

Chapter 23

REAL PROPERTY ACQUISITION, MANAGEMENT, AND DISPOSAL

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Section 4.23.010 Rights, Powers and Duty of City.

- A. The city shall have and may exercise all rights and powers to acquire, own, hold, dispose of and manage real property, both inside and outside the city.
- B. The City holds all real property in Trust for the benefit of the public and shall manage and dispose of such property in a manner consistent with that trust; the City must insure that the public receives fair and reasonable compensation or benefit from city actions in the disposal of real property.

Section 4.23.020 Acquisition of Real Property.

- A. Except as may be prohibited by law, the city may acquire, own and hold real property inside or outside the city boundaries by purchase, lease, exchange, transfer, dedication, gift, condemnation or declaration of taking under the city's power of eminent domain, tax or special assessment foreclosure, or any other legal method.
- B. Unless otherwise directed by the council, the mayor, without further council approval, may acquire real property by negotiated purchase when:
 - 1. The real property has been identified by the council for acquisition or is required for a project approved by the council;
 - 2. Funds have been appropriated for the acquisition; and
 - 3. The real property is acquired for a price not exceeding either fair market value or the amount budgeted for the real property.

- C. Under the direction of the council, the mayor may, after failure of negotiations for real property under the conditions set out in subsection B, initiate acquisition by condemnation or declaration of taking.
- D. The selection of real property to be acquired pursuant to an entitlement under AS 29.65, or under Section 14 (c)(3) of the Alaska Native Claims Settlement Act P.L.(92-203), as amended, or under any other entitlement must be approved by the council by resolution as set out in subsection G. Any conveyance or agreement purporting to be in complete satisfaction of any entitlement is ineffective until approved by the council by ordinance.
- E. Except as provided in subsection B, any acquisition of property for a valuable consideration, including an exchange, shall be by ordinance.
- F. All acquisitions by gift, donation, bequest, or dedication other than a dedication through a subdivision plat approved by the city platting authority, or any other method not involving the giving of valuable consideration and not covered by a subsection D shall be in accordance with the terms and conditions approved by the council by resolution.
- G. Before acquiring real property for a valuable consideration, the mayor shall obtain a title report on, and shall determine the fair market value of, the real property. The mayor, with the approval of the council, may waive the requirement for a title report upon a determination that the risk involved or the interest to be acquired does not warrant a title report. The determination of fair market value may be by means of a fee appraisal or such reasonable estimates as the mayor, with the approval of the council, finds to be reliable or appropriate under the circumstances.
- H. All real property shall be held in the name of the City of Cold Bay.

Section 4.23.030 Economic Development Sites.

The City may acquire, own and hold real property, either inside or outside the city boundaries, as sites available for new industries which will benefit the city.

Section 4.23.040 Temporary use of City Lands.

- A. The Mayor with the approval of the council may issue special land use permits for the exclusive or non-exclusive, temporary, non-consumptive use of city lands. A special land use permit does not convey an interest in the land and may be revoked upon a 30 day notice, unless a shorter period is provided for in the permit; or may be revoked without prior notice for breach of a condition of the permit. Unless otherwise agreed to in writing, the land must be restored to its original condition upon expiration or revocation of the permit. Easements shall not be granted under a special land use permit.

- B. Upon receipt of application for a temporary land use permit where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area, the mayor shall post a notice of the application, including the date upon which the council will hear persons or receive comments on the proposed application. When significant adverse comment is received, a public hearing shall be held. The date of the hearing must be at least two weeks after the first day upon which the notice is posted. After the hearing, the council may, by motion, authorize the issuance of the permit and may impose such restrictions as it deems appropriate.
- C. A special land use permit and all extensions and renewals thereof may not exceed one year except upon council approval. Special land use permits are not transferable.
- D. Fees charged for a special land use permit shall be in accordance with a fee schedule established by the council.

Section 4.23.050 Casual use of City Lands.

- A. Except as provided in subsection B and C, no city land is open to public use.
- B. Land which has been acquired or improved by the city for a public function may be opened to public use under such terms and conditions as the city may prescribe.
- C. Land which has been designated by the city as casual use land is open to the public for casual use without permit or lease; provided, the city makes no warranty as to the natural or artificial conditions of such land. Persons who use such land do so at their own risk as to natural and artificial conditions of the land and, by such use, waive their right to recover from the city for any injury or death occurring on the land not attributable to reckless or intentional misconduct of the city. No fee may be charged for casual use of city land.

Section 4.23.060 Disposal of Real Property.

