • Public notice and posting required for lease and sale • Deposit based on actual cost of appraisal/subdivision (if applicable) • Appraisal costs credited or refunded to applicant once development is complete • Lease with option to purchase available • Over-the-counter sale available after competitive public process • Development incentives available

“Applicant friendly” rules balance the interests of the City with those of the applicant, do not place excessive burdens on the applicant, provide a predictable process for application approval, attract new lessees to vacant land and retain existing leaseholders.

The City currently requires a lease applicant to submit a deposit up-front with a lease application to ensure performance, which is not required by other similarly situated municipalities and increases an applicant’s

upfront costs. Other procedures place unnecessary burdens on the applicant by requesting nonessential information at the application stage and do not provide a predictable process for approval.

The above recommendations provide an online resource for lease information and forms, remove the requirement for up front application deposits, remove the requirement for additional documents to be submitted with applications, provide for public notice and a predictable processing procedure, and maintain Kenai’s application fees as some of the lowest in the State. The recommendations also allow for lease applicants to indicate if they are interested in an option to purchase the property once development is completed. This provides a new avenue for competitive land sales that ensure development on the property.

Uniform Conditions for Determining Initial Length Lease Term



Initial Lease Term

Current Process	Recommendations
<ul style="list-style-type: none"> Lease term depends upon the durability of the proposed use, the amount of investment in improvement proposed and made, and the nature of the improvement proposed with respect to durability and time required to amortize the proposed investment Value of improvements provided by applicant No limit on length of lease term 	<ul style="list-style-type: none"> Length of term based on amount of investment applicant proposes to make in the construction of new permanent improvements Maximum length of lease term of 45 years

The City currently sets the initial term of a lease based on the durability of the proposed use, the amount of investment in improvement proposed and made, and the nature of the improvement proposed with respect to durability and time required to amortize

the proposed investment. There is not a methodology in place similar to the term table contained in the code section for on-Airport properties that provides an applicant a guideline for how the City sets the lease term, which reduces predictability for applicants.

Amending the term table to set the five-year term investment/value at \$7,500, allowing for small investment increments, and allows a lease applicant to compare their planned investment to the term table to determine the term length they are likely to receive. This method also generally satisfies the requirements of financial institutions that provide funding for lessee improvements and provides greater predictability for business owners to locate and invest in Kenai’s economy. (See Appendix: Draft KMC 22 revisions for recommended term table)

Predetermined Conditions for Lease Extension and Renewal

As more of the City’s leases reach the later part of the lease term, current conditions for lease extension and renewal discourage the lessee to invest in maintenance or further development as well as potentially restricting the lessee’s ability to sell their leasehold interest. For instance, a lessee with five years remaining in the lease and no right in the lease to renewal will have difficulty finding a buyer or new investor without being granted an extension or renewal of the lease.



Extension & Renewal

Current Process	
<ul style="list-style-type: none"> No Application Form No Application Fee Extension Not Defined No Development Required No Competition Not Eligible for Development Incentives Unpredictable Length of Extension No Term Limit 	<ul style="list-style-type: none"> No Application Form No Application Fee Renewal Not Defined No Competition Requires Expensive Appraisal No Development Incentives Unpredictable Lease Term <p><small>Title 22 and 21.15 do not contain definitions or conditions for lease extension or renewal</small></p>
Recommendations	
<ul style="list-style-type: none"> \$100 Application Fee Standard Application Form Extension Defined as Extending Lease Term Allow for Competition Requires New Development Length of Extension Based on Term Table (Max. 45 Years) Eligible for Development Incentives 	<ul style="list-style-type: none"> \$100 Application Fee Standard Application Form Renewal Defined as New Lease Allow Renewal by New Buyer Allow for Competition Term Based on New Development, Remaining Useful Life of Improvements, or Sale Price Eligible for Development Incentives

The City currently does not have a methodology for how to determine the term for an extension or renewal for lands outside the Airport Reserve. Because renewal and extension are not defined, the terms are used interchangeably with extensions of older leases being granted rather than updated to a new standard lease form. A renewal requires an appraisal of the land at the expense of the lessee, which can be costly and does not address the improvements or the condition of the improvements on the

property. Additionally, the process does not provide any assurance to the lessee that a renewal will be granted to justify the cost of an appraisal.

The above recommendations as well as setting the lease term for renewal and extension using the same term table as is used in setting the term for initial leases gives a lessee a predictable method to renew or extend the lease. This provides for a lower cost and risk to the lessee and greater advantage to the City, as the renewal or extension term length is more accurately based on the condition of the principal improvement or investment and provides motivation for the lessee to maintain buildings in good condition.

Protect Lessees from Excessive Rent Increases



Rent Adjustments

Current Process	Recommendations
<ul style="list-style-type: none"> Initial annual rent based on 8% of Fair Market Value appraisal paid for by the applicant Rent adjustment every five years based on a Fair Market Value appraisal paid for by the City 	<ul style="list-style-type: none"> Initial annual rent based on 8% of Fair Market Value appraisal paid for by the applicant with cost of appraisal to be credited or refunded once development is completed Annual rent adjustment based on the consumer price index (CPI) A land market analysis will be performed once every ten years

The City's existing policy for setting lease rates consists of an initial appraisal paid for by the lessee and renegotiation appraisals every five years paid for by the City and subsequent rates based on 8% of the fair market value as determined by the appraisals.

A change from the current five-year appraisal cycle to a 10-year “Market Analysis” (defined in the draft code revisions to KMC 22 contained in the Appendix) with an annual CPI adjustment provides less expense for the City in appraisal costs and greater predictability in rent for lessees. Annual rent would be computed by multiplying the CPI adjusted fair market value of the land by the lease rate percentage for each parcel (currently 8%).

For the City to realize the full benefit of an amendment to the policy for setting lease rates, existing lessees would need to convert to the new method. Allowing current lessees to convert their leases to the new form would allow lessees to take advantage of these protections from unexpected rent increases as well as any other conditions available in the new lease form, such as the predetermined conditions for lease extension and renewal and favorable provisions for the disposition of improvements.

Provide Favorable Provisions for the Disposition of Improvements



Disposition of Improvements

Current Process	Recommendations
<ul style="list-style-type: none"> • City Code does not address disposition of improvements • Most City leases require lessee to remove improvements or they revert to the City at end of lease 	<p>At the end of a lease, departing lessee has the following options:</p> <ol style="list-style-type: none"> 1. Remove lessee-owned improvements and restore premises 2. Sell lessee-owned improvements to succeeding lessee 3. Purchase the property in which the lease contains an option to purchase once minimum development requirements have been met

Under the new land leasing program on the Airport, at the end of a lease when the lessee does not continue in occupancy under a new lease or extension, the lessee has the option of removing improvements and restoring the premises or selling improvements to a succeeding lessee of the premises.

Most of the City’s current leases require the lessee to remove improvements or they will revert to the City. With the City taking title to the improvements, it limits the lessee’s incentive for taking good care of the buildings on the property as the end of the lease term approaches. The City runs the risk of “inheriting” a building in poor condition and with the expense and/or liability of repairing and maintaining the inherited building until a new lessee can be found. By contrast, the methods for disposition of improvements approved for on-Airport leases provide lessees with an incentive to maintain their facilities in good condition and do not leave the City with the burden of an increasing inventory of older buildings needing maintenance and repair.

The City’s current practice for disposition of improvements for Airport Reserve properties provides attractive options to lessees related to the improvements they constructed on the property. These options incentivize better maintenance and, along with other development incentives, encourage new investment, as well as increase predictability and uniformity for potential lessees.

Offer Development Incentives

Development Incentives

How do development incentives work?

- A credit toward rent for a maximum of five years.
- The credit may only include the value of site preparation work on leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions.
- An estimate of the value of the work must be provided to the City and accepted prior to work being performed.
- For the credit to be applied, the approved scope of work must be completed.

81%
of businesses
cite state and local incentives as a preferred
feature in selecting a location*

*Businesses's Preferred Amenities Source: Area Development Magazine (annual survey)

One way the City has encouraged investment and leasing of undeveloped properties on the Airport is to offer development incentives. These incentives apply a credit toward rent for a maximum of five years. The credit only includes the value of site preparation work on the leased premises which provide economic benefit to the City and potentially increase the value of the property for future sale.

An estimate of the value of the work, including a scope of work, prepared by a professional engineer must be provided to the City and accepted prior to work being performed and the credit would not be applied until the approved scope of work was completed.

Provide a Methodology for Sale of Leasehold Properties

The City's ordinances allow for sale of some leasehold properties at Fair Market Value if development had been completed as required by the lease or if substantial development has been completed as determined by the City Manager. However, beginning in 2009, the City has declined requests by lessees who wish to purchase except for those included in the temporary policy for ten specific "off Airport" leased lands with substantial constructed leasehold improvements.

The policy is in effect for a period of five years (expires in July of 2021) and approves a sale at 125% of the Fair Market Value of the land or, as an alternative to a sale at 125%, the lessee must either meet new investment requirements or demonstrate the existing lessee-constructed improvements exceed the net present value of leasing the land by quantifying the economic value of the investment to the City. The policy does not address the sale of other or future properties.

In order to allow for a competitive sale of leasehold property, the option to purchase would need to be part of the initial lease application approval process, which includes a public posting

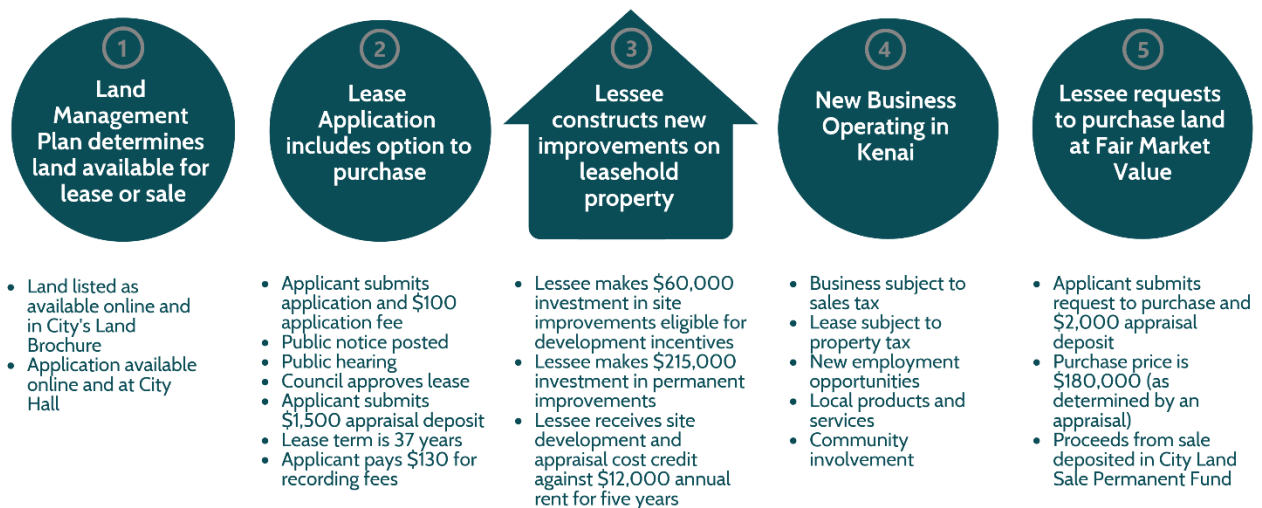
requirement and public hearing. The option to purchase could be exercised by the lessee at such time as the development requirements in the lease were met. This option would give the lessee the ability to enter into a lease with lower up-front costs as well operate a business at a location before committing to purchase the property. Providing a methodology for sale of leasehold properties will improve the City’s ability to attract specific businesses and industries that are necessary to maintain and grow the local economy.

For example, a new business could apply for a lease of City property, which has been pre-determined as available for lease or sale, with an option to purchase. The applicant would be responsible for the application fee and a deposit to cover the cost of an appraisal (the cost of the appraisal would be credited or refunded once minimum development in the form of permanent improvements on the property was completed). The lessee may also request a credit toward rent for a maximum of five years for the value of site preparation work on the leased premises, which potentially increases the value of the property for future sale. After two years – or five years, if the lessee prefers to exhaust the development credits, the lessee would be able to request to purchase the land at Fair Market Value based on a new appraisal.



Lease with Option to Purchase:

*Based on \$275,000 in lessee-constructed improvements on land appraised at \$150,000



This process would not be available for existing leasehold properties as it would not meet the City’s requirement for a competitive sale process.

Provide a Methodology for Sale of Vacant Properties

The City's ordinances currently allow for sale of land outside the Airport Reserve not under lease at Fair Market Value by outcry auction, competitive sealed bids or negotiated sale to encourage a new commercial or industrial enterprise beneficial to the City. There is not a methodology in place to determine in advance which parcels of land are best suited for sale or guidance on what conditions justify negotiated transactions which may be in the City's best interests.

As part of an overall Land Management Plan, City staff would review the City's land inventory and consult with City departments to determine which properties are no longer needed for a public purpose and those which would provide a greater public benefit if offered for lease or sale. Property would become available for sale if it meets a set criteria, including: the property is not currently used by a City department or does not support a City function or foreseeable use by the City; the City is not obligated to use the property for the purpose in which it was conveyed or circumstances have changed such that the purpose is no longer needed; the property is a non-performing or under-performing asset and greater value can be generated by its sale; or, significant economic development opportunities can be generated by selling the property.

Based on an analysis of the individual parcel as provided in the Land Management Plan, it may be in the best interests of the City to sell parcels after significant development has been completed. Based on the City's policy not to allow for speculation on City-owned lands, a lease or sale would require development and a sale would be at not less than Fair Market Value with a required minimum investment in permanent improvements.



