

CITY OF TOLEDO

ORDINANCE NO. 1342

AN ORDINANCE ADOPTING CHAPTER 3.12 OF THE TOLEDO MUNICIPAL CODE PROVIDING FOR THE DISPOSAL OF CITY-OWNED SURPLUS REAL PROPERTY; AND, DECLARING AN EMERGENCY.

WHEREAS, the City of Toledo owns certain parcels of real property which may not be needed for public use or that the public interest may be furthered by disposal of such real property; and

WHEREAS, the City of Toledo desires to adopt a procedure for the sale of a class of city-owned real properties, or any interest therein, under a single program established within the city for the sale of that class of properties pursuant to ORS 221.727,

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

SECTION 1.

Sections 2 through 9 of this Ordinance are added to and made a part of the Toledo Municipal Code, Chapter 3.12, as indicated.

SECTION 2.

3.12.010 Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Disposal" or "dispose" means the sale, lease, exchange or donation of real property.
- B. "Lease" means a tenancy in real property granting the right of possession for a specified term for consideration. "Lease" does not include a permit, license or franchise to use any City-owned or controlled real property or public way.
- C. "Real property" means any interest in real property owned by the City within or without the geographic limits of the City.

SECTION 3.

3.12.020 Qualification-Classification.

Real property qualifying for the procedure established in this chapter is classified as follows:

- A. Substandard Undeveloped Property. Parcels with no structures thereon which are not of minimum buildable size for the zone in which located, and parcels that do not meet the City's existing development code;
- B. Standard Undeveloped Property. Parcels with no structures thereon which are of minimum or greater buildable size for the zone in which located;
- C. Developed Property. Parcels of any size with structures thereon;
- D. Special-case Property. Parcels that, notwithstanding subsections A, B and C of this section, were acquired by the City for capital improvement as defined by this code and were purchased subject to an agreement for the manner in which any surplus would be disposed.

SECTION 4.

3.12.030 Real property disposal – scope.

Real property owned by the City shall be disposed of as provided in this Chapter unless another procedure is specified in this Code or approved by Council. Before disposing of any real property under this Chapter, the City shall find either that the property is not needed for public use or that the public interest may be furthered by disposal of such real property. In determining whether to dispose of real property, the City in its discretion may consider whether to establish certain requirements as conditions of the transaction, such as requiring that the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and other conditions the City may deem appropriate. Nothing in this Chapter shall require additional procedures or limit the authority of the City Manager to issue any permits or licenses authorized by this Code.

SECTION 5.

3.12.040 Inventory of real property.

- A. The City Manager shall establish and maintain an inventory of all real property and improvements titled in the name of the City and all real property and improvements to which the City has an equitable or fee simple title. The inventory shall include properties acquired through tax sales, grants, purchases, eminent domain, or by operation of law, including property transferred to the City from other governmental agencies. The inventory shall also include the classification of each property as determined by the City Manager. Properties used for public rights-of-way shall be inventoried separately.
- B. The City Manager shall present the inventory to the City Council no later than the first day of October each year. Only those properties which are contained within the inventory shall be permitted to be proposed for lease, sale, or disposal. Revisions to the inventory or classifications shall be submitted as necessary.

SECTION 6.

3.12.050 Disposal of substandard undeveloped property.

A. Whenever a particular parcel or parcels is proposed for sale by the City, or purchase inquiry is made, and the property is classified as substandard undeveloped property, the matter shall be set on the regular Council agenda, but no public hearing is required. Except as otherwise provided in this section, notice of the agenda item shall be given to all property owners within 250 feet of the parcel’s boundary line and to any parties who have inquired about the purchase. If the City has issued a request for bids seeking purchasers of the property and provided the request for bids to property owners within 250 feet of the parcel’s boundary line and to those who have inquired about purchasing the property, notice need only be provided to those who have submitted a bid proposal. After discussion of the agenda item, the Council shall determine whether it will offer the property for sale.

