

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2018-18

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 18 "PROPERTY ACQUISITION AND DISPOSAL" AND TITLE 19 "BUILDING AND CONSTRUCTION" OF THE SITKA GENERAL CODE BY MODIFYING CHAPTER 18.12 "REAL PROPERTY DISPOSAL", CHAPTER 18.16 "TIDELAND LEASE PROCEDURE", AND CHAPTER 19.07 "DEMOLITION OR REMOVAL OF MUNICIPALLY OWNED BUILDINGS"

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to amend Title 18 and Title 19 by deleting and modifying language in sections of the identified chapters that require voter ratification for the sale or disposal of real property valued over five hundred thousand dollars, or upon lease of real property, including tidelands, of a value of more than seven hundred fifty thousand dollars. This amendment repeals provisions of the Sitka General Code believed unconstitutional because they have the effect of making or repealing an appropriation of public assets and because they interfere with the Assembly's exclusive ability to allocate funds among competing issues.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code be amended as follows by deleting and modifying language in the following sections: 18.12.010.B; 18.12.010.C; 18.12.010.F; 18.12.014.A; 18.12.014.B; 18.16.030; 18.16.170; 18.16.200; 18.16.220; and 19.19.040 (deleted language stricken, new language underlined):

Title 18
PROPERTY ACQUISITION AND DISPOSAL

- 18.04 General Provisions
18.08 Personal Property Acquisition and Disposal
18.12 Real Property Disposal
18.16 Tideland Lease Procedure
18.20 Tideland Permits
18.24 Abandoned Property
18.32 Public Improvements Bonding Requirements

52 **Chapter 18.12**
53 **REAL PROPERTY DISPOSAL**
54
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56 Sections:

57 18.12.010 Real property disposal.

58 ~~18.12.014 Requirement for a public vote and disclosure of information for land disposals~~
59 ~~related to a dock or vessel transfer facility that could be used by large cruise ships.~~

60 18.12.015 Street and public area vacations.
61

62 **18.12.010 Real property disposal.**

63 A. Real property, including tidelands, and land acquired from the state, may be sold or leased
64 only when authorized by ordinance. Lease of space within municipal buildings that are of a
65 value of less than one thousand dollars shall be treated as disposals of personal property
66 without ordinance. All other leases of space within a municipal building shall be treated as
67 disposal of real property under this chapter.
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69 Note: The value of a lease shall be determined by multiplying the monthly or annual rent by the
70 term of the lease.
71

72 ~~B.— Upon sale or disposal of real property valued over five hundred thousand dollars, or upon~~
73 ~~lease of real property, including tidelands, of a value of more than seven hundred fifty thousand~~
74 ~~dollars, the ordinance authorizing the sale, lease, or disposition shall provide that the ordinance~~
75 ~~be ratified by a majority of the qualified voters voting at a general or special election. Any such~~
76 ~~sale, lease, or disposition shall be revocable pending the outcome of the election. This~~
77 ~~subsection shall not apply to leases at the former Alaska Pulp Corporation mill site, and the~~
78 ~~property leased under Ordinance 99-1539.~~
79

80 ~~B. C.~~ No election, ratification by the electorate, or competitive bid is required for exchange of
81 municipal property, both real and personal, including tidelands, or any interest in property, with
82 the United States, the state of Alaska, or a political subdivision.
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84 Such disposals to other governmental units, shall be done by ordinance.
85

86 ~~All leases of real property and tidelands approved by the assembly and signed by the lessee~~
87 ~~prior to the date of enactment of the ordinance codified in this title are confirmed and ratified and~~
88 ~~voter ratification is waived. (Enactment date September 27, 1983).~~
89

90 ~~C. D.~~ The lease of any municipal property on a temporary basis may be made by the
91 administrator upon motion of the assembly without ordinance. Temporary shall be defined as
92 any lease terminable at the will of the municipality where no more than thirty days prior notice of
93 intent to terminate is required.
94

95 ~~D. E.~~ Sale or lease of municipal real property, including tidelands shall be by competitive bid,
96 unless the assembly finds that competitive bidding is inappropriate, due to the size, shape, or
97 location of the parcel, rendering it of true usefulness to only one party, or is waived by
98 subsection ~~B C~~ of this section. The assembly may also find that competitive bidding is
99 inappropriate due to the nature of the property or the circumstances surrounding its disposal to

100 include possible unjust results with regard to the existing lessee, or adjacent or neighboring
101 property owners.