Methodology for Sale

	Current Process	Recommendations	
<p>Lands not restricted from sale by deed which the Council has determined are not required for a public purpose may be listed for sale by the City Manager, except leased lands unless the lessee has made a written request for sale</p>	<p>NEGOTIATED, OUTCRY OR SEALED BID</p> <ul style="list-style-type: none"> Applicant executes Agreement for Purchase and deposit for cost of appraisal City Manager obtains appraisal to determine minimum price Public notice of sale and posting If another bidder is successful, upon closing, the deposit will be refunded to the applicant If no bids are submitted that meet the minimum price (or appraised value), the City Manager may negotiate a sale at less than fair market value for General Fund Land <p>LEASED LAND</p> <ul style="list-style-type: none"> Lessee may request a sale at not less than fair market value after development has been completed to the satisfaction of the City Manager <p>Conveyance to Encourage New Enterprise Property Exchanges Property Sale to Adjacent Owners (Small Parcel), Grant or Devotion (to Non-Profit)</p>	<p>COMPETITIVE</p> <ul style="list-style-type: none"> Standard application form City obtains appraisal Public notice of sale and posting Over-the-counter sale available after competitive public process Leased land may be sold to lessee if lease was subject to competition through the lease application process and included an option to purchase <p>NON-COMPETITIVE</p> <ul style="list-style-type: none"> Conveyance to Encourage New Enterprise Property Sale to Adjacent Owners (Small Parcel) Grant or Devotion (to Non-Profit) Conveyance to Resolve a Land Use Conflict <p>PROPERTY EXCHANGE</p>	<p>Land Management Plan approved by Council determines if land is available for lease or sale</p>

Update Special Use Permit Process



Special Use Permit

Requirements:	Current Process		Recommendations	
	Lease	SUP	Lease	SUP
Application Form	✓		✓	✓
Application Fee	✓		✓	✓
Appraisal or Standard Fee	✓		✓	✓
Option to Purchase			✓	
Publication/Posting			✓	
Maximum Term (Years)	No Maximum	5	45	1

The City does not currently have an application, application fee, or set fee schedule for Special Use Permits, which allow for temporary use of City property for up to five years without an appraisal or competitive process. Some permittees have utilized Special Use Permits instead of the lease process for cumulative terms that exceed many leases. A change to a one-year maximum term for Special Use Permits and a standard application, application fee, and fee schedule provides a uniform approach that does not allow a Special Use Permit to be used inappropriately in place of a lease.

3. UPDATE FORMS AND PROCEDURES

The following recommendations are for City fees, forms, and procedures that create a uniform approach and process for City lands management.

Update Lease Forms and Procedures

The above recommendations would require material changes in the standard lease forms currently used for City General Fund and Airport Fund lands located outside the Airport Reserve. These amendments might include definitions, rent adjustments, construction of improvements, and other changes consistent with any Code revisions. Any changes would require a Resolution approving the new standard lease form.

Additionally, updated application forms would be required and be made available both online and at City Hall.

Update City Procedures and Processes

Updates to the City's internal procedures and processes would also be necessary and would improve the processing of lease applications and sale procedures for a business-friendly approach. This would include creating FAQ's, examples of timelines, and flow charts available to potential lessees and parties interested in investing in development on City-owned lands.

Update Administrative Fees for Land Management



Land Management Fees

Fee Description	Current Fee Schedule		Proposed Fee Schedule	
	On-Airport	Off-Airport	On-Airport	Off-Airport
Lease Application	\$100	\$100	\$100	\$100
Lease Amendment	\$100	\$0	\$100	\$100
Lease Extension/ Renewal	\$100	\$0	\$100	\$100
Lease Assignment	\$100	\$0	\$100	\$100
Special Use Permit	\$0	\$0	\$50	\$50
Request to Purchase	N/A	\$0	N/A	\$100

NOTE: Fees are non-refundable

The City requires a \$100 non-refundable fee to be submitted with lease applications City-wide, however the only other administrative fees for lands are on the Airport, updated in 2018. Land-related administrative fees are a fairly common practice and prevent filing of frivolous applications as well as recover a portion of the administrative processing costs. Application and forms fees in other Alaska local governments range in amount and type with some areas charging between \$0 - \$500 for a lease application and additional fees when entering into lease or to cover the cost of recording.

4. AFFIRMATIVE MARKETING PLAN

As a result of the 2018 recommendations, the City created its first Kenai Municipal Airport Available Lease Lands brochure available in print and online. An affirmative marketing plan for City-wide properties available for lease will ensure the continued success of the City's land leasing and sale programs.

The plan will promote the City of Kenai as business-friendly by providing a "one stop shop" of information on the City's website as well as in information brochures. A party interested in the possibility of leasing or purchasing City land to locate a business in Kenai can go to the website or review the brochure to find all essential leasing or sale information presented in simple terms. The information includes the advantages of living and doing business in Kenai, property available for lease or sale, the applicable application form, a sample lease, current rental rates (if available), the term investment table, the disposition of improvements, FAQs, a summary of the application processing steps and typical timetable.

The lease information package or brochure can be distributed as part of an active marketing strategy in which the City provides the information to targeted groups at trade shows, networking events, or one-on-one visits with business owners. Information on properties available for sale would be marketed to receive the widest possible exposure to prospective lessees and buyers. This would be accomplished through direct marketing techniques, such as requests for proposals (RFPs), advertising, posting the property on the multiple listing service (MLS) or any other appropriate method.

TIMELINE

The purpose of presenting the recommendations of the working group is to provide a starting place for discussions regarding recommended changes to the City's land sale and leasing policies and procedures. The timeline for finalizing and implementing any approved changes will depend on City Council action. The next City Council meeting is scheduled for June 19, 2019, and the land sale and leasing policy and procedures recommendations will be included as a Discussion Item.

The proposed changes to the land leasing program for the Kenai Municipal Airport followed a timeline similar to the following timeline:

City Council Work Session:	June 11, 2019
City Council Discussion Item:	June 19, 2019
Airport Commission:	July 11, 2019
Planning and Zoning Commission:	July 10, 2019
Ordinance Introduction:	August 7, 2019
Public Hearing on Ordinance:	August 24, 2019
Resolution Amending Fee Schedule:	August 24, 2019
Resolution Adopting Lease Form:	August 24, 2019
Implementation and Forms Update:	Late August – Early September

Depending on approval of any recommendations or revisions, implementation of recommendations would take place in phases, with completion of code revisions and forms occurring over subsequent months. Continued work on the City's first Land Management Plan will occur over the next year.

Comments may be submitted to the City Manager or via email to the Assistant to the City Manager at ccunningham@kenai.city

APPENDIX

Draft Land Management Plan
Draft KMC 22 Revisions

Title 22

[GENERAL FUND]CITY-OWNED LANDS

Chapter 22.05

DISPOSITION OF CITY [GENERAL FUND]LANDS

22.05.050 Definitions.

When used in this chapter, the following terms shall have the meaning given below:

“Amendment” means a formal change to a lease of lands other than a lease extension or renewal.

“Annual rent” means an amount paid to the City annually according to the terms of the lease and Kenai Municipal Code.

“Assignment” means the transfer of all interest in a lease from one person or entity to another.

“City” means the City of Kenai, its elected officials, officers, employees or agents.

“Consumer Price Index (CPI)” means the annual CPI for all urban consumers (CPI-U) for Anchorage, Alaska.

“Existing lease” means a lease with at least one (1) year of term remaining.

“Expiring lease” means a lease with less than one (1) year of term remaining.

“Fair market value” means the most probable price which a property should bring in a competitive and open market as determined by a qualified independent appraiser, or the value as determined by the latest appraisal adjusted by the change in Consumer Price Index from the date of the latest appraisal.

“Lease extension” means extending the term of an existing lease.

“Lease rate percent” means a percentage that when applied to the fair market value of land establishes a rate of rent commensurate with rental rates prevalent in the local area as determined by a qualified real estate appraiser.

“Lease renewal” means a new lease of property currently under an existing or expiring lease to an existing lessee or a purchaser.

“Market analysis” means an analysis of data collected from other land leases to determine whether a market adjustment in either fair market value or lease rate percentage reflects the market.

“Permanent improvement” means a fixed addition or change to land that is not temporary or portable, including a building, building addition, retaining wall, storage tank, earthwork, fill material, gravel, and pavement, and remediation of contamination for which the applicant is not responsible and excluding items of ordinary maintenance, such as glass replacement, painting, roof repairs, door repairs, plumbing repairs, floor covering replacement, or pavement patching.

“Professional estimate of the remaining useful life of the principal improvement” means an estimate of the number of remaining years that the principal improvement will be able to function in accordance with its intended purpose prepared by a qualified real estate appraiser, engineer, or architect licensed in Alaska.

“Qualified independent appraiser” means a general real estate appraiser certified by the State of Alaska under AS [08.87](#).

“Site development materials” means materials used for preparing a lease site for building construction or to provide a firm surface on which to operate a vehicle or aircraft, including geotextile, fill, gravel, paving, utilities and pavement reinforcement materials.

“Site preparation work” means work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, a crushed aggregate base course and utility extensions.

22.05.010 [POWER]Authority and Intent [TO DISPOSE OF REAL PROPERTY].

(a) The provisions of this chapter apply to [GENERAL FUND] City-owned real property other than lands within the Airport Reserve as described in KMC 21.10 and the leasing of tidelands as described in KMC 11.20.

(b) The City may sell, convey, exchange, transfer, donate, dedicate, direct, [OR]assign to use, or otherwise dispose of City-owned real property, including property acquired, held for, or previously devoted to a public use, only in accordance with this chapter, and, with respect to properties acquired through foreclosure for taxes, in compliance with those terms and provisions of AS [29](#) which apply to home-rule municipalities [ARE REQUIRED TO COMPLY WITH]. Disposal or sale of lands shall be made only when, in the judgment of the City Council, such lands are not or are no longer required for a public purpose.

(c) It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

(d) It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.

(e) The provisions of this chapter shall not alter or amend the terms or rights granted under leases existing prior to the effective date of the ordinances codified in this chapter.

22.05.015 Lands Available for Lease, Sale or [D]Disposal.

(a) The City may lease, sell or dispose of real property not restricted from lease or sale which the City Council has determined is not required for a public purpose [BY WARRANTY OR QUIT-CLAIM DEED, EASEMENT, LEASE, GRANT, PERMIT, LICENSE, DEED OF TRUST, MORTGAGE CONTRACT OF SALE OF REAL PROPERTY, PLAT DEDICATION, TAX DEED, OR] by any [OTHER]lawful method or mode of conveyance or grant. Any instrument requiring execution by the City shall be signed by the City Manager and attested by the City Clerk. The form of any instrument shall be approved by the City Attorney.

22.05.020 Qualifications of Lease [A]Applicants or [B]Bidders.

An applicant or bidder for a lease is qualified if the applicant or bidder:

- (a) Is an individual at least eighteen (18) years of age [OR OVER]; or
- (b) Is a [GROUP, ASSOCIATION, OR CORPORATION WHICH IS] legal entity which is authorized to conduct business under the laws of Alaska; or
- (c) Is acting as an agent for another meeting the requirements of subsection (a) or (b) of this section and has qualified by filing with the City [MANAGER] a proper power of attorney or a letter of authorization creating such agency. [THE AGENT SHALL REPRESENT ONLY ONE (1) PRINCIPAL TO THE EXCLUSION OF HIMSELF OR HERSELF. THE TERM “AGENT” INCLUDES REAL ESTATE BROKERS AND AGENTS.]

22.05.025 Initial Lease Application[S].

(a) All applications for lease of lands [SHALL] must be [FILED WITH] submitted to the City [MANAGER] on an application form[S] provided by the City[AVAILABLE AT CITY HALL]. Applications [SHALL] will be dated on receipt and must include payment of [FILING] the nonrefundable application fee [AND DEPOSIT. NO APPLICATION WILL BE ACCEPTED BY THE CITY MANAGER UNLESS IT APPEARS TO THE CITY MANAGER TO BE COMPLETE. FILING FEES ARE NOT REFUNDABLE] as set forth in the City’s schedule of fees approved by the City Council.

(b) [WITH EVERY]The application[, THE APPLICANT SHALL SUBMIT A DEVELOPMENT PLAN, SHOWING AND STATING] form must include the following information:

- (1) The purpose of the proposed lease;
- (2) The use, [VALUE AND]nature, type, and estimated cost of improvements to be constructed;
- (3) [THE TYPE OF CONSTRUCTION];
- (4) The dates construction is estimated to commence and be completed. [(ORDINARILY A MAXIMUM OF TWO (2) YEARS)] Construction must be completed within two (2) years except in special circumstances, that require a longer period of time and which must be approved by the City Council; and

([5]4) [WHETHER INTENDED USE COMPLIES WITH THE ZONING ORDINANCE AND COMPREHENSIVE PLAN OF THE CITY. APPLICATIONS SHALL BECOME A PART OF THE LEASE] A comprehensive description of the proposed business or activity intended;

(5) Whether the applicant requests a lease with an option to purchase; and

(6) How the proposed lease meets the intent of this chapter.

(c) Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to any new appraisal, engineering services, surveying and consulting costs, unless in the sole discretion of the City Council, it is determined that the subdivision serves other City purposes.

(1) If the Council determines that other City purposes are served by the subdivision, the City Council may choose in its sole discretion to share in the subdivision costs with the applicant in an amount the City Council determines is reasonable given the benefit to the City.

(2) If the Council does not make a determination that other City purposes are served by the subdivision, the applicant must submit a deposit to cover the estimated costs associated with the subdivision.

(3) If the City enters into a lease with the applicant, any unused balance of the deposit made to cover costs associated with subdivision will apply to the rent payable under the lease.

(4) If the City's costs exceed the amount of any deposit made to cover costs associated with subdivision, the applicant must pay the shortage to the City as a condition of the lease.

(5) If the application is rejected or if the applicant withdraws the application or fails to sign a lease offered to the applicant, the City will return any unused deposit balance to the applicant.

(d) Applications for lands which have not been appraised within one (1) year of the requested starting date of the lease require the applicant to be responsible for all costs associated with appraisal. The cost of the appraisal shall be credited or refunded to the lessee once development is completed as required by the lease, extension or renewal.

(e) Applications which result in a lease agreement with the City require the lessee to be responsible for all recording costs and any other fees associated with execution of the lease including a preliminary commitment for title insurance and fifty percent (50%) of the required costs associated with a sale of leased land in which the lease contains an option to purchase once the minimum development requirements have been met.

(f) Anytime during the processing of a lease application, the City may request, and the applicant must supply, any clarification or additional information that the City reasonably determines is necessary for the City to make a final decision on the application.

