



TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Lacey G. Simpson, Acting City Manager

DATE: December 7, 2021

RE: **Ordinance No. 21-1938 - Amending Subsections (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled "Lease Terms" Concerning Tidelands Leases**

At its meeting of December 2, 2021, the City Council directed that relative to Draft Ordinance No. 21-1938, Tideland Lease rates should be established at 2.5% of unimproved land value.

The attached ordinance was prepared by City Attorney Mitch Seaver who requested that it be placed before the City Council for consideration at its meeting of December 16, 2021. If adopted, Ordinance No. 21-1938 creates a more uniform and equitable rent structure based on a percentage of the tidelands' real property value. This methodology is in line with methodology used by the Ketchikan Gateway Borough for tideland leases they administer.

The City Attorney and Public Works Director Mark Hilson will be attending the City Council meeting of December 16, 2021, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

It is recommended the City Council adopt the motion approving in first reading Ordinance No. 21-1938 – Amending Subsections (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled "Lease Terms" Concerning Tidelands Leases; and establishing an effective date.

Recommended Motion: I move the City Council approve in first reading Ordinance No. 21-1938 – Amending Subsections (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled "Lease Terms" Concerning Tidelands Leases; and establish an effective date.

THE CITY OF KETCHIKAN, ALASKA

ORDINANCE NO. 21-1938

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
KETCHIKAN, ALASKA; AMENDING SUBSECTIONS (A)
AND (B) OF KETCHIKAN MUNICIPAL CODE 3.16.040
ENTITLED “LEASE TERMS” CONCERNING TIDELANDS
LEASES; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, AS
FOLLOWS:

Section 1: Amendment. Subsection 3.16.040 (a) and (b) of the Ketchikan Municipal Code,
entitled “Lease terms,” is hereby amended to read as follows:

“All leases issued under this chapter shall contain the following minimum terms
and conditions:

(a) Rent. Unless the lessee is a federal, state, or local government agency or a
nonprofit organization, the annual rent shall ~~[not]~~ be **based upon [less than 10]2.5**
percent of the ~~[appraised]~~ **current real property** value of the leased premises
before any improvements were installed, constructed or developed. For
purposes of this chapter “real property value” means that value specified by
the council for certain real property or those certain real property rights that
the council deems representative of current market conditions. This
determination shall be based upon independent appraisals, current assessed
values, or any other information that the council deems relevant and
reliable.~~[In determining rent the council shall consider:~~

~~———(1) Increases in the value of uplands due to the proposed use of the~~

~~tidelands and submerged lands;~~

~~———(2) Estimated inflation over the lease term;~~

~~———(3) The value of improvements to be placed on the tidelands, submerged lands, and uplands; and~~

~~———(4) The estimated costs of any public facilities and public services which will not be paid for by the lessee but which in the council's judgment are related to the uses and improvements described in the development plan.~~

~~The council shall be the sole judge of the weight, if any, to be given to any one of the above considerations. The council's estimates shall be final. The council may disregard any or all of the above considerations when determining what, if any, rent shall apply to leases issued to federal, state, or local government agencies and nonprofit organizations.]~~

(b) Term. The term of the lease shall not exceed 55 years. In determining the term, the council shall consider:

(1) The desirability of the proposed use to the city;

(2) The proposed investment in improvements;

(3) The durability of such improvements; and

(4) The time needed to amortize the proposed investment.

The council shall be the sole judge of the weight, if any, to be given to any of the above considerations. The council's conclusions shall be final. For purposes of this chapter the term of any lease shall be calculated by including all renewal periods provided by the lease. Any lease with a term exceeding five years shall allow the city to adjust the rent every five years based upon **2.5 percent of the current real property value of the leased premises before any improvements**

were installed, constructed or developed. ~~[any of the considerations described in subsection (a) of this section]~~. The lease shall provide for early termination if the lessee violates the terms of the lease and fails to cure the violation within such time as may be provided for in the lease.”

Section 2: Effective Date. This ordinance is effective one (1) month after its final passage and publication.

PASSED ON FIRST READING _____.

FINAL PASSAGE _____.

Dave Kiffer, Mayor

ATTEST:

Kim L. Stanker
City Clerk

FYI: Bracketed language is intended to be removed from the existing ordinance, and underlined language in bold type is intended as an addition to the existing Ketchikan Municipal Code.

