

ORDINANCE 23-5864

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA CITY
CODE (BMCC) BE AMENDED BY AMENDING ARTICLE
22-900 – SALE, EXCHANGE OR DONATION OF CITY
REAL PROPERTY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 22-900 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

***ARTICLE 22-900. - SALE, EXCHANGE, OR DONATION OF CITY REAL
PROPERTY***

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

Sec. 22-902. Sale, exchange, or donation of city real property.

- a. Subject to the provisions below, the city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose.
- b. The city council may sell city owned property by public auction, direct negotiated sale, or by competitive sealed bid following adoption of a resolution of intent referenced below in subsection e. Regardless of which process is used, the city council shall have the authority and discretion to select the bid or offer that is in the best interest of the city, conditionally accept a bid or offer, or it may reject any and all bids or offers.
- c. Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections e. and f. and approve a resolution of intent to sell, exchange, or donate the property when considering the sale, exchange, or donation to another governmental entity.

- d. In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.
- e. Prior to selling, exchanging, or donating real property, the city council must hold a public hearing and find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Notice of the public hearing must be provided as required by MCA 7-1-4127. In addition, notice of the public hearing must be placed on the subject property for no less than seven (7) days prior to the public hearing to consider the resolution of intent to sell, exchange, or donate city owned property.
- f. If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide notice of the proposed sale, donation, or other transfer and publish the resolution of intent as provided in MCA 7-1-4127.
- g. Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.
- h. The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to prepare all appropriate documents for signature by the mayor.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the 13th day of November, 2023.

PASSED, ADOPTED and APPROVED on second reading this 11th day of November, 2023.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

City Council Regular

Date: 11/27/2023
Title: Second reading of ordinance amending Article 22-900 - Sale, exchange, or donation of city real property
Presented by: Gina Dahl
Department: Legal
Presentation: No
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends Council approve second reading of the ordinance.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On September 18, 2023, Council discussed a proposal to amend city code which would generally revise the enabling legislation regarding acquisition and disposition of city real property. Based on the feedback, Council was reluctant to proceed with more comprehensive amendments increasing the city administrator's authority.

On October 2, 2023, staff presented an alternative version of amendments to Article 22-900 to Council at a work session. This proposed ordinance only modify provisions related to the disposition of City owned property and does not include any amendments adding a delegation of authority to staff or any provisions related to easements or the purchase of property. The proposed ordinance would amend BMCC section 22-902 to provide additional options for Council to dispose of city property. Currently, property must be advertised for competitive bid prior to the sale, exchange, or donation. Staff seeks to include the option to negotiate a sale directly or to utilize a public auction.

The ordinance also contains some clarifying language regarding the process involved in disposing of property. The process outlined in the amendment is not different from the process currently followed under section 22-902 except for the notice provision. The notice provision proposed in this ordinance would amend this section to make the requirements consistent with the public notice requirements contained in Montana law for publication of notices with the exception of an additional requirement requested by Council that a notice be placed on the property prior to Council consideration of whether to dispose of property.

A public hearing on the first reading was held on November 13, 2023, and was approved by a majority of Council.

ALTERNATIVES

City Council may:

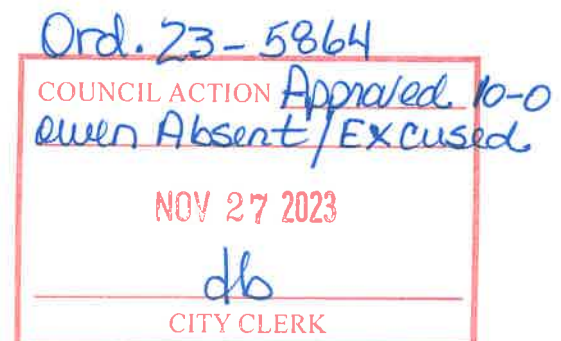
- Approve; or,
- Not Approve

FISCAL EFFECTS

No direct fiscal effects. However, the amendments are designed to create more interest in the purchase of city properties for sale.

Attachments

Ordinance
Ordinance - redlined



ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA CITY
CODE (BMCC) BE AMENDED BY AMENDING ARTICLE
22-900 – SALE, EXCHANGE OR DONATION OF CITY
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Sec. 22-901. State law superseded.

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Sec. 22-902. Sale, exchange, or donation of city real property.

- a. Subject to the provisions below, the city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose.
- b. The city council may sell city owned property by public auction, direct negotiated sale, or by competitive sealed bid following adoption of a resolution of intent referenced below in subsection e. Regardless of which process is used, the city council shall have the authority and discretion to select the bid or offer that is in the best interest of the city, conditionally accept a bid or offer, or it may reject any and all bids or offers.
- c. Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections e. and f. and approve a resolution of intent to sell, exchange, or donate the property when considering the sale, exchange, or donation to another governmental entity.