[22.05.030 FILING FEE AND DEPOSIT.

(A) WHEN SUBMITTING AN APPLICATION FOR LEASE OF LAND, THE APPLICANT SHALL PAY THE CITY THE FOLLOWING AS SET FORTH IN THE CITY'S SCHEDULE OF FEES ADOPTED BY THE CITY COUNCIL:

(1) PAY A NON-REFUNDABLE FILING FEE IN THE AMOUNT; AND

(2) A DEPOSIT TO SHOW GOOD FAITH AND SECURE THE CITY IN PAYMENT OF ANY COSTS, INCLUDING:

(A) AN APPRAISAL COST RECOVERY DEPOSIT; AND

(B) AN ENGINEERING, SURVEYING AND CONSULTING COST RECOVERY DEPOSIT.

(B) IF THE CITY DECIDES TO REJECT THE APPLICANT'S APPLICATION AND NOT ENTER INTO A LEASE WITH THE APPLICANT THROUGH NO FAULT OF THE APPLICANT OR FAILURE OF THE APPLICANT TO COMPLY WITH ANY REQUIREMENT OF THIS CHAPTER, ANY DEPOSIT MADE UNDER SUBSECTION (A)(2) OF THIS SECTION WILL BE RETURNED TO THE APPLICANT.

(C) IF THE CITY ENTERS INTO A LEASE WITH THE APPLICANT ANY DEPOSIT MADE BY THE APPLICANT UNDER SUBSECTION (A)(2) OF THIS SECTION WILL BE APPLIED TO THE CITY'S ENGINEERING, APPRAISAL, AND CONSULTING COSTS RELATED TO THE PROCESSING OF THE APPLICANT'S APPLICATION AND ENTERING INTO THE LEASE. THE CITY WILL APPLY ANY UNUSED BALANCE OF A DEPOSIT TO THE RENT PAYABLE UNDER THE LEASE. IF THE CITY'S COSTS EXCEED THE AMOUNT OF ANY DEPOSIT, THE APPLICANT SHALL PAY THE SHORTAGE TO THE CITY AS A CONDITION OF THE LEASE.

(D) IF THE APPLICANT FAILS TO COMPLY WITH ANY REQUIREMENT OF THIS CHAPTER, CAUSES INORDINATE DELAY, AS DETERMINED BY THE CITY MANAGER, OR REFUSES TO SIGN A LEASE OFFERED TO THE APPLICANT, THE CITY MANAGER WILL REJECT THE APPLICANT'S APPLICATION AND APPLY ANY DEPOSIT MADE BY THE APPLICANT UNDER SUBSECTION (A) OF THIS SECTION TO THE CITY'S APPRAISAL, ENGINEERING, AND CONSULTING COSTS INCURRED IN CONNECTION WITH THE APPLICANT'S APPLICATION. IF THE CITY'S COSTS FOR APPRAISAL, ENGINEERING AND CONSULTING COSTS EXCEED THE DEPOSITS, THE APPLICANT WILL BE RESPONSIBLE FOR THESE COSTS. THE CITY WILL RETURN ANY UNUSED DEPOSIT BALANCE TO THE APPLICANT.]

22.05.035 [RIGHTS PRIOR TO LEASING.]No Right of Occupancy – Lease Application Expiration.

(a) Submitting [THE FILING OF] an application for a lease [SHALL] does not give the applicant [NO]a right to lease or [TO THE]use [OF THE]City-owned land[FOR WHICH THEY HAVE APPLIED].

(b) The application shall expire upon execution of a lease or rejection of a lease application by the City Council or within twelve (12) months after the date the application has been [MADE] submitted [IF A LEASE HAS NOT BEEN ENTERED INTO BETWEEN THE CITY AND THE APPLICANT BY THAT TIME UNLESS THE CITY COUNCIL FOR GOOD CAUSE GRANTS AN EXTENSION. NO EXTENSION MAY BE GRANTED FOR A PERIOD LONGER THAN SIX (6) MONTHS. LEASE RATES ARE SUBJECT TO CHANGE ON THE BASIS OF AN APPRAISAL DONE EVERY TWELVE (12) MONTHS ON THE PROPERTY APPLIED FOR].

22.05.040 [PROCESSING PROCEDURE] Lease Application Review.

(a) Applications shall be [FORWARDED] reviewed by City staff for application completeness and conformance with City ordinances.

(b) Based on the initial review, if the City Manager determines the application is complete, the application shall be referred to the Planning and Zoning Commission and any other applicable commissions [UPON RECEIPT] for review and comment, together with the City Manager's recommendation for approval or rejection. [THE PLANNING AND ZONING COMMISSION SHALL NORMALLY CONSIDER APPLICATIONS FOR SPECIFIC LANDS ON A FIRST-COME, FIRST-SERVED BASIS IF THE COMMISSION FINDS THAT THE APPLICATION IS COMPLETE AND CONFORMS TO THE COMPREHENSIVE PLAN AND THE KENAI ZONING CODE. WHERE THERE IS DIFFICULTY IN OBTAINING A PERFECTED APPLICATION, DETAILS AS TO DEVELOPMENT PLANS, ETC., OR WHERE THE APPLICANT FAILS TO COMPLY WITH DIRECTIONS OR REQUESTS OF THE PLANNING AND ZONING COMMISSION, ANY SUCH PRIORITY WILL BE LOST. IF AN APPLICATION FOR THE PURCHASE OF CITY-OWNED LANDS, PREVIOUSLY AUTHORIZED FOR SALE BY THE COUNCIL, IS RECEIVED BY THE CITY PRIOR TO THE KENAI PLANNING AND ZONING COMMISSION MAKING AN AFFIRMATIVE OR NEGATIVE RECOMMENDATION TO THE COUNCIL REGARDING THE LEASE APPLICATION FOR THE SAME PROPERTY, THE CITY MAY ELECT TO SELL THE PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THE CODE.

(B) THE CITY COUNCIL SHALL NORMALLY CONSIDER A LEASE PROPOSAL ONLY AFTER APPROVAL OF THE PLANNING AND ZONING COMMISSION. HOWEVER, APPEALS OF PLANNING AND ZONING COMMISSION DISAPPROVAL MAY BE MADE TO THE CITY COUNCIL. COMPLETED LEASE APPLICATIONS MUST BE PRESENTED TO THE CITY COUNCIL WITHIN THIRTY (30) DAYS AFTER APPROVAL BY THE PLANNING AND ZONING COMMISSION.]

(c) Notice of complete applications for new leases, renewals or extensions shall be published in a newspaper of general circulation within the City. The notice must contain the name of the applicant, a brief description of the land, whether the applicant requests a lease with an option to purchase, and the date upon which any competing applications must be submitted (thirty (30) days from the date of publication).

(d) The applicant shall post the property subject to the application with notice of complete applications for new leases, renewals or extension at least ten (10) days before the date of the

required public hearing. Such notices shall be placed so as to be visible from each improved street adjacent to the property, to the extent possible.

[(C) WHERE THERE ARE TWO (2) OR MORE APPLICATIONS FOR THE SAME LANDS FOR DIFFERENT USES, THEN IF THE PLANNING AND ZONING COMMISSION MAKES A FINDING THAT A SUBSEQUENT APPLICATION WOULD RESULT IN USE OF THE LANDS FOR A HIGHER AND BETTER PURPOSE WITH A GREATER BENEFIT TO THE CITY OF KENAI AND THE CITIZENS THEREOF, THEN THE LEASE MAY BE ISSUED TO SUCH APPLICANT NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) IN THIS SECTION WHICH PROVIDE FOR LEASING ON A FIRST-COME, FIRST-SERVED BASIS. ANY APPLICANT MAY APPEAL TO THE CITY COUNCIL FROM A FINDING OR A REFUSAL TO FIND BY THE PLANNING AND ZONING COMMISSION BY FILING AN APPEAL WITH THE CITY CLERK WITHIN SEVEN (7) DAYS AFTER THE FINDING IS MADE OR REFUSED BY THE PLANNING AND ZONING COMMISSION.

(d) The recommendations of the City Manager, Planning and Zoning Commission, and any other applicable commissions shall be provided to the City Council. The City Council shall determine whether the lease is consistent with the intent of this chapter. The decision whether or not to lease land or authorize a lease extension, renewal, amendment or assignment rests in the sole discretion of the City Council.

(e) If the applicant is in default of any charges, fees, rents, taxes, or other sums due and payable to the City or the applicant is in default of a requirement of any lease or contract with the City a lease shall not be entered into until the deficiencies are remedied .

22.05.045 [REVIEW]Application for Lease Amendment, Assignment, Extension or Renewal.

[NO LEASED LAND MAY BE CHANGED IN USE, NOR MAY ANY RENEWAL LEASE BE ISSUED UNTIL THE PROPOSED USE OR RENEWAL HAS BEEN REVIEWED BY THE PLANNING COMMISSION AND APPROVED BY THE COUNCIL.]

(a) A request from an existing lessee for a lease amendment, assignment, extension or renewal of the lease must be submitted to the City on an application form provided by the City. Applications must be complete and dated on receipt and include payment of the nonrefundable application fee and applicable deposit as set forth in the City's schedule of fees adopted by the City Council.

(b) An application for an amendment must include the following information:

(1) The purpose of the proposed amendment;

(2) The proposed change in use or activity, if any;

(3) A comprehensive description of the proposed business or activity, if applicable; and

(4) How the proposed amendment meets the intent of this chapter.

(c) An application for a lease assignment must include the following:

(1) The name of the individual or legal entity to which the lessee requests to assign the lease.

(d) An application for a lease extension must include the following information:

(1) The use, nature, type and estimated cost of additional improvements to be constructed;

(2) The dates new construction is estimated to commence and be completed; and

(3) How the proposed lease extension meets the intent of this chapter.

(e) An application for a lease renewal must include the following information:

(1) For a lease renewal of an existing lease:

(i) The use, nature, type and estimated cost of additional investment in the construction of new permanent improvements;

(ii) The dates new construction is estimated to commence and be completed;

(iii) If the renewal is pursuant to a transaction between the current lessee and a new buyer and prospective lessee, the estimated purchase price of real property improvements on the premises as certified by the current lessee and proposed purchaser in a bill of sale; and

(iv) How the proposed lease renewal meets the intent of this chapter.

(2) For a lease renewal of an expiring lease:

(i) A fair market value appraisal of the existing principal improvement on the property, paid for by the applicant, and the estimated cost of any additional investment in the construction of permanent improvements on the premises, if applicable;

(ii) If the renewal is pursuant to a transaction between the current lessee and a new buyer and prospective lessee, the estimated purchase price of existing real property improvements, as certified by the current lessee and the proposed purchaser in a bill of sale and the estimated cost of any additional investment in the construction of permanent improvements on the premises, if applicable;

(iii) If the renewal is based on a professional estimate of the remaining useful life of the real property improvements on the premises, the estimated value and how it was determined;

(iv) The use, nature, type and estimated cost of any additional improvements to be constructed, if applicable;

(v) The dates any new construction is estimated to commence and be completed; and

(vi) How the proposed lease meets the intent of this chapter.

(f) Applications for amendment, assignment, extension or renewal shall be processed in accordance with the lease application review provisions of this chapter, except that applications for assignment shall not be referred to the Planning and Zoning Commission. The City has no obligation to amend, assign, renew or extend a lease and may decline to do so upon making specific findings as to why a lease amendment, assignment, renewal, or extension is not in the best interest of the City.

[22.05.050 APPRAISAL.

NO LAND SHALL BE SOLD, LEASED, OR A RENEWAL OF LEASE ISSUED, UNLESS THE SAME HAS BEEN APPRAISED WITHIN A TWELVE (12) MONTH PERIOD PRIOR TO THE SALE OR DATE FIXED FOR BEGINNING OF THE TERM OF THE LEASE OR RENEWAL LEASE. NO LAND SHALL BE LEASED FOR LESS THAN THE APPROVED APPRAISED ANNUAL RENTAL. APPRAISALS SHALL REFLECT THE NUMBER AND VALUE OF CITY SERVICES RENDERED THE LAND IN QUESTION.]

22.05.050 Competing Lease Applications.

If another application for a new lease, extension or a renewal is received for the same property within thirty (30) days from the notice of application publication date by a different applicant, City staff shall process the application and forward the application, the City Manager's recommendation and applicable commission recommendations to the City Council for approval of the application anticipated to best serve the interests of the City. The City Council may approve one (1) of the applications, reject all the applications or direct the City Manager to award a lease of the property by sealed bid. An applicant for a renewal or extension may withdraw an application for a renewal or extension at any time prior to a decision by the City Council whether or not to approve such a renewal or extension.

22.05.055 [TERMS]Length of [L]Lease [T]Term.

[ALL LEASES SHALL BE APPROVED BY THE CITY COUNCIL BEFORE THE SAME SHALL BECOME EFFECTIVE. THE TERM OF ANY GIVEN LEASE SHALL DEPEND UPON THE DURABILITY OF THE PROPOSED USE, THE AMOUNT OF INVESTMENT IN IMPROVEMENT PROPOSED AND MADE, AND THE NATURE OF THE IMPROVEMENT PROPOSED WITH RESPECT TO DURABILITY AND TIME REQUIRED TO AMORTIZE THE PROPOSED INVESTMENT].

(a) The length of term for an initial lease shall be based on the amount of investment the applicant proposes to make in the construction of new permanent improvements on the premises as provided in the application. The City Council may offer a shorter lease term, if the City Council makes specific findings that a shorter lease term is in the best interest of the City.