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103 ~~E. F.~~ When it is deemed advantageous to the municipality, it may trade uplands or tidelands
104 for other land of approximately equal size or value. ~~Should the municipal property in question be~~
105 ~~of such size or value or to such a class of grantee as to require an election before conveyance~~
106 ~~of title can be made, the requirements and procedures concerning such election shall apply.~~

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108 ~~E. G.~~ The administrator is authorized to sign all municipal lease and conveyance documents.
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110 **~~18.12.014 Requirement for a public vote and disclosure of information for land disposals~~**
111 **~~related to a dock or vessel transfer facility that could be used by large cruise ships.~~**

112 ~~A. Notwithstanding Sections 2.38.080(A)(7) and 2.38.090 or any other provision of law, any~~
113 ~~ordinance authorizing the sale, lease or disposal of any real property of the city and borough for~~
114 ~~a dock or vessel transfer facility that could be used by cruise ships exceeding three hundred~~
115 ~~feet in length shall be effective only after an affirmative vote of the electorate. Not less than~~
116 ~~thirty days prior to the election, the city and borough shall make available to the electorate the~~
117 ~~terms of the proposed sale, lease or disposal of real property and a summary of the direct~~
118 ~~anticipated costs to the city and borough.~~

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120 ~~B. This section applies to tidelands and other real property owned by the city and borough,~~
121 ~~including any real property in Sawmill Cove.~~

122
123 **18.12.015 Street and public area vacations.**

124 A. Petition. No street, alley or public thoroughfare or any part thereof shall be vacated except
125 upon petition of the owners of the majority of the front feet of the land fronting upon the part of
126 the street, alley or public thoroughfare sought to be vacated.

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128 B. Title to Vacated Area. Title to the street or other public area vacated on a plat, attaches to
129 the lot or lands bordering the area in equal proportions;

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131 except that if the area was originally dedicated by different persons, original boundary lines shall
132 be adhered to so that the street area that lies on one side of the boundary line shall attach to the
133 abutting property on that side. The portion of a vacated street that lies inside the limits of a
134 platted addition attaches to the lots of the platted addition bordering on the area. If a public
135 square is vacated, the title to it vests in the municipality. If the property vacated is a lot, title
136 vests in the rightful owner.

137
138 C. Payment.

139 1. If the municipality acquired the street or other public area vacated for legal
140 consideration or by express dedication to the municipality, other than as a subdivision
141 platting requirement, before the final act of vacation, the fair market value, as required by
142 AS 29.40.160(b), shall be deposited by the petitioner or petitioners with municipality to be
143 paid to the permanent fund upon vacation.

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145 2. If the person or persons petitioning for vacation is, or are, the original subdividers who
146 established the street, alley, or public thoroughfare, or portion thereof, sought to be
147 vacated, then the municipality may vacate the same without payment of any kind being

148 acquired from the petitioner or petitioners or the property owner or owners who receive the
149 property by virtue of vacation.

150
151 3. If the person or persons petitioning for the vacation are not the original subdividers,
152 but the municipality acquired the street, alley, or public thoroughfare or portion thereof as a
153 result of a subdivision platting requirement, before the final act of vacation, the petitioner
154 or petitioners or the owners of the land fronting upon that part of the street, alley, or public
155 thoroughfare sought to be vacated shall be required to pay the amount determined by the
156 assembly.