- d. In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.
- e. Prior to selling, exchanging, or donating real property, the city council must hold a public hearing and find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Notice of the public hearing must be provided as required by MCA 7-1-4127. In addition, notice of the public hearing must be placed on the subject property for no less than seven (7) days prior to the public hearing to consider the resolution of intent to sell, exchange, or donate city owned property.
- f. If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide notice of the proposed sale, donation, or other transfer and publish the resolution of intent as provided in MCA 7-1-4127.
- g. Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.
- h. The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to prepare all appropriate documents for signature by the mayor.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the _____ day of _____,
2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of
_____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ORDINANCE 23-_____

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PROVIDING THAT THE BILLINGS, MONTANA CITY
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Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

Sec. 22-902. Sale, exchange, or donation of city real property.

a. (1) Subject to the provisions of subsections (a) and (b) below, the city council has the authority to may sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present.

b. The city council may sell city owned property by public auction, direct negotiated sale, or by competitive sealed bid following adoption of a resolution of intent referenced below in subsection e. Regardless of the which bid process is used, shall advertise for competitive bids on any real property prior to sale, exchange, or donation. The city council shall have the authority and discretion to select the bid or offer that is in the best interest of the city, conditionally accept a bid or offer, or it may reject any and all bids or offers.

a. Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections (a)e. and (b)f. and approve a the Resolution of intent to sell, exchange, or donate the

property described above when considering the sale, exchange, or donation to another governmental entity.

c.

b. In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.

d.

e. Prior to selling, exchanging, or donating ~~said~~ real property, the city council must hold a public hearing and find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Notice of the public hearing must be provided as required by MCA 7-1-4127. In addition, notice of the public hearing must be placed on the subject property for no less than seven (7) days prior to the public hearing to consider the resolution of intent to sell, exchange, or donate city owned property.

the city administrator or his/her designee shall:

f. (a) If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide Publish notice of the proposed sale, donation, or other transfer and by publishing the resolution of intent as required by provided in MCA 7-1-4127.

d. in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange, or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.

e. (b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange, or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.

f. (2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.

g.

g-h. (3) —The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to ~~the~~ prepare all appropriate documents for signature by the mayor.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the _____ day of _____, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date: 11/13/2023
Title: Public hearing and first reading of ordinance - amendment to Article 22-900 Sale, Exchange, or Donation of City Real Property
Presented by: Gina Dahl
Department: Legal
Presentation: Yes
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff requests Council conduct a public hearing and approve the first reading of the ordinance amending Article 22-900 Sale, Exchange or Donation of City Real Property.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On September 18, 2023, Council discussed a proposal to amend city code which would generally revise the enabling legislation regarding acquisition and disposition of city real property. Based on the feedback, it appeared Council was reluctant to proceed with the amendments and was not comfortable delegating certain authority to the city administrator.

On October 2, 2023, staff presented an alternative version of amendments to Article 22-900 to Council at a work session. This proposed ordinance only modify provisions related to the disposition of City owned property and does not include any amendments adding a delegation of authority to staff or any provisions related to easements or the purchase of property. The proposed ordinance would amend BMCC section 22-902 to provide additional options for Council to dispose of city property. Currently, property must be advertised for competitive bid prior to the sale, exchange, or donation. Staff seeks to include the option to negotiate a sale directly or to utilize a public auction.

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STAKEHOLDERS**ALTERNATIVES**

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

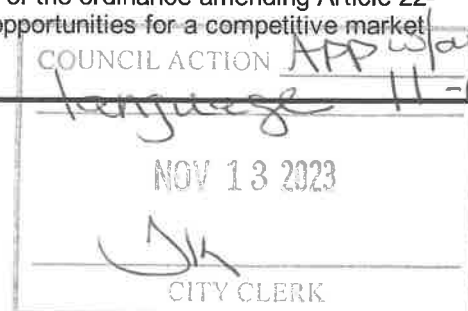
There are no direct fiscal effects from the proposed amendments to Article 22-900. However, the amendments are being requested to improve the City's opportunity to receive market value out of the sale of public property.

SUMMARY

Staff requests Council conduct a public hearing and approve the first reading of the ordinance amending Article 22-900 Sale, Exchange or Donation of City Real Property to improve the City's opportunities for a competitive market-based sale of public land.