(b) The maximum term of a lease shall be determined according to the following term table and cannot exceed forty-five (45) years:

Term Table

<u>Applicant's Investment/Value</u>	<u>Maximum Term Of Years</u>
<u>\$7,500</u>	<u>5</u>
<u>15,000</u>	<u>6</u>
<u>22,500</u>	<u>7</u>
<u>30,000</u>	<u>8</u>
<u>37,500</u>	<u>9</u>
<u>45,000</u>	<u>10</u>
<u>52,500</u>	<u>11</u>
<u>60,000</u>	<u>12</u>
<u>67,500</u>	<u>13</u>
<u>75,000</u>	<u>14</u>
<u>82,500</u>	<u>15</u>
<u>90,000</u>	<u>16</u>
<u>97,500</u>	<u>17</u>
<u>105,000</u>	<u>18</u>
<u>112,500</u>	<u>19</u>
<u>120,000</u>	<u>20</u>
<u>127,500</u>	<u>21</u>
<u>135,000</u>	<u>22</u>
<u>142,500</u>	<u>23</u>
<u>150,000</u>	<u>24</u>
<u>157,500</u>	<u>25</u>
<u>165,000</u>	<u>26</u>
<u>172,500</u>	<u>27</u>
<u>180,000</u>	<u>28</u>
<u>187,500</u>	<u>29</u>
<u>195,000</u>	<u>30</u>
<u>202,500</u>	<u>31</u>
<u>210,000</u>	<u>32</u>
<u>217,500</u>	<u>33</u>
<u>225,000</u>	<u>34</u>
<u>232,500</u>	<u>35</u>
<u>240,000</u>	<u>36</u>
<u>247,500</u>	<u>37</u>
<u>255,000</u>	<u>38</u>
<u>262,500</u>	<u>39</u>
<u>270,000</u>	<u>40</u>
<u>277,500</u>	<u>41</u>
<u>285,000</u>	<u>42</u>
<u>292,500</u>	<u>43</u>
<u>300,000</u>	<u>44</u>
<u>307,500</u>	<u>45</u>

(c) Lease extension. The length of term for a lease extension shall be determined based on the remaining term of the initial lease and the estimated cost of new investment the applicant proposes to make in the construction of new permanent improvements on the premises according to the term table and provided no extension shall extend a lease term past forty-five (45) years.

(d) Lease renewal for an existing lease. A renewal for an existing lease requires the construction of new permanent improvements, and the length of term for a lease renewal for an existing lease shall determined as follows:

(1) Based on the remaining term of the initial lease according to the term table and the estimated cost of new investment the applicant proposes to make in the construction of new permanent improvements on the premises according to the term table; or

(2) Pursuant to a transaction between the current lessee and a new buyer and prospective lessee and based on the purchase price of existing real property improvements on the premises, as certified by the current lessee and the proposed purchaser in the bill of sale, to be executed at closing of the transaction and the estimated cost of new investment in the construction of new permanent improvements on the premises according to the term table.

(3) The term for renewal of an existing lease cannot exceed forty-five (45) years.

(e) Lease renewal for an expiring lease. The length of term for a lease renewal of an expiring lease shall be determined as follows:

(1) The purchase price of existing real property improvements on the premises, as certified by the current lessee and the proposed purchaser in the bill of sale, to be executed at closing of the transaction and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table; or

(2) A professional estimate of the remaining useful life of the real property improvements on the premises, paid for by the applicant and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table; or

(3) A fair market value appraisal of the existing real property improvements on the premises, paid for by the applicant and the estimated cost of any new investment in the construction of new permanent improvements on the premises according to the term table.

(4) The term for renewal of an existing lease cannot exceed forty-five (45) years.

(f) If the initial lease, term extension, or lease renewal granted to the applicant requires construction of new permanent improvements, the lease or term extension shall be subject to the following conditions:

(1) The lessee to complete the proposed permanent improvements within two (2) years except in special circumstances, that require a longer period of time and which must be approved by the City Council.

(2) The lessee to provide a performance bond, deposit, personal guarantee, or other security if the City Council determines security is necessary or prudent to ensure the applicant's completion of the permanent improvements required in the lease, renewal, or extension. The City Council shall determine the form and amount of the security according to the best interest of the City, after a recommendation by the City Manager considering the nature and scope of the proposed improvements and the financial responsibility of the applicant.

(3) At no expense to the City, the lessee must obtain and keep in force during the term of the lease, insurance of the type and limits required by the City for the activities on the premises.

(4) Within thirty (30) days after completion of the permanent improvements, the lessee shall submit to the City written documentation that the improvements have been completed as required. The City Manager shall make a report to the City Council of completion as soon as reasonably practical.

(5) If the applicant shows good cause and the City Council determines the action is in the best interest of the City, the City Council may grant an extension of the time allowed to complete permanent improvements by resolution that is sufficient to allow for the completion of the permanent improvements or for submission of documentation that the permanent improvements have been completed.

(6) If, within the time required, the applicant fails to complete the required permanent improvements, the City shall:

(i) If the application is for a new lease or lease renewal, execute the forfeiture of the performance bond, deposit, personal guarantee, or other security posted by the applicant under subsection (f)(2) of this section to the extent necessary to reimburse the City for all costs and damages, including administrative and legal costs, arising from the applicant's failure to complete the required improvements, and/or initiate cancellation of the lease or reduce the term of the lease to a period consistent with the portion of the improvements substantially completed in a timely manner according to the best interests of the City.

(ii) If the application is for a lease extension, the City shall terminate the amendment extending the term of the lease or reduce the term of the extension at the City's sole discretion.

22.05.060 [ANNUAL MINIMUM RENTAL]Principles and Policy of Lease Rates.

(a) Annual [MINIMUM] rent[ALS] shall be computed [FROM THE APPROVED APPRAISED]by multiplying the fair market value of the land by a lease rate percentage of eight percent (8%) for each parcel [UTILIZING THE METHOD AS DESCRIBED IN KMC 22.05.070 OF THIS CHAPTER.]; and

(b) The City will determine the fair market value of the land requested to be leased based on an appraisal conducted for the City by an independent real estate appraiser certified under Alaska State statutes and ordered by the City. The appraisal shall be paid for by the applicant, and the cost of the appraisal shall be credited or refunded to the lessee once development is completed as

required by the lease. The fair market value of the land will be adjusted annually based on the rate of inflation determined by the consumer price index (CPI) to determine annual rent[.]; and

[(B) UPON EXECUTION OF THE LEASE, THE LANDS BECOME TAXABLE TO THE EXTENT OF ITS LEASEHOLD INTEREST AND LESSEE SHALL PAY ALL REAL PROPERTY TAXES LEVIED UPON SUCH LEASEHOLD INTEREST IN THESE LANDS, AND SHALL PAY ANY SPECIAL ASSESSMENTS AND TAXES AS IF HE OR SHE WERE THE OWNER OF THE LAND.

(C) RENT SHALL BE PAID ANNUALLY IN ADVANCE. PAYMENTS SHALL BE PRORATED TO CONFORM TO THE CITY OF KENAI'S FISCAL YEAR BEGINNING JULY 1ST AND ENDING JUNE 30TH. IF THE EQUIVALENT MONTHLY PAYMENT EXCEEDS TWO HUNDRED DOLLARS (\$200.00), THEN THE LESSEE SHALL HAVE THE OPTION OF MAKING PAYMENTS ON A MONTHLY BASIS.

(D) LESSEE SHALL BE RESPONSIBLE FOR ALL SALES TAXES APPLICABLE TO ITS OPERATIONS.]

(c) The City will conduct a land market analysis of City-owned land under lease once every ten (10) years to determine whether a market adjustment in either fair market value of land or lease rate percentage is justified; and

(d) If the City determines from the market analysis that a market adjustment to the lease rate percentage is in the best interests of the City, the new lease percentage must be approved by an ordinance and utilized to compute annual rents for the next fiscal year; and

(e) If the market analysis or extraordinary circumstances determine a fair market value adjustment is in the best interests of the City, the City shall retain the services of an independent, real estate appraiser certified under Alaska State statutes to determine the fair market value of all leased land and shall use these values to compute annual rents for the next fiscal year; and

(f) The City shall adjust the annual rent of a lease by giving the lessee written notice at least thirty (30) days prior to application of a new annual rent determination; and

(g) If a lessee disagrees with the proposed change in the fair market value of land or lease rate percent (excluding CPI determinations, which cannot be appealed) and cannot informally resolve the issue with the City, the lessee must:

(1) Provide notice of appeal in writing within ninety (90) days of notification supported by the written appraisal of a qualified real estate appraiser, selected and paid for by lessee (the "second appraiser"); and

(2) The City and the lessee will meet to attempt to resolve the differences between the first appraiser and the second appraiser concerning the fair market value of the land or lease rate percent; and

(3) If the City and lessee cannot agree upon the fair market value or lease rate percent then they shall direct the first appraiser and the second appraiser to mutually select a third qualified real estate appraiser, paid for jointly by the parties (the “third appraiser”); and

(4) Within thirty (30) days after the third appraiser has been appointed, the third appraiser shall decide which of the two (2) respective appraisals from the first appraiser and the second appraiser most closely reflects the fair market value of the land or lease rate percent; and

(5) The fair market value of the land or lease rate percent shall irrefutably be presumed to be the value(s) contained in such appraisal selected by the third appraiser, and the rent shall be redetermined based on such value(s); and

(6) Rent shall continue to be paid at the then-applicable rate until any such new rental rate is established, and lessee and the City shall promptly pay or refund, as the case may be, any variance in the rent, without interest accruing to the extent to be paid/refunded.

22.05.065 [B]Lease Bidding [P]Procedure.

[AS AN EXCEPTION TO GENERAL POLICY LISTED ABOVE]With the approval of the City Council, the [CITY COUNCIL]City Manager may designate a specific lot or lots to be [MADE AVAILABLE ONLY FOR]leased through competitive sealed bid. The City Manager shall award the lease to the qualified bidder utilizing a procurement procedure which may consider qualitative factors in addition to the amount of any [AS DESIGNATED, SEALED BIDS SHALL BE RECEIVED OFFERING A]one (1) time premium payment to be paid by the successful bidder; provided, however, that the high bidder and the bidder’s lease proposal [IN ADDITION TO THE ESTABLISHED LEASE RATE. HIGHEST BID, HOWEVER,]shall be subject to all provisions of lease application review and approval [ESTABLISHED FOR ALL OTHER LEASE APPLICATIONS]under this chapter.

[22.05.070 PRINCIPLES AND POLICY OF LEASE RATES.

(A) A FAIR RETURN TO THE GENERAL FUND IS THE POLICY OF THE CITY, UNLESS DEVIATION FROM THAT POLICY IS IN THE BEST INTEREST OF THE CITY AS DETERMINED BY THE CITY COUNCIL. TO ENSURE A FAIR RETURN, ALL LEASES FOR A PERIOD IN EXCESS OF FIVE (5) YEARS SHALL INCLUDE A REDETERMINATION CLAUSE AS OF THE FIFTH ANNIVERSARY OF THE LEASE AND EVERY FIVE (5) YEARS THEREAFTER, AND ALL LANDS FOR LEASE SHALL BE APPRAISED PRIOR TO LEASE AND AGAIN PRIOR TO REDETERMINATION. LEASE RATES:

(1) SHALL BE BASED ON FAIR MARKET VALUE OF THE LAND, INCLUDING AN APPROPRIATE CONSIDERATION OF FACILITIES AND SERVICES AVAILABLE (PUBLIC WATER, PUBLIC SEWER, STORM SEWERS, AND OTHER PUBLIC UTILITIES) AS DETERMINED BY A QUALIFIED INDEPENDENT APPRAISER, CONSIDERING THE BEST USE OF THE SPECIFIED LAND; AND

(2) SHALL BE EIGHT PERCENT (8%) OF FAIR MARKET VALUE.

(B) FOR LEASES IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE CODIFIED IN THIS CHAPTER, THE LEASE RATE REDETERMINATION SHALL BE AS PROVIDED IN THE LEASE.

(C) THE CITY MANAGER SHALL CHANGE THE RENT IN A LEASE BY GIVING THE LESSEE WRITTEN NOTICE AT LEAST THIRTY (30) DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE CHANGE.

(D) THE "FAIR MARKET VALUE" OF THE PREMISES SHALL BE EQUAL TO THE THEN FAIR MARKET RATE FOR SIMILAR COMMERCIAL PROPERTY IN THE CITY OF KENAI, ALASKA (THE "RELEVANT AREA"). CITY SHALL GIVE NOTICE TO LESSEE OF CITY'S ESTIMATION OF THE FAIR MARKET VALUE NOT LATER THAN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE THEN-APPLICABLE FIVE (5) YEAR PERIOD, AS EVIDENCED AND SUPPORTED BY THE WRITTEN OPINION OF AN INDEPENDENT REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87, SELECTED AND PAID FOR BY THE CITY, FAMILIAR WITH THE RELEVANT AREA (THE "FIRST APPRAISER"). IF LESSEE DISAGREES WITH SUCH ESTIMATE, IT SHALL ADVISE THE CITY IN WRITING THEREOF WITHIN THIRTY (30) DAYS OF LESSEE'S RECEIPT OF SUCH ESTIMATE, AS EVIDENCED AND SUPPORTED BY THE WRITTEN OPINION OF A REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87 (SELECTED AND PAID FOR BY LESSEE) FAMILIAR WITH THE RELEVANT AREA (THE "SECOND APPRAISER"). THE PARTIES SHALL PROMPTLY MEET TO ATTEMPT TO RESOLVE THEIR DIFFERENCES BETWEEN THE FIRST APPRAISER AND THE SECOND APPRAISER CONCERNING THE FAIR MARKET VALUE OF THE PREMISES. IF CITY AND LESSEE CANNOT AGREE UPON SUCH VALUE THEN, WITH ALL DELIBERATE SPEED, THEY SHALL DIRECT THE FIRST APPRAISER AND THE SECOND APPRAISER TO EXPEDITIOUSLY AND MUTUALLY SELECT A THIRD REAL ESTATE APPRAISER CERTIFIED UNDER ALASKA STATUTE 8.87 (SELECTED AND PAID FOR JOINTLY BY THE PARTIES) FAMILIAR WITH THE RELEVANT AREA (THE "THIRD APPRAISER"). WITHIN THIRTY (30) DAYS AFTER THE THIRD APPRAISER HAS BEEN APPOINTED, THE THIRD APPRAISER SHALL DECIDE WHICH OF THE TWO (2) RESPECTIVE APPRAISALS FROM THE FIRST APPRAISER AND THE SECOND APPRAISER MOST CLOSELY REFLECTS THE FAIR MARKET VALUE OF THE PREMISES. THE FAIR MARKET VALUE OF THE PREMISES SHALL IRREBUTTABLY BE PRESUMED TO BE THE VALUE CONTAINED IN SUCH APPRAISAL SELECTED BY THE THIRD APPRAISER, AND THE RENTAL SHALL BE REDETERMINED BASED ON SUCH VALUE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, RENTAL SHALL CONTINUE TO BE PAID AT THE THEN-APPLICABLE RATE UNTIL ANY SUCH NEW RENTAL RATE IS ESTABLISHED, AND LESSEE AND CITY SHALL PROMPTLY PAY OR REFUND, AS THE CASE MAY BE, ANY VARIANCE IN THE RENTAL, WITHOUT INTEREST THEREON ACCRUING TO THE EXTENT TO PAID/REFUNDED IN A TIMELY FASHION.