- A. Except for real property acquired or developed for or dedicated or devoted to a governmental purpose, the city holds all real property in a proprietary capacity as a city resource. The disposal of all real property not covered by disposal methods under other sections of this chapter will be processed in accordance with this section.
- B. The disposal must be authorized by ordinance which must contain:
 - 1. A description of the property;
 - 2. A finding and the facts that support the finding that the property or interest is no longer required for a public purpose;
 - 3. The type of interest to be disposed of if less than a fee interest;

4. Conditions and reservations that are to be imposed upon the property;
5. The fair market value of the property;
6. The minimum disposal price of the property;
7. The method of disposal, including time, place and dates when relevant;
8. Special conditions for the disposal, including, when relevant, special qualifications of purchasers and purchase terms; and
9. A finding and the facts supporting the finding of the public benefits to be derived if the disposal is to be for less than market value.

Section 4.23.070 Methods of Disposal.

Disposal of real property may be by sealed bids, outcry auction, lottery, negotiation, or such other method as the council may provide in the ordinance authorizing the disposal.

Section 4.23.080 Price for Disposal.

- A. Unless otherwise provided in the resolution authorizing the disposal, the disposal shall be at not less than the fair market value as determined by a fee appraisal, by the city's assessor valuation, or by such reasonable estimates as the mayor or council finds to be reasonable or appropriate under the circumstances.
- B. A disposal for less than fair market value may be made only upon a determination by the council that the public benefits to be realized from the disposal is equal to or exceeds the reduction in value of the consideration to be received by the city. If a disposal at less than market value is to be made to a private entity or person and the reduced price is justified by an identified use, the conveyance document must contain a clause restricting the use of the property to the identified use. The council may limit the time during which the use restriction applies. When determined appropriate by the council, the conveyance document must also include a clause providing for the reversion to the city of the real property upon the failure of the real property to be used for the identified use.
- C. Uses and purposes that may justify a disposal at less than market value include, but are not limited to:
 1. Use for a governmental or governmental type of service;
 2. Use for a new business or industry;
 3. Use that promotes economic development;
 4. The purpose of increasing the availability of land if the council has determined that the land values in an area are inflated because of scarcity of land in private ownership or that such disposals are necessary to stimulate or reduce the cost of new housing construction; and
 5. The purpose of settling boundary or other land disputes.

- D. A conveyance to the state, the federal government, another local government, or to a governmental agency may be made at less than the market value if the council, in its sole discretion, determines the conveyance should be authorized. Such conveyances may, but need not, contain restrictions on use, reverter clauses and be for some consideration.

Section 4.23.090 Conveyances to Native Tribes or Councils.

Real property may be conveyed to a Native tribe or council organized under Section 16 or 14 of the Indian Reorganization Act of 1934 as amended (25 U.S.C.A. 446,444) only if the tribe or council gives to the city a waiver of immunity from suit for the purpose of the provision enforcement of the conveyance and associated instruments.

Section 4.23.100 Form, Fees and Standard Terms.

- A. The mayor may establish procedures and forms for the processing of requests, applications and disposals under this chapter.
- B. The council may approve standard terms to be included in leases, licenses, permits and other conveyance documents. Upon such approval, all conveyances to which the standard terms are applicable shall include such terms unless modified or waived if the council or the mayor, with council approval, determines that one or more terms are inappropriate or must be modified or deleted to meet the intent or purpose of the land conveyance authorization.

Section 4.23.110 Definitions.

The following words have the meaning ascribes in this chapter unless the context clearly indicates a different meaning.

- A. "Casual Use" means the temporary, safe, non-exclusive use of city land in a manner that does not disturb the surface and includes but is not limited to such uses as hiking, hunting, fishing, shot term camping, picnicking, operation of all terrain and similar vehicles and berry picking.
- B. "Conveyance" means the voluntary transfer of real property from one person or entity to another.
- C. "Fair Market Value" means the price of a property would bring in a sale between a willing buyer and a willing seller, both being fully informed as to all relevant conditions of the property when the property has been exposed for sale for a reasonable period of time.
- D. "Hazardous or Obnoxious Use" means a use involving a danger or a risk of damage to property or injury to persons or a use the ordinary person would find offensive.

- E. "Mayor" means the mayor of the City of Cold Bay or a person designated by the mayor for the purpose of discharging any duty or right of the mayor under this chapter.
- F. "Posting" means the posting in three regular posting places within the city at which public notices are posted, a notice of the action proposed, along with the date, time, and place or address at which a hearing will be held or to which comments are to be sent.
- G. "Real Property" includes interest in real property as well as rights to real property, and includes, but is not limited to, leases, easements, security interests, licenses, permits and options.