Attachments

Ordinance - clean version
 Ordinance - redlined version



ORDINANCE 23-_____

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- c. Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections e. and f. and approve a resolution of intent to sell, exchange, or donate the property when considering the sale, exchange, or donation to another governmental entity.

- d. In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.
- e. Prior to selling, exchanging, or donating real property, the city council must hold a public hearing and find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Notice of the public hearing must be provided as required by MCA 7-1-4127. In addition, notice of the public hearing must be placed on the subject property for no less than seven (7) days prior to the public hearing to consider the resolution of intent to sell, exchange, or donate city owned property.
- f. If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide notice by publishing the resolution of intent as provided in MCA 7-1-4127.
- g. Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.
- h. The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to prepare all appropriate documents for signature by the mayor.

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PASSED by the City Council on first reading the _____ day of _____,
2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of
_____, 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

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- b. ~~The city council~~ may sell city owned property by public auction, direct negotiated sale, or by competitive sealed bid following adoption of a resolution of intent referenced below in subsection e. Regardless of the which bid process is used, shall advertise for competitive bids on any real property prior to sale, exchange, or donation. The city council shall have the authority and discretion to select the bid or offer that is in the best interest of the city, conditionally accept a bid or offer, or it may reject any and all bids or offers.
- a. ~~Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections (a) e. and (b) f. and approve a the Resolution of intent to sell, exchange, or donate the~~

~~property described above~~ when considering the sale, exchange, or donation to another governmental entity.

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f. ~~(a) If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide notice by publishing the resolution of intent as required by provided in MCA 7-1-4127.~~

c. ~~in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange, or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.~~

d. ~~(b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange, or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.~~

e. ~~(2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.~~

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f.h.(3) The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to ~~the~~ prepare all appropriate documents for signature by the mayor.

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PASSED by the City Council on first reading the _____ day of _____, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date: 09/25/2023
Title: Public hearing and first reading of ordinance - real property acquisition and disposition
Presented by: Gina Dahl
Department: Legal
Presentation: Yes
Legal Review: Yes
Project Number: N/A

COUNCIL ACTION
 Removal Approved 8-0
 Ticksell, Boyett, Rupsis
 Absent/Excused
 SEP 25 2023
 Council's Request to be brought to WS-Oct.
 db

RECOMMENDATION

Staff recommends Council hold a public hearing and approve the first reading of the ordinance amending BMCC, Section 22-900. Sale, Exchange or Donation of City Real Property.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The City is routinely involved in numerous real property transactions and over the years, City Council has passed resolutions to address the acquisition of City property. There is currently a brief section in City Code that addresses disposition of City property. However, City staff has seen a need to address these issues in City Code to clarify procedures for both the acquisition and disposition of City property in a way that doesn't require routine policy updates and to clearly delegate appropriate authority. The proposed ordinance incorporates much of what is included in Resolution 21-10954 (establishing a policy related to the purchase of real property) but also includes issues that are not currently addressed in any way in City Code or in any City resolution but should be, like granting and accepting easements.

Currently, BMCC section 22-902 does not provide a clear process to dispose of City property and there has often been confusion about how and when notice is required, how many public hearings are required and when those hearings are to be held. Additionally, the current code section limits Council to only one process for the sale of property, which is by competitive bid. The proposed ordinance clarifies the process for disposing of property and provides more options to dispose of real property. For example, prior to any sale, exchange or donation of any real property, the Council must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation. This finding must be made by six Council members. The final decision to transfer City owned property must be made at a subsequent public hearing where the Council will decide whether to approve the specific sale, exchange, or donation. The final decision to approve the sale, exchange, or donation must also be made by six Council members. The proposed ordinance also provides that Council may dispose of property by bid, public auction, or direct negotiated sale.

The proposed ordinance enables the exchange of City property for property of equivalent value or, if the property is not of equivalent value, for sufficient consideration as determined by a majority of Council. It also addresses transfers with other governmental entities by providing authority to sell at a reduced rate, exchange of property, or donation of real property if the property will continue to be used for governmental purposes. Additionally, the proposed ordinance provides circumstances for Council to authorize the sale of property at a reduced rate for the following reasons: to preserve historically significant property, for constructing low-income housing or emergency shelter, to aid in economic development, or to further the sustainability goals of the City.

An important aspect of this ordinance provides a clear delegation of authority for the City Administrator to grant and accept rights-of-way or public infrastructure. Council currently reviews these on its consent agenda during regular business meetings. These easements may also come before Council as part of final plat. Examples of other easements frequently seen on the consent agenda include temporary easements to allow for improvements to be completed to public infrastructure. The delegation of this authority to the City Administrator will eliminate unnecessary delay on obtaining the approval of an easement and save staff time. For dedications required as part of a final subdivision plat, in compliance with State law, the acceptance of infrastructure or an easement will require the Council's approval of the final plat before the dedication or easement can be accepted.