22.05.075 REIMBURSEMENT FOR CITY-CONSTRUCTED IMPROVEMENTS.

(A) THE CITY MANAGER MAY INCLUDE IN A LEASE A REQUIREMENT FOR THE LESSEE TO REIMBURSE THE CITY FOR THE CITY'S COST OF:

(1) LAND CLEARING, GRAVEL FILL, UTILITY EXTENSIONS AND OTHER IMPROVEMENTS OR AMENITIES ON OR IN DIRECT CONNECTION WITH THE PREMISES, CONSTRUCTED BY THE CITY PRIOR TO THE EFFECTIVE DATE OF THE LEASE; OR

(2) LAND CLEARING, GRAVEL FILL, UTILITY EXTENSIONS AND OTHER IMPROVEMENTS OR AMENITIES ON OR IN DIRECT CONNECTION WITH THE PREMISES, WHICH THE CITY AGREES TO CONSTRUCT AS A CONDITION OF THE LEASE, SUBJECT TO CITY COUNCIL APPROVAL.

(B) THE LESSEE SHALL REIMBURSE THE CITY FOR THE CITY'S COST OF CONSTRUCTING THE IMPROVEMENTS IN TEN (10) EQUAL ANNUAL PAYMENTS, PLUS INTEREST AT EIGHT PERCENT (8%) PER YEAR ON THE UNPAID BALANCE. IF THE LEASE IS FOR LESS THAN TEN (10) YEARS, THE REPAYMENT SCHEDULE MAY NOT BE LONGER THAN THE TERM OF THE LEASE. THE LESSEE MAY PAY THE ENTIRE REMAINING BALANCE TO THE CITY AT ANY TIME DURING THE TERM OF THE LEASE.]

22.05.070 Development Incentives.

(a) The City Council may include a lease rent incentive to encourage investment as follows:

(1) A credit may be applied toward rent for a maximum of five (5) years. The credit may only include the value of site preparation work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions.

(2) An estimate of the value of the work, including a scope of work, prepared by a qualified engineer licensed to work in Alaska must be provided to the City and accepted prior to work being performed.

(3) Any changes to the estimate of the value of the work or scope of work must be provided to the City and accepted prior to work being performed to be eligible for the credit.

(4) For the credit to be applied, the approved scope of work must be completed.

(5) A certification from a qualified engineer that the accepted scope of work has been completed must be provided to the City and accepted at the completion of the site preparation work.

(6) Credit will be limited to original qualified engineer's estimate unless another amount is accepted by the City in advance of work being completed.

(7) Once the work is completed as proposed and the qualified engineer's certification of completion has been received, a credit shall be applied to the lease payments, prorated as necessary for a maximum of five (5) years.

(8) Rent shall be paid at the then-applicable rate until any such credit toward rent has been approved by the City Manager or designee, and the City shall apply a credit to lease payments

prorated as necessary or promptly pay or refund, as the case may be, any variance between the credit applied and the rent paid, without interest accruing to the extent to be paid/refunded.

22.05.075 Ownership of Improvements.

(a) Permanent improvements on the premises, excluding site development materials, constructed, placed, or purchased by the lessee remain the lessee's property as long as a lease for the premises remains in effect with the lessee, including renewals, any period of extension approved by the City pursuant to the provisions of this chapter, or any period of holdover.

(b) Unless otherwise provided in a land lease, at the expiration, cancellation, or termination of a lease that is extended or followed by a successive lease, the departing lessee may do one (1) or more of the following:

(1) Remove lessee-owned permanent improvements from the premises, remediate any contamination for which the lessee is responsible, and restore the premises to a clean and neat physical condition acceptable to the City within ninety (90) days after the expiration, cancellation, or termination date of the lease; or

(2) Sell lessee-owned permanent improvements to the succeeding lessee, remove all personal property, remediate any contamination for which the lessee is responsible, and leave the premises in a clean and neat physical condition acceptable to the City within sixty (60) days after notice from the City that the City has approved an application for a lease of the premises by another person or such longer period specified in the notice, but in no event more than one hundred eighty (180) days after the expiration, termination, or cancellation date of the lease; or

(3) Purchase the property in which the lease contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee.

(c) If the lessee does not timely remove or sell the lessee-owned permanent improvements on a premises in accordance with the requirements of this section, any remaining permanent improvements and any remaining personal property of the departing lessee will be considered permanently abandoned. The City may sell, lease, demolish, dispose of, remove, or retain the abandoned property for use as the City determines is in the best interest of the City. The lessee shall, within thirty (30) days after being billed by the City, reimburse the City for any costs reasonably incurred by the City, including legal and administrative costs, to demolish, remove, dispose, clear title to, or sell the abandoned property and to remediate any contamination and restore the premises.

(d) Site development materials that a lessee places on a premises become part of the City-owned real property and property of the City upon placement. The lessee:

(1) Must maintain the site development work and site development materials throughout the term of the lease or successive lease, including any extensions and periods of holdover; and

(2) May not remove the site development materials unless the City approves in writing.

22.05.080 Lease [E]Execution.

The lease applicant shall execute and return the appropriate lease agreement with the City of Kenai within thirty (30) days of mailing the agreement to the applicant. The lease agreement shall be prepared in accordance with the requirements of this title. Failure to execute and return the lease agreement within the specified period shall result in the forfeiture of all leasing rights.

22.05.085 Lease [U]Utilization.

Leased lands shall be utilized for purposes within the scope of the application, the terms of the lease and in conformity with the ordinances of the City, and in substantial conformity with the Comprehensive Plan. Utilization or development for other than the allowed uses shall constitute a [VIOLATION]material breach of the lease and subject the lease to cancellation at any time. Failure to substantially complete the development plan for the land shall constitute grounds for cancellation.

22.05.086 Form of Lease.

(a) When leasing land under this chapter, the City Manager shall use a standard lease form that:

(1) Provides a reasonable basis for the lessee's use of the premises,

(2) Complies with the intent of this chapter, and

(3) Provides for the best interest of the City.

(4) Approved as to form by the City Attorney; and

(5) Adopted by resolution of the City Council.

(b) The City Manager may enter into a land lease that deviates from the standard form adopted under subsection (a) of this section, if:

(1) The City Manager believes the action is in the best interest of the City;

(2) The lease is approved as to form by the City Attorney; and

(3) The lease is approved by resolution of the City Council.

22.10.087 Lease Payments.

(a) Upon execution of the lease, the land becomes taxable to the extent of the lessee's leasehold interest and lessee shall pay all real property taxes levied upon such leasehold interest in these lands, and shall pay any special assessments and taxes.

(b) Rent shall be paid annually in advance unless the lessee submits a written request to the City to pay on a quarterly or monthly basis. The payments shall be prorated to conform to the City of Kenai's fiscal year beginning July 1st and ending June 30th.

(c) Lessee shall be responsible for all sales taxes due on payments under the lease.

[22.05.090 CONVEYANCE TO ENCOURAGE NEW ENTERPRISES.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, WHERE IT IS FOUND THAT ENCOURAGEMENT OF A NEW COMMERCIAL OR INDUSTRIAL ENTERPRISE WOULD BE BENEFICIAL TO THE CITY OF KENAI, THE CITY COUNCIL BY ORDINANCE SO FINDING MAY DIRECT CONVEYANCE OF ONE OR MORE PARCELS OF CITY LAND BY THE CITY MANAGER TO SUCH ENTERPRISE UPON SUCH TERMS AS TO PRICE, CONDITIONS OF CONVEYANCE, AND WITH SUCH CONTINGENCIES AS MAY BE SET FORTH IN THE ORDINANCE.]

22.05.095 [S]Methods of Sale or Disposal.

(a) Lands[,] to which the City of Kenai holds title which are not restricted from sale by the deed of conveyance to the City[,] or which have been released from such restrictions[, WHICH] and that the City Council has determined are not required for a public purpose, may be listed for sale by the City Manager[, EXCEPT THAT LANDS WHICH HAVE BEEN LEASED SHALL NOT BE SOLD UNLESS THE LESSEE HAS MADE A WRITTEN REQUEST TO THE CITY TO PLACE THE LAND FOR SALE]. The decision whether or not to sell the land rests in the sole discretion of the City Council.

(b) [SALES OF LAND PURSUANT TO SUBSECTION (A) OF THIS SECTION SHALL BE MADE AT NOT LESS THAN FAIR MARKET VALUE. THE PURCHASER SHALL EXECUTE THE “AGREEMENT FOR SALE OF LAND” WITHIN ONE (1) YEAR OF THE DATE OF APPRAISAL.]The City Council may by ordinance authorize the City Manager [HAS THE OPTION]to dispose of such properties in accordance with [THE SALE PROCEDURES SET OUT IN THIS TITLE]the intent of this chapter as follows:

(1) [BY NEGOTIATED SALE; OR]Non-competitive process:

(i) Conveyance to encourage new enterprises where it is found that encouragement of a new commercial or industrial enterprise would be beneficial to the City of Kenai, one or more parcels of City land may be sold upon such terms as to price, conditions of conveyance, and with such contingencies as may be set forth in the ordinance.

(ii) Property sale to adjacent owners for the conveyance of a parcel of City property at fair market value to the owner of adjacent land whenever, in the judgment of the City Council, the parcel of land is of such small size, shape, or location that it could not be put to practical use by any other party.

(iii) Grant or devotion of real property to the United States, the State of Alaska, a local political subdivision of the State of Alaska, or any agency of any of these governments or a non-profit corporation, for a consideration agreed upon between the City and grantee without a public sale if the grant, devotion or lease is advantageous to the City.

(iv) Conveyance of land to resolve a land use conflict.

(2) [BY]Competitive process:

(i) Public outcry auction to the highest responsible bidder[; OR].

[(3) BY COMPETITIVE S](ii) Sealed bid[s] to the highest responsible bidder.

(iii) Over-the-Counter sale after a public outcry auction or sealed bid process on a first-come basis, provided minimum development requirements are met within two (2) years of sale and the land is sold for fair market value. The appraisal must be within a one (1) year period prior to the date of sale.

(3) Property exchange: Property exchanges for the conveyance and exchange of a parcel of City-owned property for property owned by another individual or legal entity subject to such conditions as Council may impose on the exchange, whenever the City Council makes findings it is advantageous to the City to make the property exchange.

(iv) Leased land in which the lease was subject to competition through the lease application review process and which contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee. The appraisal must be within a one (1) year period prior to the sale.

[IN THE EVENT THAT THE SALE IS NOT CLOSED WITHIN SIX (6) MONTHS OF THE DATE OF APPRAISAL, THE BUYER WILL BE CHARGED, UPON CLOSING, INTEREST COMPUTED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE KENAI MUNICIPAL CODE, BASED UPON THE TOTAL SALES PRICE FOR THE NUMBER OF DAYS PAST THE EXPIRATION OF THE SIX (6) MONTH PERIOD.]

(c) Any sale of land owned by the City of Kenai and held by it for the use or benefit of the Kenai Municipal Airport must include in any instrument conveying title to the property restrictions accepted by the City under the terms of the 1963 Quitclaim Deed from the United States of America recorded at Book 27, Page 303 at the Kenai Recording District, Kenai Alaska or any other land owned by the City and acquired with Airport funds which may include similar restrictions. Additionally, any sale or disposal of the aforementioned lands for less than fair market value shall require a deposit in the amount of the difference between fair market value and the sale price to the Airport Land Sale Permanent Fund for the benefit of the Kenai Municipal Airport.

22.05.100 Sale [P]Procedure.

(a) All requests to purchase City land must be submitted to the City on approved forms provided by the City. Applications will be dated on receipt and payment of the nonrefundable application fee and must include applicable deposit as set forth in the City's schedule of fees adopted by the City Council.

(b) Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to engineering services.

surveying and consulting costs, unless in the sole discretion of the City Council it is determined the subdivision serves other City purposes.

(1) If the Council determines that other City purposes are served by the subdivision, the City Council may choose in its sole discretion to share in the subdivision costs with the applicant in an amount the City Council determines is reasonable given the benefit to the City.

(2) If the Council does not make a determination that other City purposes are served by the subdivision, the applicant must submit a deposit to cover the estimated costs associated with the subdivision.

(3) If the City enters into a sale with the applicant, any unused balance of the deposit made to cover costs associated with subdivision will be credited toward the purchaser at closing.

(4) If the City's costs exceed the amount of any deposit made to cover costs associated with subdivision, the applicant must pay the shortage to the City as a condition of the sale.

(5) If the application is rejected or if the applicant withdraws the application or fails to enter into a sale offered to the applicant, the City will return any unused deposit balance to the applicant.

(c) The City [MANAGER WILL OBTAIN SUCH AN APPRAISAL]will retain the services of an independent, real estate appraiser certified under Alaska State statutes to determine the fair market value for a determination of the minimum price on the land to be paid for from the deposit made by the applicant unless such an appraisal has been obtained within one (1) year prior to the date of sale. The cost of the appraisal will be credited toward the purchaser at closing.

[B) WHERE ANY PARTY, HEREINAFTER CALLED "APPLICANT," REQUESTS THAT A TRACT OR TRACTS OF LAND BE SOLD FOR WHICH AN APPRAISAL WILL BE REQUIRED, WHICH WILL REQUIRE SUBDIVIDING, PLATTING, OR SURVEYING AND STAKING, OR WHICH WILL REQUIRE ADVERTISING OR INCURRING ANY OTHER EXPENDITURES BY THE CITY PRIOR TO SALE.