B. If the City Council decides to sell the property, it will direct the City Manager or designee to take further action to sell the property. The City Council may authorize the City Manager or designee to publicize as appropriate, determine the existence of interested prospective purchasers, and negotiate for the sale of the property. Nothing in this section shall preclude the City Manager or designee from taking preliminary actions, including publicizing a possible sale, determining the existence of interested prospective purchasers, and issuing a request for bids prior to the City Council’s decision, so long as the City does not enter into a binding agreement without City Council authorization.

C. The City Council shall have the final authority to approve or disapprove the final terms of the sale. The City Council may pre-approve terms and the agreement form at the meeting at which it determines to sell the property. If the City Council does not pre-approve terms and the agreement form at its initial meeting or if alternate terms or agreement form are proposed, the City Council shall at a later regularly scheduled Council meeting consider approval of the terms and agreement form.

SECTION 7.

3.12.060 Disposal of standard undeveloped property and developed property.

A. Whenever a particular parcel or parcels is proposed for sale by the City or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the matter shall be set for a hearing before the Council.

B. Notice of said hearing shall be published not less than once a week in a newspaper of general circulation in the City for two successive weeks prior to the hearing, and shall describe the property proposed for sale.

C. Prior to the sale of a parcel under this section, an appraisal of the property shall be conducted. At the discretion of the Council, such an appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing at the discretion of the Council.

D. Public testimony shall be solicited at the hearing to determine if a sale of any parcel is in the public interest, and the property is not needed for public use.

E. After the hearing, the Council shall determine whether it will offer the property for sale and what the minimum acceptable terms shall be.

F. If an offer to sell is authorized by the Council, the Council shall decide whether to sell the property to the highest bidder at a public sale, by sealed bid, or directly to the purchase inquirer on terms established by the Council. A notice advertising the public sale or soliciting sealed bids shall be published at least once in a newspaper of general circulation in the City be made a least two weeks prior to the sale or bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, and if applicable, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.

G. If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the City Manager or designee shall complete the sale.

H. If no acceptable bids are received on a particular parcel: (1) the Council may alter or keep the same minimum terms as established under subsection E of this section and direct staff to hold another sale, or (2) the Council may alter or keep the same minimum terms established under subsection E of this section and list the property for six months with a local real estate broker on a multiple listing basis. A listing may be renewed for an additional one six-month period.

I. After expiration of the period set out in subsection H of this section, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require that the entire procedure set forth in this chapter be repeated. The Council may, however, decide whether or not an additional appraisal is necessary.

SECTION 8.

3.12.070 Disposal to other public entities.

When disposing of real property to the federal or state government or any of their agencies or political subdivisions, the Council may act without complying with the provisions of Section 3.12.050 and 3.12.060 when the disposal is for a specific public use.

SECTION 9.

3.12.080 Lease of surplus real property.

When real property is determined by the City Manager to be suitable for tenant occupancy and that occupancy is consistent with the public purpose for which it was acquired or not be needed for the public purpose for which it was acquired for up to five years, the City Manager may lease all or any part of it to another for a term not to exceed five years at fair market rent. If a potential tenant who desires to lease real property from the City is tax-exempt nonprofit, the City Manager shall have the discretion to lease the real property for rent that is less than fair market value. The

City Manager may require additional lease terms and conditions consistent with the public health, safety and welfare.

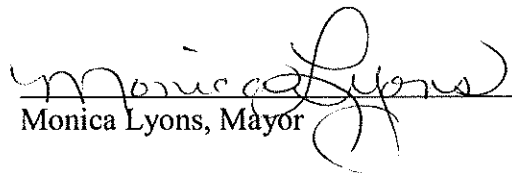
SECTION 10.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED AND ADOPTED by the City Council of the City of Toledo, Oregon on this 2nd day of November, 2011:

APPROVED by the Mayor of the City of Toledo, Oregon, on this 8th day of November, 2011.

APPROVED



Monica Lyons, Mayor

ATTEST:



Nancy Bryant, City Recorder