The proposed ordinance also addresses the requirement for appraisals (with some exceptions, e.g., transfers between governmental entities) for the purchase of real property; leases of city property; and some less common issues like water rights and issuing licenses and permits that affect real property.

ALTERNATIVES

City Council may:

- Approve;
- Amend and Approve; or,
- Not Approve

FISCAL EFFECTS

Adoption of the proposed ordinance will result in efficiencies in process and saving staff time.

SUMMARY

The proposed revisions to this Article incorporate much of what is included in Resolution 21-10954, which provides guidance for the purchase of real property, but it also expands Council's ability to dispose of city owned real property. The proposed ordinance provides authority for the administrative acceptance of rights-of-way and dedications of infrastructure which will increase efficiencies related to development review and includes some items not currently addressed by any policy or City code section. The intent of this ordinance is to codify or clarify current practices to establish clear delegation of authority.

Attachments

Current Article 22-900 - Sale, Exchange or Donation of City Real Property

Resolution 21-10954

Proposed ordinance - CLEAN VERSION

Proposed ordinance - REDLINED VERSION

ARTICLE 22-900. SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY¹

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease or sale of city property is hereby superseded.

(Ord. No. 12-5578, § 1, 9-10-12)

Sec. 22-902. Sale, exchange or donation of city real property.

- (1) Subject to the provisions of subsections (a) and (b) below, the city council may sell, exchange or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present. The city council shall advertise for competitive bids on any real property prior to sale, exchange or donation. The city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid or it may reject any and all bids. Other local, state or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided in subsections (a) and (b) and approve the Resolution described above when considering the sale, exchange or donation to another governmental entity.

In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange or donation of land.

Prior to selling exchanging or donating said real property, the city administrator or his/her designee shall:

- (a) Publish notice in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.
 - (b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.
- (2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.
- (3) The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion

¹Editor's note(s)—Ord. No. 12-5578, § 1, adopted September 10, 2012, amended article 22-900 in its entirety to read as herein set out. Formerly, article 22-900 pertained to the sale, disposal or lease of city property and derived from Ord. No. 90-4826, §§ 1, 2, adopted March 26, 1990.

Cross reference(s)—Administration, Ch. 2.

to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to the prepare all appropriate documents for signature by the mayor.

(Ord. No. 12-5578, § 1, 9-10-12)

RESOLUTION 21-10954

A RESOLUTION REPEALING RESOLUTION 93-16740, AND ESTABLISHING A POLICY OF THE CITY OF BILLINGS, MONTANA AS IT RELATES TO THE PURCHASE OF REAL PROPERTY.

WHEREAS, from time to time the City of Billings has need to purchase real property in order to carry out the programs and projects adopted by the City Council; and

WHEREAS, the City is desirous of developing a uniform guide for the purchase of real property; and

WHEREAS, market value shall be defined as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts regarding the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

Resolution No. 93-16740 is hereby repealed.

A. NEGOTIATIONS: City staff may enter into negotiations with the property owner prior to determining market value and may prepare, but not execute, a draft acquisition agreement with contingencies that shall not be binding upon the City until executed by the mayor or City Administrator pursuant to authorization granted by the City Council or this resolution. Contingencies include, but are not limited to, market value determination and City Council or City Administrator approval.

B. GUIDE TO DETERMINE MARKET VALUE: Except as provided herein, the City of Billings shall have an appraisal performed to assist in determining the market value prior to purchase of real property. The appraisal must be by disinterested, certified, general real estate appraiser selected by staff. The City Administrator may waive this requirement for an appraisal if the purchase price of the real property is less than \$25,000, provided that the City Administrator determines that it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arm-length sales of this or comparable properties, etc.

Staff shall review the appraisal and bring their recommendation of market value to the City Council for approval. In cases where staff does not recommend approval of the appraisal, staff may request additional appraisals and/or that a certified appraiser reviews the appraisal(s). Except as expressly provided in this resolution, no determination of market value expressed in an appraisal obtained by the City shall be binding upon the City, and the City may accept or reject the findings of any appraisal in the discretion of the City.

Appraisals for property \$750,000 and over in value must be reviewed by a qualified review appraiser selected by the City of Billings. After the review appraiser has reviewed the appraisal(s) and arrived at a market value of the property being appraised, the city staff will present the review appraisal to the City Council for the purpose of establishing the market value.

The City may not purchase property for more than the appraised market value, except as expressly allowed by this resolution or later approval of the City Council.