(1) NO ACTIONS IN PREPARATION FOR SALE WILL BE TAKEN BY THE CITY UNTIL AN AGREEMENT TO PURCHASE SHALL BE PROPERLY EXECUTED AND FILED WITH THE CITY MANAGER FOR THE PURCHASE OF SUCH LAND WITH PAYMENT OF SUFFICIENT GOOD FAITH DEPOSIT, WHICH SHALL CONSIST OF CASH OR ITS EQUIVALENT DEPOSITED WITH THE FINANCE OFFICER OF THE CITY OF KENAI, AS MAY BE DETERMINED BY THE CITY MANAGER, TO COVER ALL EXPENSES OF THE CITY AND SUCH AGREEMENT TO PURCHASE SHALL FURTHER CONTAIN THE AGREEMENT BY APPLICANT TO PAY ANY ADDITIONAL COSTS IF SAID GOOD FAITH DEPOSIT IS INSUFFICIENT TO PAY ALL COSTS INCURRED BY THE CITY.]

(2)](d) If at any time during the process of preparing for sale, the applicant [GIVES NOTICE TO THE CITY MANAGER OF WITHDRAWAL OF]withdraws the [REQUEST]application for sale, the City [MANAGER]shall stop all procedures, [SHALL]pay expenses incurred prior to [TERMINATION OF SALE PROCEDURES]withdrawal of the application for sale, and [SHALL]reimburse applicant for any [GOOD FAITH]deposit advanced in excess of

[ALL]expenses incurred. [()]However, if another party desires the sale to proceed, files an application [FOR SALE]for sale, executes and files an agreement to purchase, and [ADVANCES]deposits sufficient funds[THEREFOR], then the prior applicant will be reimbursed for expenses [CHARGES]which can be attributed to the subsequent applicant.[]

(3)(e) If all actions necessary for preparation for sale have been accomplished, and if neither the applicant nor any other party purchases said land when first offered for sale after such request, then all expenses incurred in preparation for the sale will be paid from the [GOOD FAITH]applicant's deposit, and the balance, if any, shall be returned to the applicant. If the [SUMS]amount of the deposit is [ADVANCED AS GOOD FAITH DEPOSIT ARE]insufficient to pay all of the costs, the applicant will be billed for the balance due[AND NORMAL COLLECTION PROCEDURES FOLLOWED].

[(4)](f) If the land [APPLIED FOR]is sold [ON]in a competitive public sale set in response to such request to anyone other than the applicant, [THEN ON CLOSING OF THE SALE,]the [GOOD FAITH] applicant's deposit will be refunded in total to the applicant. The City's expenses will be first deducted from the deposit of the successful bidder.

[(5)](g) If the land [IN QUESTION]is sold to the applicant, [THE]any [GOOD FAITH]deposit advanced, after deducting the City's expenses, will be [APPLIED ON THE PAYMENT DUE] credited to the purchaser at closing.

[(6) IF THE LAND IN QUESTION IS TO BE SOLD BY SEALED BID AND THE APPLICANT HAS SUBMITTED A VALID BID, BUT THE APPLICANT IS NOT THE HIGH BIDDER, HE OR SHE MAY PURCHASE THE LAND BY TENDERING THE CITY A BID EQUAL TO THE HIGH BID WITHIN FIVE (5) DAYS OF THE BID OPENING. IF THE LAND SALE IS INITIATED IN ACCORDANCE WITH KMC 22.05.040[(A)], THE APPLICANT SHALL BE DEFINED AS THAT PARTY SUBMITTING THE INITIAL LEASE APPLICATION.]

[(C)](h) If the [TRACT OF]land [PROPOSED TO BE SOLD]is leased land in which the lease contains an option to purchase once the minimum development requirements have been met, the lessee may request the sale of the land at not less than the fair market value. [THE CURRENT LESSEE OBTAINS THIS RIGHT TO REQUEST A SALE ONLY AFTER, TO THE SATISFACTION OF THE CITY MANAGER, DEVELOPMENT HAS BEEN COMPLETED AS DETAILED IN THE DEVELOPMENT SCHEDULE WHICH HAS BEEN INCORPORATED INTO THE LEASE AGREEMENT. IF THERE IS NO DEVELOPMENT SCHEDULE, THE LESSEE MAY PURCHASE THE PROPERTY IF THERE HAVE BEEN SUBSTANTIAL IMPROVEMENTS AS DETERMINED BY THE CITY MANAGER. THE DECISION WHETHER OR NOT TO SELL THE LAND TO THE LESSEE RESTS WITH THE SOLD DISCRETION OF THE CITY.]

[(D)](i) [IF THE TRACT OF LAND PROPOSED TO BE SOLD IS NOT LEASED LAND, OR IS LEASED LAND WITHOUT SUBSTANTIAL IMPROVEMENTS, THEN THE TRACT OF LAND MAY ONLY BE SOLD BY OUTCRY AUCTION OR BY COMPETITIVE SEALED BIDS.] If the [TRACT] land is to be [PUT UP FOR SUCH]sold through a competitive [AUCTION OR SEALED BID SALE]process, notice of sale and the manner in which the land

is to be sold [SHALL BE] must be posted to the extent possible to be visible from each improved street adjacent to the property and published in a newspaper of general circulation within the City [ONCE EACH WEEK FOR TWO (2) SUCCESSIVE WEEKS NOT LESS THAN THIRTY (30) DAYS PRIOR TO THE DATE OF SALE; SUCH NOTICE SHALL ALSO BE POSTED IN AT LEAST THREE (3) PUBLIC PLACES WITHIN THE CITY AT LEAST THIRTY (30) DAYS PRIOR TO THE DATE OF SALE, AND SUCH OTHER NOTICE MAY BE GIVEN BY SUCH OTHER MEANS AS MAY BE CONSIDERED ADVISABLE BY THE CITY MANAGER. SUCH]. The published notice must contain:

- (1) The legal description of the land;
- (2) A brief physical description of the land;
- (3) The area and general location of the land;
- (4) The minimum acceptable offer for the land (which shall be [ITS APPRAISED]the fair market value);
- (5) The terms under which the land will be sold;
- (6) Any limitations on the sale of the land;
- (7) The time and place set for the auction or bid opening;
- (8) The amount of deposit to be submitted with each bid in order to cover the City's expenses such as survey, appraisal, and reviews;
- (9) Any other matters concerning the sale of which the City Manager believes the public should be informed.

[E] IF NO OFFERS ARE SUBMITTED MEETING THE MINIMUM ACCEPTABLE OFFER (OR APPRAISED VALUATION), THE CITY MANAGER MAY NEGOTIATE FOR SALE OF THE TRACT OR TRACTS OF LAND WITH A MODIFICATION OF PROPOSED TERMS OR FOR LESS THAN THE APPRAISED VALUATION PROVIDED THAT NO SUCH NEGOTIATED SALE FOR LESS THAN APPRAISED VALUE SHALL BE BINDING UPON THE CITY UNLESS THE TERMS AND PRICE THEREIN ARE APPROVED BY RESOLUTION OF THE CITY COUNCIL.

[F] WHERE A REAL ESTATE AGENT FURNISHES A BUYER FOR CITY LAND, THE CLOSING AGENT SHALL BE AUTHORIZED TO PAY THE AGENT A REAL ESTATE COMMISSION OF FIVE PERCENT (5%) OF THE PURCHASE PRICE FOR THE LAND OR FIVE PERCENT (5%) OF THE APPRAISED FAIR MARKET VALUE OF THE LAND, WHICHEVER IS LOWER, UNDER THE FOLLOWING TERMS AND CONDITIONS:

- (1) THE CITY MANAGER SHALL PROVIDE A NON-EXCLUSIVE LISTING OF LANDS AVAILABLE FOR SALE.

(2) NO COMMISSION SHALL BE PAID TO AN AGENT WHERE THE AGENT IS A PARTY, OR IN PRIVITY WITH A PARTY, TO THE SALE.

(G) CLOSING OF SALE OF CITY LANDS SHALL BE HANDLED BY A TITLE OR ESCROW COMPANY.

(H) CONVEYANCE OF CITY LANDS SHALL BE BY QUIT CLAIM OR WARRANTY DEED FURNISHED BY THE CITY, AND BUYERS ARE ADVISED THAT ALL SUCH CONVEYANCES ARE SUBJECT TO ALL LIENS, ENCUMBRANCES, RESTRICTIONS, AND COVENANTS OF RECORD AND ARE SPECIFICALLY, WITHOUT BEING LIMITED THERETO, SUBJECT TO ANY UNRELEASED RESTRICTIONS CONTAINED IN THE DEED OR DEEDS BY WHICH THE CITY RECEIVED TITLE TO THE LAND.]

(I) If a buyer desires to obtain a preliminary commitment for title insurance or title insurance to the land, [THEN] it shall be the responsibility of the buyer to obtain and pay for such commitment or insurance[AND TO PAY FOR THE SAME].

(J) IF THE TRACT OR TRACTS OF LAND ARE SOLD UNDER TERMS BY WHICH THE CITY IS TO ACCEPT A NOTE AS A PORTION OF THE PURCHASE PRICE, THE NOTE AND ACCOMPANYING DEED OF TRUST MUST BE PREPARED BY AN ATTORNEY, BUT MUST BE APPROVED BY THE CITY ATTORNEY PRIOR TO CLOSING.

(K) THE NOTE SHALL BE PLACED FOR COLLECTION WITH A BANK SELECTED BY THE CITY MANAGER, WHICH MAY BE CHANGED FROM TIME TO TIME, AND WHICH SHALL BE THE BANK IN WHICH CITY FUNDS ARE DEPOSITED. THE SET-UP FEE TO INITIATE COLLECTION MAY BE NEGOTIATED AS SPECIFIED IN KMC 22.05.100(L), AND THE BUYER SHALL PAY THE ANNUAL COLLECTION FEES FOR SUCH BANK COLLECTION.]

(L) The City Manager is authorized to negotiate a division of the costs of sale [LISTED IN KMC 22.05.100(G), (H), (I), (J) AND (K)] to a maximum of fifty percent (50%) of the required costs being borne by the City, provided however that no costs of sale will be paid by the City where a sale is negotiated at a price below [APPRAISED]the fair market value of the land.

22.05.105 Terms for [F]Financing [S]Sale of City-Owned [L]Lands.

(a) In order to expedite and facilitate the sale of City lands, the City Manager is authorized to accept terms for sales and may accept a note secured by a deed of trust for a portion of the purchase price thereof, subject to the following restrictions:

(1) [IF THE SALE IS TO A LESSEE WHO HAS PLACED A LIEN FOR FINANCING UPON THE LAND OR IMPROVEMENTS, THEN THE CITY MANAGER IS NOT AUTHORIZED TO SELL THE LAND EXCEPT FOR TOTAL CASH PAYMENT, PROVIDED, HOWEVER, THAT THE CITY MANAGER MAY ACCEPT A NOTE SECURED BY A DEED OF TRUST SUBORDINATE TO THE EXISTING SECURITY INTEREST IF THE AMOUNT OF THE NOTE THEREBY SECURED IS WITHIN THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE LAND WITH IMPROVEMENTS, AND THE SUM OF ALL PRIOR SECURITY INTERESTS. THE SALE DOCUMENTS SHALL BE SUBJECT TO THE

SAME RESTRICTIONS CONTAINED IN THE LEASE AS THE LEASE PROVIDES AT THE TIME OF SALE.

(2)] Except for property sold by the City subsequent to foreclosure for delinquent taxes or assessments, prior to making a determination to accept a note and deed of trust from a prospective purchaser, the City [MANAGER] shall [SECURE] order a preliminary commitment for title insurance and a review of the grantee index covering the party desiring to purchase the land [FROM THE TITLE COMPANY IN THE LOCAL RECORDING DISTRICT]at the cost of the party requesting to purchase the land, and no credit will be advanced on such sale if there are any delinquent liens or unpaid judgments found in the title company report until any such judgments or liens are paid and releases therefor have been filed.

[(3)2] In the event of a credit sale, terms shall be approved by the City Council in the Ordinance approving the sale, as follows:

(i) [T]The down payment required, which shall [BE DETERMINED BY THE CITY MANAGER, BUT SHALL]not be less than fifteen percent (15%) of the sales price[.]; and

(ii) The length of the note; and

(iii) A fixed or variable interest rate.

[(4) THE CITY MANAGER IS NOT AUTHORIZED TO ACCEPT TERMS FOR THE SALE OF TAX-FORECLOSED LANDS UNLESS THE DOWN PAYMENT TO BE RECEIVED THEREUNDER, OR OTHER SUMS APPROPRIATED FOR THE PURPOSE, ARE SUFFICIENT TO MAKE IMMEDIATE PAYMENT TO THE KENAI PENINSULA BOROUGH AND THE FORMER RECORD OWNER OF THE SUMS WHICH ARE, OR MAY BECOME, DUE TO THEM PURSUANT TO THE PROVISIONS OF AS 29.]

[(B) IF THE CITY MANAGER DETERMINES THAT IT IS IN THE CITY'S INTEREST TO SELL CITY LANDS, THE SALE SHALL BE EITHER A CASH TRANSACTION OR BY A NOTE SECURED BY A DEED OF TRUST, SUBJECT TO SUBSECTION (A) OF THIS SECTION, AND BY NO OTHER MEANS. THE NOTE AND DEED OF TRUST SHALL CARRY TERMS AS FOLLOWS:

(1) THE TERM OF SUCH NOTE MAY BE SET BY THE CITY MANAGER, BUT IT SHALL PROVIDE FOR MONTHLY PAYMENTS AND NOT EXCEED TWENTY (20) YEARS UNLESS A LONGER PERIOD FOR A SPECIFIC SALE OF LAND IS APPROVED BY RESOLUTION OF THE CITY COUNCIL.

(2) SUCH NOTE SHALL BEAR INTEREST AT A RATE TO BE DETERMINED BY THE CITY COUNCIL BY RESOLUTION.]

22.05.110 Determination as to [N]Need for [P]Public [U]Use.

(a) Whether land shall be acquired, retained, devoted, or dedicated to a public use shall be determined by ordinance which shall contain the public use for which the property is to be dedicated, the legal description of the property, and the address or a general description of the

property sufficient to provide the public with notice of its location. This requirement does not apply to rights-of-way or easements dedicated through the City and Borough platting process.