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Chapter 18.16 TIDELAND LEASE PROCEDURE

Sections:

- 18.16.010 Generally.
- 18.16.020 Leases and permits.
- 18.16.030 Government leases and permits.
- 18.16.040 Classes of approval for permits and leases.
- 18.16.050 Procedures and fees for Class I, Class II, and Class III approvals.
- 18.16.060 Class IIA, Class IIB, and Class IIC approvals – Application requirements.
- 18.16.070 Class IIA, Class IIB, and Class IIC – Notification requirements.
- 18.16.080 Class IIA, Class IIB, and Class IIC review – Planning commission.
- 18.16.090 Class IIA and Class IIB review – Assembly.
- 18.16.100 Class III – Pre-application advice.
- 18.16.110 Class III – Formal application.
- 18.16.120 Class III – Plat requirements.
- 18.16.130 Class III – Lease preference rights and nonpreference rights.
- 18.16.140 Class III – Notification of upland owner.
- 18.16.150 Class III – Preliminary approval.
- 18.16.160 Class III – Notice of auction and intended lease.
- 18.16.170 ~~Reserved. Class III – Ratification by voters.~~
- 18.16.180 Class III – Protest.
- 18.16.190 Class III – Determination of lease price.
- 18.16.200 Class III – Lease by ordinance.
- 18.16.210 Class III – Annual lease payments and terms.
- 18.16.220 Class III – Direct lease by municipality.
- 18.16.230 Execution of permit and lease documents.

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18.16.030 Government leases and permits.

When leases or permits are issued to other local, state, or federal governmental units or a corporation or agency through which the governmental unit acts, there is no limit to the front footage obtainable, or valuation limit, and no requirement of an election as set out by Sections 18.12.010 and 18.16.110, and no consideration for such a lease shall necessarily be required.

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18.16.170 ~~Reserved.~~ Class III – Ratification by voters.

~~Lease of tidelands to other than preference right holders for areas which have more than two hundred fifty feet of frontage along the upland meander line, or lease of any tidelands valued above seven hundred fifty thousand dollars, shall be submitted to the voters for election ratification. This section shall not apply to leases at the former Alaska Pulp Corporation mill site, and the property leased under Ordinance 99-1539.~~

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18.16.200 Class III – Lease by ordinance.

~~Should the auction be held and a bid accepted by the assembly, the lease shall be executed subject to passage of an ordinance authorizing the lease. If the lease is subject to ratification by the voters, the authorizing ordinance should also authorize putting the question to the voters at the next regular or special municipal election.~~

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18.16.220 Class III – Direct lease by municipality.

~~By ordinance the municipality may elect to lease tidelands upon its own initiative upon such terms as are set out in the ordinance.~~

~~Tidelands leased by the direct lease procedure shall be subject to a ratification election whenever applicable by other sections of the Sitka General Code.~~

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**Title 19
BUILDING AND CONSTRUCTION**

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**Chapter 19.19
DEMOLITION OR REMOVAL OF MUNICIPALLY OWNED BUILDINGS**

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Sections:

- 19.19.010 Assembly authority.
- 19.19.020 Bidding.
- 19.19.030 Buildings considered personal property.
- 19.19.040 Authorization by ordinance ~~or election.~~
- 19.19.050 Value determination.
- 19.19.060 Scope.

* * *

245 **19.19.040 Authorization by ordinance ~~or election.~~**
246 If the value of the building exceeds twenty-five thousand dollars, its removal or demolition shall
247 be authorized by ordinance. ~~If the value is more than one hundred thousand dollars, the~~
248 ~~removal must be approved by the voters at a general or special election.~~

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251 **5. EFFECTIVE DATE.** This ordinance shall become effective the day after the
252 dates of its passage.

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254 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of
255 Sitka, Alaska, this 12th day of June, 2018.

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Matthew Hunter, Mayor

259 ATTEST:
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263 Sara Peterson, MMC
264 Municipal Clerk
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266 1st reading 4/25/18
267 2nd reading 5/8/18 postponed
268 2nd reading 6/12/18