The City Administrator may approve real property purchases with appraised values within the limits of his/her signing authority.

C. NEGOTIATING FLEXIBILITY: In cases of significant need where purchase of property is critical to the success of a public improvement project or would fulfill another public purpose, the City Administrator may bring to the City Council an offer over the fair market value. The City Council will then determine if the amount over market value is appropriate and, if it is, the council may accept the same in its discretion.

For purchases within his or her signing authority, the City Administrator may also approve a purchase price above the appraised value in his or her discretion based on the same criteria described in the previous paragraph.

D. THIS RESOLUTION IS INTENDED TO PROVIDE A SET OF GUIDELINES FOR THE CITY'S PURCHASE OF REAL ESTATE IN FEE. THIS RESOLUTION IS NOT INTENDED FOR PROPERTY AGREEMENTS INVOLVING THE ACQUISITION OF OTHER INTERESTS IN PROPERTY, SUCH AS EASEMENTS AND DEEDED ACCESS.

E. THIS RESOLUTION IS NOT INTENDED FOR CONDEMNATION OR EMINENT DOMAIN ACTIONS.

F. WHERE THE REAL PROPERTY WILL BE PURCHASED WITH FEDERAL FUNDS, THE CITY IS REQUIRED TO FOLLOW THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AS AMENDED.

G. IN CASES WHERE THE DEMANDS OF A PROJECT REQUIRE A VARIANCE FROM THESE GUIDELINES, THE CITY ADMINISTRATOR MAY COME TO THE CITY COUNCIL TO REQUEST A VARIANCE.

APPROVED AND PASSED by the Council of the City of Billings this 24th day of May, 2021.

CITY OF BILLINGS:



By: William A. Cole
William A. Cole, Mayor

ATTEST:

By: Denise R. Bohlman
Denise R. Bohlman, City Clerk

ORDINANCE 23-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING ARTICLE 22-900 – SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY TO BE ENTITLED REAL PROPERTY AND GENERALLY REVISING THE ENABLING LEGISLATION OF THE PURCHASE AND DISPOSAL OF REAL PROPERTY, INTERESTS IN WATER, AND THE GRANTING AND ACCEPTANCE OF EASEMENTS

WHEREAS, the City of Billings has adopted self-government powers as those powers are enumerated in its Charter, and the laws and Constitution of the State of Montana; and

WHEREAS, pursuant to its Charter, the Montana Constitution, and state law, the City may exercise any power not prohibited by the constitution, law or charter and neither the Montana Constitution, state law, nor the City Charter prohibits the City Commission from adopting this Ordinance; and

WHEREAS, pursuant to §7-8-4201 the City may sell, dispose of, donate, or lease any property belonging to the city; and

WHEREAS, pursuant to §7-14-4101 the City has the authority to establish, alter, and maintain traffic ways and public grounds; and

WHEREAS, pursuant to §7-8-103 the City has the authority to accept, receive, take, hold, own and possess any gift, donation, grant, devise, or bequest, any real property; any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland reserve; any fish or game reserve in any part of the state and to own, hold, work, and improve the same; and

WHEREAS, pursuant to §7-8-101 the City may sell or trade to any political subdivision any property, however held or acquired, that is not necessary for the conduct of the city business; and

WHEREAS, the city recognizes these amendments are necessary to clarify processes for the disposal of city owned real property and increase efficiencies in the process to grant and accept of easements of real property, rights-of-way, or public infrastructure.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 22-900 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

Article 22-900. – REAL PROPERTY

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201 which addresses the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

Sec. 22-902. Authorization for the sale, exchange, or donation of city real property.

- a. The city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose. The city administrator may negotiate and enter into agreements to sell, exchange, or donate real property subject to ratification by the city council and compliance with this article.
- b. The city administrator may approve and take necessary action to finalize a sale, exchange, or donation of real property with a market value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- c. An exchange of real property may not be made unless property received in exchange for the city property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if the city receives sufficient consideration approved by a majority of city council members present and voting in addition to the delivery of title. Sufficient consideration may include but is not limited to financial compensation or a public benefit as determined by a majority of city council members present and voting.
- d. The city may sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose, at a reduced rate to another governmental entity for a governmental purpose. At the discretion of the city council, the transfer of such property may provide for the reversion of the property, including any improvements made to the real property, to the city in the event the recipient no longer uses the property for governmental purposes.
- e. The city may donate or sell at a reduced rate city owned real property:
 1. Containing a historically significant building or monument to an entity that agrees to restore or preserve the property. The contract for the transfer of such property must contain provisions that:

- A. Require the property to be preserved in its present or restored state upon any subsequent transfer; and
 - B. Provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 2. For economic development purposes to an entity that agrees to develop the property for economic development purposes. The contract for the transfer of such property must contain provisions that:
 - A. Require the property be developed in such a manner as to provide economic development opportunities, including job creation or retention, for industries of value to the city, or for development implementing an urban renewal plan; and
 - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 3. To an entity for the purpose of constructing buildings which will provide emergency or transitional shelter housing or rental housing for low to moderate-income households, or buildings which may be sold as low to moderate-income households. The contract for the transfer of such property must contain at minimum, provisions that:
 - A. Provide, for a period of time and under the conditions specified in the transfer, emergency or transitional shelter or housing for low to moderate-income households; and
 - B. At the discretion of the city council, provides for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 4. For sustainability purposes to an entity that agrees to develop or otherwise utilize the property for purposes that further the sustainability goals of the city. The contract for the transfer of such property must contain at minimum, provisions that:
 - A. Require the property be developed or otherwise utilized in such a manner as to further the sustainability goals of the city; and
 - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property,

to the city for noncompliance with conditions attached to the transfer.

- f. The city administrator may, by administrative order, establish procedures for the purchase, exchange, donation, or sale of city real property.
- g. Any sale, donation, or exchange of real property must comply with the provisions of this article.

Sec. 22-903. Additional requirements for sale, exchange, or donation of city real property.

- a. Prior to the sale, exchange, or donation of any real property, no less than six (6) city council members must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city property.
- b. If council makes a finding as required above and approves and adopts a resolution of intent to sell, exchange, or donate the city property, Council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no less than six (6) city council members. Prior to the public hearing, the city must provide notice, as required by MCA 7-1-4217, of the resolution of intent to sell, exchange, or donate the city real property.
- c. For the sale of real property, the city may sell property by bid, public auction, or direct negotiated sale. For exchanges and donations, the city may negotiate directly with a specific person or entity, including other governmental entities, without advertising for bids.
- d. The city may terminate the process at any time and may reinstate the same process or begin anew at a later date.

Sec. 22-904. Authorization for city to obtain property.

Except as may otherwise be provided by this Code, the city council has the authority, under such limitations and restrictions as are prescribed by law, to purchase and accept by donation or exchange any real property necessary for the use of the city and to preserve, take care of, manage, and control the same.

- a. The city administrator may approve and take necessary action to finalize real property purchases with an appraised value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).

- b. The city administrator may enter into leases on behalf of the city for the purposes of providing facilities for city operations.

Sec. 22-905. Appraisal required for certain transfers of real property; exceptions.

- a. An appraisal is required when the city purchases a fee simple interest in real property or a conservation easement using public funds, unless specifically exempted. The city administrator may waive this requirement provided the city administrator determines it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arms-length sales of this or comparable properties, etc.
- b. An appraisal is not required when the purchase, sale, exchange, or donation of real property is to or between another governmental entity if the property will continue to be used for governmental purposes.
- c. An appraisal is not required for the acquisition of interests in water rights or rights-of-way for utility or road purposes.
- d. For any transfer requiring an appraisal under this article, the property must be appraised within one year prior to the date of adoption of the resolution approving the transfer unless waived by city council.

Sec. 22-906. Terms of sale.

Unless otherwise determined by no less than six (6) of the city council members:

- a. Except for sales conducted pursuant to 22-902 c. and d., a sale under this article must be for cash or on terms approved by no less than six (6) members of the city council.
- b. The title to any property sold may not pass from the city until the purchaser or the purchaser's assigns have met all obligations of the sale or exchange agreement.

Sec. 22-907. Lease and licensing of city property.

- a. The city council has the power to lease any lands, buildings, structures, or improvements, owned by the city, however acquired, for any length of time and for any purpose. The council, or city administrator as provided herein, may enter into such leases at a reduced rate if the city property is to be used for a public purpose.
- b. The development or other use of any city lands, buildings, structures, or improvements, whether by a lessee, or their invitees, must comply with City Code.

- c. The leasing of one or more parts of a building, improvement, or structure may be approved by the city administrator. The leasing of a portion or an entire tract of record owned by the city must be approved by city council unless the annual value of the lease is within the limits of the city administrator's signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- d. The city administrator may grant a license for a temporary use of city real property or facilities under conditions determined by the city administrator.
- e. The city administrator or designee has the power to issue permits for parking spaces in parking structures and parking lots and establish standards for the same.

Sec. 22-908. Easements.

