

Proposed by:	Mayor Selmer
Attorney Review:	01/12/2013
	03/26/2013
Port Commission:	03/27/2013
First Reading:	02/07/2013
Second Reading:	03/07/2013
Tabled to:	03/21/2013
Third Reading:	04/04/2013
Vote:	4 Aye 2 Nay 0 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 13-05

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 16 PUBLIC LANDS BY ~~REPEALING~~ AMENDING SECTION 16.02.025, REFERRAL TO VOTERS.

WHEREAS, the ~~repeal of SMC~~ amending Section 16.02.025, referring leases valued at \$250,000 or more to voters for ratification, will increase the efficiency and effectiveness of the Municipality's management of public property; and

WHEREAS, the voter ratification language in SMC 16.02.025 subjects leases of almost any size to ratification by the voters, which inhibits the ability of both the Municipality and potential lessees to plan and develop allowable uses on leased lands in a timely manner; and

WHEREAS, amending the lease value requirement and exempting leases to state agencies from the voter ratification requirement provides a more responsive and timely process for leases of less than \$5 million in value and for leases to state agencies, which, like the Municipality, are subject to the public trust doctrine; and

WHEREAS, the remainder of SMC 16.02, Lease of Lands, provides adequate safeguards to protect the public interest as regards the leasing of public lands, including requirements that land to be leased shall be classified by ordinance for particular land uses and a land use plan approved by the Assembly is publicly posted; that the land be appraised to determine the fair market value of the lease; and that any lease is approved by ordinance, which requires a public process involving thirty days public notice, two readings of the ordinance and a public hearing;

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Skagway Municipal Code by ~~repealing~~ amending section 16.02.025, Referral to Voters.

Section 3. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. Skagway Municipal Code Title 16 Public Lands amended as follows:

Chapter 16.02
LEASE OF LANDS

Sections:

- 16.02.010 Definitions.
- 16.02.020 Lands available for leasing.
- 16.02.025 Referral to voters.
- 16.02.030 Applications, fees, terms, payment.
- 16.02.040 Appraisal.
- 16.02.050 Rights prior to leasing.
- 16.02.060 Public use.
- 16.02.070 Review.
- 16.02.080 Term of leases.
- 16.02.090 Public notice.
- 16.02.100 Appeal.
- 16.02.110 Completion of bid requirements.
- 16.02.120 Issuance of lease.
- 16.02.130 Negotiated leases
- 16.02.140 Responsibility to properly locate on leased premises.
- 16.02.150 Approval of other authorities.
- 16.02.160 Terms and conditions of leases.

16.02.025 Referral to voters.

- A. Where required by subsection B, the qualified voters of the municipality shall ratify the ~~sale, lease or other disposal~~ of real property or an interest therein by voting to approve or not approve the ordinance providing for the terms and conditions of the subject disposal. Ratification shall be by a majority of the qualified voters voting at a general or special election at which the question of ratification of the ordinance is submitted. In addition to federal government notice requirements, thirty (30) days' notice shall be given of the election, and during that period the borough assembly shall have published in the municipality a notice stating the time of the election and the place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the proposed sale, and stating the time and date of passage of the ordinance. Notice shall also be given by posting a copy of the ordinance in at least three (3) public places in the municipality at least thirty (30) days before the election. **Subsection B shall not apply to leases between the municipality and any subdivision of the State of Alaska or between the municipality and any agency or corporation of the State of Alaska authorized to enter leases and enter contracts.**
- B. Ratification of the ordinance by the voters shall be required when the value of the lease payments over the entire term of the lease exceed ~~two hundred fifty thousand dollars (\$250,000.00)~~ **five-million dollars (\$5,000,000.00)**. This value shall be estimated by multiplying the number

of years in the entire lease term times the average annual rent for the first five (5) years, notwithstanding the possible future adjustment of the annual rent for subsequent five (5) year segments of the lease term pursuant to provisions of this chapter. A renewal option exercisable at the discretion of the lessee shall be counted in determining the term of the lease for purposes of this subsection. **Subsection B shall not apply to leases between the municipality and any subdivision of the State of Alaska or between the municipality and any agency or corporation of the State of Alaska authorized to enter leases and enter contracts.**

Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.


Section 5. Effective Date. This ordinance shall become effective on April 22 **June 3**, 2013, **or** upon preclearance by the U.S. Department of Justice, **whichever is later.**

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 4th day of April, 2013.



Stan Selmer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