EFFECTIVE		DATE: *	
ROLL CALL	YEA	NAY	ABSENT
BRADBERRY			
FLORA			
GAGE			
GASS			
KISTLER			
MAHTANI			
ZENGE			
MAYOR			

December 2, 2021

Amendment No. 7 to LTE in Rural American Master Agreement Between the City of Ketchikan d/b/a Ketchikan Public Utilities and Cellco Partnership d/b/a Verizon Wireless

Moved by Flora, seconded by Bradberry the City Council approve Amendment No. 7 to the LTE in Rural America Master Agreement between City of Ketchikan d/b/a Ketchikan Public Utilities and Cellco Partnership d/b/a Verizon Wireless and authorize the Acting General Manager to execute the amendment on behalf of the City Council.

Motion passed with Bradberry, Flora, Mahtani, Kistler, Gass, Gage and Zenge voting yea.

UNFINISHED BUSINESS

This item was moved to the Consent Agenda

NEW BUSINESS

Presentation by Steve Hayburn – Ketchikan Opioid Epidemic

By report, staff withdrew this agenda item and indicated it would be brought back at the Council meeting of December 16, 2021.

Providing Direction on Draft Ordinance No. 21-1938 – Amending Subsections (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled “Lease Terms” Concerning Tidelands Leases

Moved by Bradberry, seconded by Mahtani the City Council take such action as determined appropriate regarding the presented draft of Ordinance No. 21-1938 – Amending Subsection (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled “Lease Terms” Concerning Tidelands Leases, such changes to Ordinance No. 21-1938 to be presented to the City Council for consideration in first reading at a subsequent City Council meeting.

Acting Manager Simpson explained this ordinance that staff is proposing would modify tideland leases that are currently under City management. She informed the City inherited these leases from the state and currently how the rent value is assessed has no rhyme or reason. She stated each tideland leases are different so this ordinance will create some equity and structure on how to apply a rent to each going forward. She said what they are proposing is that the rent value be at 2.5% of an appraised or tax assessed value of the property, which is in line with what the borough currently does with their tideland leases. She continued if the Council is in agreeance, staff will bring back an ordinance in first reading that incorporates the 2.5%.

Acting Manager Simpson answered questions from the Council.

Motion passed with Gage, Zenge, Bradberry, Flora, Gass, Mahtani and Kistler voting yea.

Sponsorship of the Ketchikan Salmon Walk – Royal Caribbean Group

Moved by Kistler, seconded by Bradberry the City Council accept the sponsorship of Royal Caribbean Group in the amount of \$160,000 towards the proposed 2022 Tourism and Economic Development Department’s Salmon Walk and Salmon Ladder Enhancements capital project and

PUBLIC WORKS / ENGINEERING DEPARTMENT
Mark Hilson, P.E., Public Works Director
Kara Jurczak, P.E., Acting Public Works Director

CITY OF KETCHIKAN
Administrative Offices
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MEMORANDUM

TO: Lacey Simpson, Acting City Manager
CC: Mitch Seaver, City Attorney
FROM: Mark Hilson, P.E., Acting Port & Harbors Director
DATE: November 22, 2021
SUBJECT: **Ordinance No. 21-1938 – Amending Subsections (A) and (B) of Ketchikan Municipal Code Section 3.16.040 Entitled “Lease Terms” Concerning Tideland Leases**

Over the years the City of Ketchikan has accumulated 14 Tideland Leases from the State of Alaska as shown on the attached map, Exhibit A. Historically, this program has provided some revenue to the City, but has been very time consuming to administer for a number of reasons, not the least of which is that program that we inherited was established by the State in piecemeal fashion over a long span of time (60 years). During this span of time, State laws and regulations changed, and so we are left with varying details and requirements in the Tideland Leases. The City of Ketchikan Municipal Code reflects the program that the State had established, and as a result also contributed to the difficulty in administering the Tideland Lease program. Adding to the administrative complexity is that the current program established by City Ordinance is different than the Ketchikan Gateway Borough's (KGB's) current program. The attached Ordinance will eventually simplify the administration of the Tideland Lease program to the extent allowable by State Law by providing for existing leases to be moved to a cleaner, easier to use lease document that is more consistent with the KGB's program. It is envisioned that as leases expire or as leaseholders request it, they would be moved to the new format. Lessee's whose lease is not expired can simply remain subject to the terms of their existing Lease, until expiration. They do not have to switch to the new lease format.