- a. The city administrator may on behalf of the city accept the grant or dedication of real property, rights-of-way, or public infrastructure. The acceptance must be in writing. The acceptance must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk. Nothing herein may be construed to authorize the city administrator to accept an easement or grant as shown on a subdivision plat until such final plat has been approved by the city pursuant to law.
- b. The city administrator may grant rights-of-way for private, municipal, or public utilities across land owned by the city. The city administrator may determine whether consideration for the grant is required. The grant must be in writing. The grant must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk.
- c. The city administrator may authorize, subject to the availability of funds, the purchase of right-of-way for public infrastructure or public purposes.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the _____ day of _____,
2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of
_____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ORDINANCE 23-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING ARTICLE 22-900 – SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY TO BE ENTITLED REAL PROPERTY AND GENERALLY REVISING THE ENABLING LEGISLATION OF THE PURCHASE AND DISPOSAL OF REAL PROPERTY, INTERESTS IN WATER, AND THE GRANTING AND ACCEPTANCE OF EASEMENTS

WHEREAS, the City of Billings has adopted self-government powers as those powers are enumerated in its Charter, and the laws and Constitution of the State of Montana; and

WHEREAS, pursuant to its Charter, the Montana Constitution, and state law, the City may exercise any power not prohibited by the constitution, law or charter and neither the Montana Constitution, state law, nor the City Charter prohibits the City Commission from adopting this Ordinance; and

WHEREAS, pursuant to §7-8-4201 the City may sell, dispose of, donate, or lease any property belonging to the city; and

WHEREAS, pursuant to §7-14-4101 the City has the authority to establish, alter, and maintain traffic ways and public grounds; and

WHEREAS, pursuant to §7-8-103 the City has the authority to accept, receive, take, hold, own and possess any gift, donation, grant, devise, or bequest, any real property; any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland reserve; any fish or game reserve in any part of the state and to own, hold, work, and improve the same; and

WHEREAS, pursuant to §7-8-101 the City may sell or trade to any political subdivision any property, however held or acquired, that is not necessary for the conduct of the city business; and

WHEREAS, the city recognizes these amendments are necessary to clarify processes for the disposal of city owned real property and increase efficiencies in the process to grant and accept of easements of real property, rights-of-way, or public infrastructure.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Article 22-900 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

Article 22-900. – ~~SALE, EXCHANGE, OR DONATION OF CITY REAL PROPERTY~~

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201, ~~of the state law dealing with which addresses~~ the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

Sec. 22-902. Authorization for the sSale, exchange, or donation of city real property.

~~(1) — Subject to the provisions of subsections (a) and (b) below, the city council may sell, exchange or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present. The city council shall advertise for competitive bids on any real property prior to sale, exchange or donation. The city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid or it may reject any and all bids. Other local, state or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided in subsections (a) and (b) and approve the Resolution described above when considering the sale, exchange or donation to another governmental entity.~~

~~In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange or donation of land.~~

~~Prior to selling, exchanging or donating said real property, the city administrator or his/her designee shall:~~

~~(a) — Publish notice in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.~~

~~(b) — Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.~~

~~(2) — Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.~~

~~(3) — The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to the prepare all appropriate documents for signature by the mayor.~~

- a. The city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose. The city administrator may negotiate and enter into agreements to sell, exchange, or donate real property subject to ratification by the city council and compliance with this article.
- b. The city administrator may approve and take necessary action to finalize a sale, exchange, or donation of real property with a market value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- c. An exchange of real property may not be made unless property received in exchange for the city property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if the city receives sufficient consideration approved by a majority of city council members present and voting in addition to the delivery of title. Sufficient consideration may include but is not limited to financial compensation or a public benefit as determined by a majority of city council members present and voting.
- d. The city may sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose, at a reduced rate to another governmental entity for a governmental purpose. At the discretion of the city council, the transfer of such property may provide for the reversion of the property, including any improvements made to the real property, to the city in the event the recipient no longer uses the property for governmental purposes.
- e. The city may donate or sell at a reduced rate city owned real property:
 - 1. Containing a historically significant building or monument to an entity that agrees to restore or preserve the property. The contract for the transfer of such property must contain provisions that:
 - A. Require the property to be preserved in its present or restored state upon any subsequent transfer; and

- B. Provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 2. For economic development purposes to an entity that agrees to develop the property for economic development purposes. The contract for the transfer of such property must contain provisions that:
 - A. Require the property be developed in such a manner as to provide economic development opportunities, including job creation or retention, for industries of value to the city, or for development implementing an urban renewal plan; and
 - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 3. To an entity for the purpose of constructing buildings which will provide emergency or transitional shelter housing or rental housing for low to moderate-income households, or buildings which may be sold as low to moderate-income households. The contract for the transfer of such property must contain at minimum, provisions that:
 - A. Provide, for a period of time and under the conditions specified in the transfer, emergency or transitional shelter or housing for low to moderate-income households; and
 - B. At the discretion of the city council, provides for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 4. For sustainability purposes to an entity that agrees to develop or otherwise utilize the property for purposes that further the sustainability goals of the city. The contract for the transfer of such property must contain at minimum, provisions that:
 - A. Require the property be developed or otherwise utilized in such a manner as to further the sustainability goals of the city; and
 - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.