(b) Whether land previously dedicated to a public use should be dedicated to a different public use or should no longer be needed for public use shall be determined by the City Council by ordinance, except in cases of vacation of rights-of-way or easements which may be determined by resolution, either of which shall contain the new public use for which the property is to be dedicated or the reason the land is no longer needed for public use, the legal description of the property, and the address or a general description of the property sufficient to provide the public with notice of its location.

[22.05.115 PROPERTY EXCHANGES.

THE COUNCIL MAY APPROVE, BY ORDINANCE, AFTER PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC HEARING, THE CONVEYANCE AND EXCHANGE OF A PARCEL OF CITY PROPERTY FOR PROPERTY OWNED BY ANOTHER PERSON SUBJECT TO SUCH CONDITIONS AS COUNCIL MAY IMPOSE ON THE EXCHANGE, WHENEVER IN THE JUDGMENT OF THE CITY COUNCIL IT IS ADVANTAGEOUS TO THE CITY TO MAKE THE PROPERTY EXCHANGE.

22.05.120 PROPERTY SALE TO ADJACENT OWNERS.

THE COUNCIL MAY APPROVE, BY ORDINANCE, AFTER PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC HEARING, THE SALE AND CONVEYANCE OF A PARCEL OF CITY PROPERTY AT ITS APPRAISED VALUE TO THE OWNER OF ADJACENT LAND WHENEVER, IN THE JUDGMENT OF THE CITY COUNCIL, THE PARCEL OF LAND IS OF SUCH SMALL SIZE, SHAPE, OR LOCATION THAT IT COULD NOT BE PUT TO PRACTICAL USE BY ANY OTHER PARTY AND, IN ADDITION THERETO, WHERE THERE IS NO FORESEEABLE NEED OF THE LAND FOR ANY FUTURE USE BY THE CITY.

22.05.125 GRANT OR DEVOTION.

THE COUNCIL, BY ORDINANCE, MAY WAIVE THE PROVISIONS OF THIS CHAPTER AND LEASE, GRANT OR DEVOTE REAL PROPERTY NO LONGER NEEDED BY THE CITY FOR PUBLIC PURPOSE TO THE UNITED STATES, THE STATE OF ALASKA, A LOCAL POLITICAL SUBDIVISION OF THE STATE OF ALASKA, OR ANY AGENCY OF ANY OF THESE GOVERNMENTS OR A NON-PROFIT CORPORATION, FOR A CONSIDERATION AGREED UPON BETWEEN THE CITY AND GRANTEE WITHOUT A PUBLIC SALE IF THE GRANT, DEVOTION OR LEASE IS ADVANTAGEOUS TO THE CITY.]

22.05.130 Special Use [P]Permits.

The City Council may authorize the City Manager to grant special use permits for the temporary use of real property owned by the City for a period not to exceed [FIVE (5)] one (1) year[S],

without appraisal of the value of the property or public auction, for any purpose compatible with the zoning of the land, and on such terms and for such rentals as the [C]Council shall determine.

22.05.135 Acquisition of [R]Real [P]Property.

(a) The City, by authorization of the City Council, expressed in a resolution for such purpose, may lease, purchase or acquire an interest in real property needed for a public [USE] purpose on such terms and conditions as the Council shall determine. No purchase shall be made until a qualified independent appraiser has appraised the property and given the Council an [INDEPENDENT]opinion as to the [FULL AND TRUE]fair market value [THEREOF]of the land unless the Council, upon resolution so finding, determines that the public interest will not be served by an appraisal.

[(B) BECAUSE OF THE UNIQUE VALUE OF REAL PROPERTY, THE CITY NEED NOT ACQUIRE OR LEASE REAL PROPERTY BY COMPETITIVE BIDDING.]

(c) Rights-of-way and easements may be accepted or issued by the City Manager after approval by the City Council for utility lines and services of all types and for necessary rights-of-way easements. This requirement does not apply to rights-of-way or easements dedicated through the City and Borough platting process.

DRAFT

CITY OF KENAI LAND MANAGEMENT PLAN

Draft: June 2019



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EXECUTIVE SUMMARY

PLACEHOLDER

ACKNOWLEDGEMENTS

City Council

Name
Name
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Planning and Zoning Commission

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City Staff

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Special Thank you

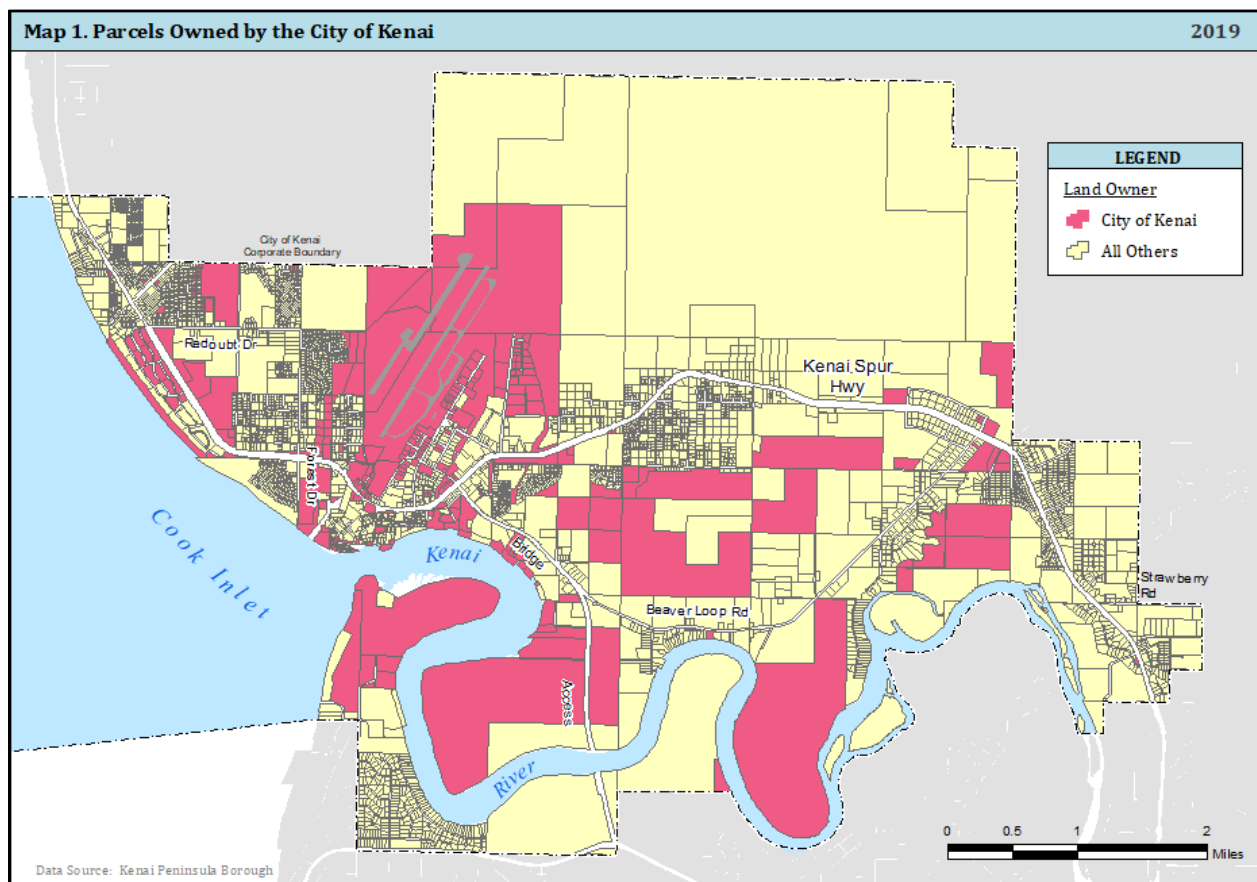
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INTRODUCTION AND BACKGROUND INFORMATION

This land management plan describes current conditions of City-owned property and actions to retain, improve, or dispose of property. The plan provides a lands inventory, description, and recommendations for each parcel that was developed through a public process to allow for valuable input into the disposition of City-owned lands.

CITY-OWNED PARCELS

The City of Kenai owns a total of 358 subdivided parcels of land which have been obtained from the Federal Government of the United States, State of Alaska, Kenai Peninsula Borough, and private donations.



FUNDS

Approximately 65 percent of the parcels owned by the City of Kenai are tied to the General Fund. The approximately 35 percent remaining parcels are tied to the Airport Fund.

KENAI MUNICIPAL CODE

KENAI COMPREHENSIVE PLAN AND LAND USE PLAN

The *2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan* contains the Land Use Plan. This plan describes land management specific to City-owned parcels, and the Land Use Plan describes a generalized pattern of existing and desirable land use for all lands within the City.

LEASES

About 13 percent of City-owned parcels are under an active lease.

LANDS INVENTORY

This section contains a comprehensive list of all parcels owned by the City of Kenai and data about each parcel. The inventory will provide the input for land management decisions by the City. The following fields have been populated for each parcel when they are applicable and the data is available:

- Parcel Number: The assigned to the parcel by the Kenai Peninsula Borough
- Address: If available, the physical address of the parcel
- Fund: Denotes whether the parcel is within the City's Airport Fund or General Fund
- Facility: If applicable, lists any existing City facilities on the parcel
- Map Thumbnail: Small map showing the aerial imagery for the parcel
- Legal Description: Land description location of the written words delineating real property
- Township/Range/Section: Refers to terms used in the Public Lands Survey System
- Size: Given in acres and square feet
- KPB Assessed Value: Kenai Peninsula Borough assessed value for current year taxes
- Zoning District: Gives the City of Kenai zoning district for the parcel
- Land Use Plan Classification: City of Kenai land use plan classification category for the parcel
- Summary Recommendation: This field gives the staff recommendation for the parcel and is the categorical basis for sorting parcels in the report
- Detailed Description: In-depth description of the parcels, including its physical features and development considerations
- Detailed Recommendation: In-depth analysis and consideration of the best use for the parcel

Parcels have been placed into the following categories based on the Summary Recommendation:

- **Retain - Existing Public Facilities**: A parcel with a public facility, typically a park or building
- **Retain - Public Purpose**: A vacant parcel to be retained for a public purpose
- **Available for Lease or Sale**: Parcel available for lease or to be purchased from the City
- **Available for Lease**: Parcels available for lease from the City
- **Unavailable – Under Active Lease**: Parcels with lessees in active lease agreements with the City
- **Tidelands**: Parcels with leases of tidelands for shore fisheries
- **Parcels for Further Study**: Parcels where further research or action is needed before a decision to retain or dispose of the parcel may be made

RETAIN - EXISTING PUBLIC FACILITIES

SAMPLE ONLY

Parcel Number:
04701008

200 Spruce Street South
General Fund

Facility: Kenai Municipal Park, Little League Fields

Legal Description: Govt Lots 41-43, 60, 62-66, 83-90, 105-112, 124-126, 133-135, 149-151, 159-161, 164-166 Excl that portion described as: S 0 deg 13 min E 77.88 ft & S 86 deg 5 min E 35.09 ft from N 1/4 corner Section 6 T5N R11W

Township/Range/Section: 6N, 12W, Section 25

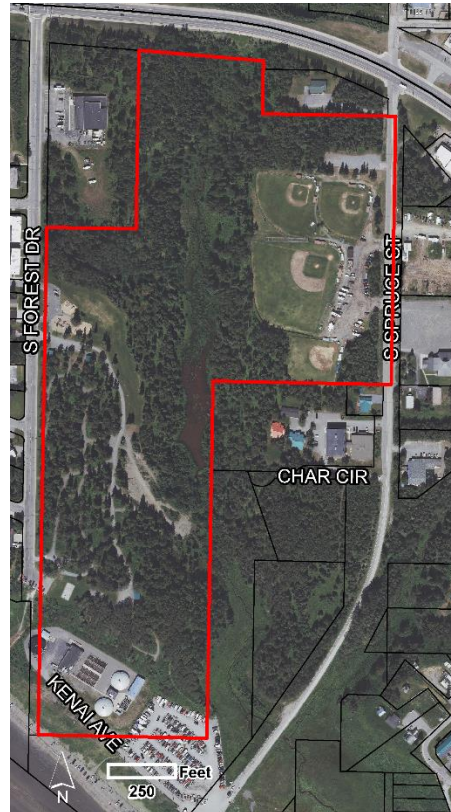
Size: 72.21 acres (3,145,468 square feet)

2018 KPB Assessed Value: \$7,980,500

Zoning District: Conservation (C)

Land Use Plan Classification: Parks, Recreation, & Open Space, Institutional

Summary Recommendation:
Retain for a Public Purpose



Detailed Description: 33 separate Government Lots with portions of 7 additional lots make up this 45+ acre parcel. A large swale is located in the center and lower east side of the parcel, with steep high bluffs on each side. The drainage running through this swale (Richka Creek) drains from a large wetland complex to the north and empties into Cook Inlet. The city wastewater treatment plant and its parking area is partially located on Government Lots 164-166 of this parcel. The little league fields are substantially located on Government Lots 64, 84-89, 106-111, 125, 126. The community park facilities appear to span the upland portions of the remaining lots. A small portion of the little league field development appears to encroach onto parcel 04701028, owned by KPCCC Group Inc. The wastewater treatment plant encroaches into the 35-foot wide public ROW along the west boundary. This ROW was dedicated to the public by document from the City in 1968 (Misc 30/154). It may also encroach onto parcel 04701027, owned by Vern Lofstedt. The parking area extends into Government Lots 168, 169, 170, 171 in parcel 04701025, also city owned. Portions of Government Lots 43, 60, 66, 83 and 90 were deeded to the State of Alaska Military Dept by the city in 1968, the location of the National Guard Armory.

**Parcel Number:
04701008**

Detailed Recommendation: The Government Lots have been combined under one parcel number for ease of assessing, although the government lots remain separate lots until they are replatted. This may be of use at some point in a lease description or development of the property or if the city needs or wants to obtain new parcel numbers. Three separate developments are located on the parcel and separation of the parcel into new parcels with the individual government lots that contain those facilities, with the assignment of new separate parcel numbers, would make inventory and management of the lands easier. The facilities on the parcel are managed by two different city departments. Retention of the land contained in the multi-lot parcel is recommended to control and maintain the drainage and to support the existing city development on the parcel. An as-built of all development is also recommended, and vacation of the portion of S Forest Drive ROW containing the encroachment should be pursued. This portion of the ROW would not support construction of a road for vehicular traffic due to steep terrain. If the as-built shows encroachments into any surrounding private parcels, those should be resolved with easements or other means. It should be verified that all uses of the parcel comply with the zoning.

RETAIN - PUBLIC PURPOSE

AVAILABLE FOR LEASE OR SALE

AVAILABLE FOR LEASE ONLY

SAMPLE ONLY	Parcel Number: 04322008 235 Trading Bay Road Airport Fund
	Legal Description: Lot 8, Block 2, Cook Inlet Industrial AirPark Subd
	Township/Range/Section: 6N, 11W, Section 32
	Size: 1.21 acres (52,708 square feet)
	2018 KPB Assessed Value: \$128,900
	Zoning District: Central Mixed Use (CMU)
	Land Use Plan Classification: Central Commercial
Summary Recommendation: Available for Lease Only	
	
Detailed Description: This is a 1.21 acre parcel created by a 1966 subdivision. A deed of release was recorded in 1973, allowing the lease or sale of the lots for other than airport purposes. The parcel is now located in the Airport Reserve, and is available for lease, not sale. Improvements to the infrastructure in the subdivision (water, sewer, pavement, sidewalks, etc) were funded by the US Department of Commerce in 1973, with a requirement that the city retain ownership of the improvements for 30 years. Funds generated by lease go to the airport fund. The parcel is surrounded by privately owned lands, most of which are developed. The parcel was one of three that were leased to Sea-Land Freight Service, Inc in 1975 for one year; the amended purpose was for 'terminal facilities, warehousing, storage and other related activities inherent in the operation of a transportation facility'. It appears that the parcel was never developed. In 1978, a 99-year lease was issued for the same three lots (6, 7, 8 Block 2) to Gerald Browning and Glen Henry for 'diesel and automotive repair and parts sales'. The required development proved to be economically unfeasible and at the request of the lessees, the lease was rescinded in 1980. A 99 year lease for Lot 8 Block 2 was granted to Julie Latta in 2002 to be developed to 'provide additional lodging facilities for the proposed Kenai Airport Lodge'. Two amendments were granted to extend the completion date for required construction; the parcel was not developed and a mutual rescission of the lease was recorded in 2007.	

Detailed Recommendation: This parcel's central location, along with the city services and the close proximity to the airport, make it attractive for lease. Costs for development of the lot should be fairly reasonable - it is level with no wetlands and is easily accessible. If any site development was undertaken in association with the previous leases, that could further enhance the lot's attraction. City services and paved access are already in place.

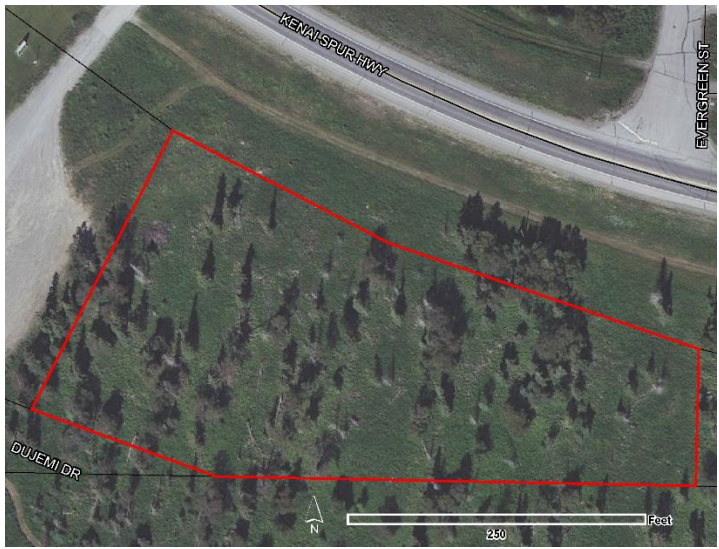
UNAVAILABLE - UNDER ACTIVE LEASE

TIDELANDS

PARCELS FOR FURTHER STUDY

SAMPLE ONLY

Parcel Number:
04301102
12751 Kenai Spur Highway
General Fund

<p>Legal Description: Tract F, Dena'ina Point Estates Subdivision</p>	
<p>Township/Range/Section: 6N, 12W, Section 36</p>	
<p>Size: 2.24 acres (97,574 square feet)</p>	
<p>2018 KPB Assessed Value: \$48,800</p>	
<p>Zoning District: Suburban Residential (SR)</p>	
<p>Land Use Plan Classification: Mixed Use</p>	
<p>Summary Recommendation: Future Determination for Use</p>	

Detailed Description: This 2.24 acre tract fronts on the Kenai Spur Highway. There is a 52 acre private parcel between this tract and the Inlet. The tract has no bluff frontage and is located approximately 140 feet from the edge of the bluff. This subdivision of city owned land was contracted by the city in 1984 and created 29 larger acreage tracts, most of which were intended for resubdivision and development. The city still owns 14 tracts in the subdivision. Water and sewer service extends along the Kenai Spur Hwy, with two stubouts to the boundary of the subdivision. The roads in the subdivision are not constructed. None of the lots have been developed, with the exception of Tract A-5 which was resubdivided, along with adjoining property, into the Augustine Addition.

Detailed Recommendation: A 1984 ordinance retained this tract for public purpose; that restriction was reversed by a 1987 ordinance which designated the tract suitable for sale. The city owns the long narrow tract to the east, for a total highway frontage of over 1700 feet. The 52 acre privately owned parcel to the south has no highway frontage. There is substantial residential development to the east of the adjoining 52 acre private parcel. It may be beneficial to retain Tract F until the 52 acre private parcel is considered for development - the highway frontage provided by the city owned lands could be beneficial to an adjoining developer in providing alternate ingress/egress for any future development. Development of the large private parcel could also affect development options for the subject parcel. The subject parcel is suitable for sale and development at this time; retention of the long narrow highway frontage lot for access to the large private parcel could protect future access issues. The RS zoning may limit or influence development potential, with most commercial development requiring a conditional use permit.

SAMPLE ONLY

Parcel Number:

04312003

1397 Kenai Spur Highway

General Fund

Legal Description: Tract A, Five Iron Highs Subdivision

Township/Range/Section: 6N, 11W, Section 31

Size: 2.5 acres (108,900 square feet)

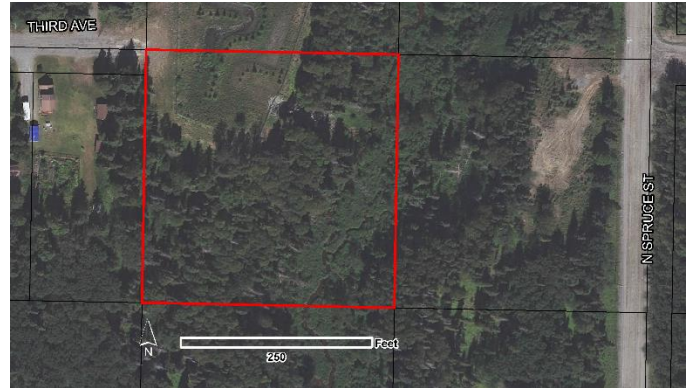
2018 KPBA Assessed Value: \$83,800

Zoning District: Conservation (C)

Land Use Plan Classification: Parks, Recreation, & Open Space

Summary Recommendation:

Retain for a Public Purpose



Detailed Description: This is a 2.5 acre government lot. The large cleared area on Lot 73 adjacent to the north boundary extends onto this lot. Scott Curtin provided the information that this is one of the city's storm water detention ponds, serving Forest Avenue and Woodlands Subdivision areas. The pond allows silt and debris to settle before the water drains into Richka Creek and eventually flows into the Inlet. The settling area is located at the top of the steep bank that drops off to Richka Creek to the east. A clearing project to remove accumulated growth is scheduled as maintenance for 2019. Access to the northwest corner of this lot is from Third Avenue, a half dedication. A steep bank cuts through the middle of the parcel and extends down to Richka Creek in the easterly portion of the parcel.

Detailed Recommendation: It is recommended that the city retain the entire lot for creek protection and maintenance. Although the majority of the settling pond is currently located on the lot to the north, expansion or maintenance of the pond may require additional use of the subject lot. The creek provides drainage from the large wetland complex to the north. The steep slope down to the creek, along with the creek and its corridor, occupy approximately 2/3 of the eastern portion of the lot and limit its development potential. If the city decides to connect the dedications of Cheryl Street and Third Avenue (see Lot 73: 04308008), a portion of the dedication at the intersection will need to come from this lot.

SAMPLE ONLY

Parcel Number:
04938215
 1100 Lawton Drive
 General Fund

Legal Description: Tract A, Five Iron Highs Subdivision
Township/Range/Section: 5N, 11W, Section 3
Size: 15.48 acres (674,309 square feet)
2018 KPBA Assessed Value: \$183,900
Zoning District: Recreation (R)
Land Use Plan Classification: Parks, Recreation, & Open Space
Summary Recommendation: Retain for a Public Purpose



Detailed Description: This is a 15.5 acre tract resulting from subdivision of portions of 4 government lots. There is a steep bluff in the southerly portion of the parcel, dropping off to almost 5 acres which is classified freshwater forested/shrub wetland on the NWI. Use or transfer of the parcel is restricted under a federal grant (LWCF 02-00119). The parcel is located between the Oilers Ballfield and the golf course, fronting on Lawton Drive (constructed) and S Tinker Lane (not constructed adjacent to this parcel).

Detailed Recommendation: Retention of the land by the city, or transfer to another public entity with the recreational use restriction attached, is required by the LWCF funding. It does not appear that this tract was excluded from that LWCF project area. This restriction should be verified. There may be recreational lease opportunities for the lot, including winter use associated with the ski trails on the golf course property or summer use associated with golf course expansion and amenities. With the nearby schools and residential areas, public park development would also be an option.

IMPLEMENTATION STRATEGY

Short Term (1 Year)

Middle Term (1-3 Years)

Long Term (3+ Years)

REFERENCES

2016 Imagine Kenai 2030 City of Kenai Comprehensive Plan

APPENDIX A. INDEX

Parcel Number	City Facility	Category	Inventory Page Number
03901065			
03902243			
03903421			
03905203			
03905204			
03905205			
03905322			
03905323			
03905324			
03905325			
03905327			
03905328			
03905329			
03905330			
03905331			
03906141			
03906309			
03906310			
03906311			
03907009			
03910107			
03910109			
03910111			
03910112			
03910208			
03910209			
03910211			
03910304			
03910308			
03910309			
03910310			
03910311			
03910312			
03910321			
03910322			
03910323			
03910324			
03911003			

Parcel Number	City Facility	Category	Inventory Page Number
03911009			
03911010			
03911011			
03911012			
03911013			
03911014			
03911015			
03911016			
03913112			
03913113			
03913114			
03913115			
03913117			
03913118			
03913202			
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04101013			
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04101115			
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04103019			
04103034			
04103040			
04103047			
04103051			
04103059			
04106201			
04106202			
04108003			
04108013			
04108016			
04108018			
04108019			
04301029			
04301033			

Parcel Number	City Facility	Category	Inventory Page Number
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04301039			
04301040			
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04312004			
04312007			
04312008			
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04314010			
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04315011			
04315012			

Parcel Number	City Facility	Category	Inventory Page Number
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04316008			
04316017			
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04327015			

Parcel Number	City Facility	Category	Inventory Page Number
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04327020			
04327021			
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Parcel Number	City Facility	Category	Inventory Page Number
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04336047			
04336048			
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04339007			
04339026			
04339027			
04339052			
04339053			
04339054			
04501003			
04501022			
04501023			
04501030			
04501031			
04501032			
04501033			
04501034			
04501035			
04501036			
04501037			
04501038			
04501039			
04501040			
04501041			
04501042			
04501043			
04501044			
04501045			
04501046			
04501047			
04501048			

Parcel Number	City Facility	Category	Inventory Page Number
04501049			
04501050			
04501051			
04501052			
04501053			
04501054			
04501055			
04501056			
04501057			
04506006			
04506008			
04513025			
04521047			
04701008	Kenai Municipal Park, Little League Fields	Retain - Public Facilities	
04701018			
04701019			
04701024			
04701025			
04705101			
04705205			
04705215			
04705216			
04705501			
04705506			
04705510			
04705602			
04705701			
04705805			
04705806			
04705807			
04706119			
04706129			
04706133			
04706134			
04707405			
04707408			
04708101			
04708104			
04708106			

Parcel Number	City Facility	Category	Inventory Page Number
04708107			
04708108			
04708109			
04708110			
04708111			
04708201			
04708202			
04708301			
04708305			
04708309			
04708402			
04708405			
04708406			
04708503			
04708504			
04708612			
04709301			
04709302			
04709304			
04709305			
04709307			
04710105			
04710106			
04710301			
04710311			
04711308			
04711309			
04711310			
04711311			
04711312			
04711502			
04711602			
04711901			
04711902			
04711903			
04711907			
04716001			
04716002			
04716005			
04901016			

Parcel Number	City Facility	Category	Inventory Page Number
04901017			
04901022			
04901062			
04901121			
04901124			
04901125			
04901130			
04901131			
04901132			
04901403			
04901404			
04904002			
04904029			
04904031			
04904086			
04910014			
04910053			
04910054			
04910105			
04910106			
04910107			
04910108			
04911010			
04911011			
04912065			
04916017			
04926125			
04926126			
04926210			
04926216			
04935006			
04937002			
04938052			
04938215			
04938216			
04938217			
04945002			
04945003			
04945004			
04945005			

Parcel Number	City Facility	Category	Inventory Page Number
04945009			
06361018			

APPENDIX B. TABLES AND FIGURES

APPENDIX C. PUBLIC MEETINGS

Documentation of public outreach

APPENDIX D. MAPS

Appendix of maps in 11x17 sizes.