The attached table, Exhibit B, shows the rent rates for each tideland lease based on a 2.5% and 5% unimproved land value. The KGB's program has used various percentages to establish their lease rate, but ultimately settled on 2.5% of land value. I recommend we establish the value at 2.5% of unimproved land value since overall it would produce similar revenue overall when compared to the existing program, and it would be consistent with the KGB's current program.

Existing leaseholder payments would not change until the new Ordinance became effective and a new lease was executed. Leases that do not transfer to the new lease document would be administered, (including upward adjustments) under the terms of the existing lease.

Should City Council adopt the proposed Ordinance, I believe over time it will provide an opportunity to reduce personnel costs associated with administering these leases in the future. Once all leases are moved to the new lease document, future rent escalations would essentially become an accounting exercise based on KGB assessed values.

EXHIBIT B - Tideland Lease

Parcel_Num	Location	Owner_Name	ATS No	SqFt	Apr Land	Rent		
						Current	2.5% Land Value	5% Land Value
013240079000ATS1	SHORELINE DR 4900 BLK	PETRO 49 INC DBA PETRO MARINE SERVI	32	55974	\$ 201,700	\$ 9,800.00	\$ 5,042.50	\$ 10,085.00
013230047100ATS2	N TONGASS HWY 5500 BLK	OLSON MARINE INC - LESSEE	78 TR B	10672	\$ 72,500	\$ 307.14	\$ 1,812.50	\$ 3,625.00
013230048000ATS1	N TONGASS HWY 5500 BLK	LINDEMAN MARY ANN & PORTER RONALD	430	108029	\$ 59,400	\$ 1,404.90	\$ 1,485.00	\$ 2,970.00
013230046000ATS1	NARROWS LN 5500 BLK	OLSON MARINE INC - LESSEE	1641 TR B	31798	\$ 128,000	\$ 278.88	\$ 3,200.00	\$ 6,400.00
013230038200ATS1	N TONGASS HWY 5500 BLK	JLI LLC - LESSEE	1641	30492	\$ 51,500	\$ 486.24	\$ 1,287.50	\$ 2,575.00
013130034500ATS1	SHORELINE DR 4900 BLK	POOL CHARLES & JANICE- LESSEE	1145	67082	\$ 388,200	\$ 7,200.00	\$ 9,705.00	\$ 19,410.00
013230037000ATS2	N TONGASS HWY 5459	JLI LLC - LESSEE	1509	53709	\$ 110,600	\$ 8,056.50	\$ 2,765.00	\$ 5,530.00
013130012000ATS2	N TONGASS HWY 4743	MCCUE RYAN & LOREN - LESSEE	1499 TR B	2518	\$ 8,900	\$ 725.00	\$ 222.50	\$ 445.00
013130012000ATS1			1499 TR A					
011120003000ATS1	N TONGASS HWY 4400 BLK	KRM INC - LESSEE	854	131508	\$ 1,113,000	\$ 11,850.00	\$ 27,825.00	\$ 55,650.00
013240082000ATS1	SHORELINE DR 5121	ROBBINS ROCHARD & HILARY - LESSEE	1022	21344	\$ 42,100	\$ 1,425.00	\$ 1,052.50	\$ 2,105.00
013230036000ATS1	N TONGASS HWY 5459	TEMSCO HELICOPTERS INC - LESSEE	719	27748	\$ 173,800	\$ 2,100.00	\$ 4,345.00	\$ 8,690.00
013130040000ATS1	N TONGASS HWY 4300 BLK	FORRESTER VICTOR D & MYENE - LESSEE	1262	8712	\$ 66,600	\$ 1,455.00	\$ 1,665.00	\$ 3,330.00
013130035000ATS1	N TONGASS HWY 4871	EDGEWATER HOTEL GROUP LLC - LESSEE	1534	67954	\$ 339,700	\$ 7,450.00	\$ 8,492.50	\$ 16,985.00
013230047100ATS3	N TONGASS HWY 5500 BLK	OLSON MARINE INC - LESSEE	1641 TR A	66211	\$ 120,500	\$ 6,000.00	\$ 3,012.50	\$ 6,025.00
					Total:	\$ 58,538.66	\$ 71,912.50	\$ 143,825.00

KGB 2021 Assessed Values of City Leased Tidelands

tidelands072921.xls

updated 11/1/2021 - added Lease Expiration dates from 'Complete State Decision Packet'

updated 11/15/2021 - Exhibit B Baseline