- f. The city administrator may, by administrative order, establish procedures for the purchase, exchange, donation, or sale of city real property.
- g. Any sale, donation, or exchange of real property must comply with the provisions of this article.

Sec. 22-903. Additional requirements for sale, exchange, or donation of city real property.

- a. Prior to the sale, exchange, or donation of any real property, no less than six (6) city council members must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city property.
- b. If council makes a finding as required above and approves and adopts a resolution of intent to sell, exchange, or donate the city property, Council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no less than six (6) city council members. Prior to the public hearing, the city must provide notice, as required by MCA 7-1-4217, of the resolution of intent to sell, exchange, or donate the city real property.
- c. For the sale of real property, the city may sell property by bid, public auction, or direct negotiated sale. For exchanges and donations, the city may negotiate directly with a specific person or entity, including other governmental entities, without advertising for bids.
- d. The city may terminate the process at any time and may reinitiate the same process or begin anew at a later date.

Sec. 22-904. Authorization for city to obtain property.

Except as may otherwise be provided by this Code, the city council has the authority, under such limitations and restrictions as are prescribed by law, to purchase and accept by donation or exchange any real property necessary for the use of the city and to preserve, take care of, manage, and control the same.

- a. The city administrator may approve and take necessary action to finalize real property purchases with an appraised value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- b. The city administrator may enter into leases on behalf of the city for the purposes of providing facilities for city operations.

Sec. 22-905. Appraisal required for certain transfers of real property; exceptions.

- a. An appraisal is required when the city purchases a fee simple interest in real property or a conservation easement using public funds, unless specifically exempted. The city administrator may waive this requirement provided the city administrator determines it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arms-length sales of this or comparable properties, etc.
- b. An appraisal is not required when the purchase, sale, exchange, or donation of real property is to or between another governmental entity if the property will continue to be used for governmental purposes.
- c. An appraisal is not required for the acquisition of interests in water rights or rights-of-way for utility or road purposes.
- d. For any transfer requiring an appraisal under this article, the property must be appraised within one year prior to the date of adoption of the resolution approving the transfer unless waived by city council.

Sec. 22-906. Terms of sale.

Unless otherwise determined by no less than six (6) of the city council members:

- a. Except for sales conducted pursuant to 22-902 c. and d., a sale under this article must be for cash or on terms approved by no less than six (6) members of the city council.
- b. The title to any property sold may not pass from the city until the purchaser or the purchaser's assigns have met all obligations of the sale or exchange agreement.

Sec. 22-907. Lease and licensing of city property.

- a. The city council has the power to lease any lands, buildings, structures, or improvements, owned by the city, however acquired, for any length of time and for any purpose. The council, or city administrator as provided herein, may enter into such leases at a reduced rate if the city property is to be used for a public purpose.
- b. The development or other use of any city lands, buildings, structures, or improvements, whether by a lessee, or their invitees, must comply with City Code.
- c. The leasing of one or more parts of a building, improvement, or structure may be approved by the city administrator. The leasing of a portion or an entire

tract of record owned by the city must be approved by city council unless the annual value of the lease is within the limits of the city administrator's signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).

- d. The city administrator may grant a license for a temporary use of city real property or facilities under conditions determined by the city administrator.
- e. The city administrator or designee has the power to issue permits for parking spaces in parking structures and parking lots and establish standards for the same.

Sec. 22-908. Easements.

- a. The city administrator may on behalf of the city accept the grant or dedication of real property, rights-of-way, or public infrastructure. The acceptance must be in writing. The acceptance must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk. Nothing herein may be construed to authorize the city administrator to accept an easement or grant as shown on a subdivision plat until such final plat has been approved by the city pursuant to law.
- b. The city administrator may grant rights-of-way for private, municipal, or public utilities across land owned by the city. The city administrator may determine whether consideration for the grant is required. The grant must be in writing. The grant must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk.
- c. The city administrator may authorize, subject to the availability of funds, the purchase of right-of-way for public infrastructure or public purposes.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the _____ day of _____, 2023.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk