

ORDINANCE NO. 17-25

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND READOPTING THE CITY'S PURCHASING POLICY TITLE 1 CHAPTER 9 OF THE CITY CODE OF SOUTH OGDEN CITY DEFINING WHAT CONSTITUTES A SIGNIFICANT PARCEL OF REAL PROPERTY AND REASONABLE NOTICE FOR PURPOSES OF UTAH CODE § 10-8-1(4); AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1 - Recitals:

WHEREAS, SOUTH OGDEN City (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the City Council finds that in conformance with UC §10-3-717, and UC §10-3-701, the governing body of the city has adopted a City Code which deals with city operations and related issues; and,

WHEREAS, U.C.A. § 10-8-2(4) requires that before a municipality may dispose of a significant parcel of real property, the municipality must provide at least 14 days notice and an opportunity for public comment on the proposed disposition; and,

WHEREAS, the Utah Code also requires that each municipality shall, by ordinance, define what constitutes a significant parcel of real property and what constitutes reasonable notice; and,

WHEREAS, the City Council finds that South Ogden City Code, at Title One Section 9 deals with the purchasing policies of the city including the publication of bids and the award of contract for work to be done or services to be rendered to and on behalf of the city and is based on and adopted in conformance with the authority granted to the City by UC Title 10; and,

WHEREAS, the City Council finds that the it is in the public interest that the provisions of Ordinance 12-14, amending and readopting the City's purchasing policy and to amend the City Code at Title 1 Section 9 and various of the subsections thereto should now be amended as set out herein; and,

WHEREAS, the City Council finds, upon recommendation of staff and after having reviewed and studied this matter, that the proposed changes of this ordinance are in the best interest of the City; and,

WHEREAS, the City Council finds that the requirements herein should be effective upon passage of this Ordinance; and,

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINE D BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH that the City Code be changed and amended to as follows:

Upon the adoption of this Ordinance, The City Purchasing Policy as set out at Title 1, Chapter 9 of the City Code is amended and re-adopted to read as set out in **Attachment "A"** , with all unchanged parts thereof reaffirmed and by this reference incorporated as if fully set out.

The foregoing recitals are incorporated fully herein.

Section 2 - Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with any of the provisions of this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of any prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not render any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed to be the separate independent and severable act of the City Council of South Ogden City.

Section 5 - Date of Effect

This Ordinance shall be effective on the 5th day of December, 2017, and after publication or posting as required by law.

DATED this the 5th day of December, 2017

SOUTH OGDEN, a municipal corporation

by: _____
Mayor James F. Minster

Attested and recorded

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

ORDINANCE NO. 17-25

An Ordinance Of South Ogden City, Utah, Revising And Readopting The City's Purchasing Policy Title 1 Chapter 9 Of The City Code Of South Ogden City Defining What Constitutes A Significant Parcel Of Real Property And Reasonable Notice For Purposes Of Utah Code § 10-8-2(4); And Establishing An Effective Date For Those Changes.

05 Dec 17

(9.010) - K. Disposal of Surplus Property

SURPLUS CITY PROPERTY IDENTIFICATION, DEFINITIONS, NOTICE, AND REPORTING REQUIREMENTS

Definitions

"Significant Parcel" of real property:

In connection with any proposed sale, lease, conveyance or other disposition of real property owned by the City, the following real property is deemed to be "significant":

A. Any property where the conveyance of the property would result in a need to amend the City budget;

B. Any property where the conveyance of the property would result in a request for a change of zoning of that property;

C. Any property specifically referenced in a master plan or where the proposed use of the land following its conveyance would conflict with the master plan for the area.

"Reasonable Notice"

Reasonable notice of the proposed conveyance of a significant parcel of City owned real property shall be interpreted to mean and require:

1. At least 15 days advance Notice of the public hearing scheduled to provide an opportunity for public comment on the proposed conveyance shall be mailed to all abutting property owners, delivered to the office of the City Council, posted in the office of the City Recorder, delivered to a local media representative, and posted on the City's website.

2. No significant parcel of City owned real property may be conveyed until after a public hearing has been held before the South Ogden City Planning Commission.

3. Comments and recommendations from the Planning Commission, following the required public hearing shall be delivered to the City Council, via the City Recorder, and shall be considered by the City Council before deciding on the proposed conveyance.

Department heads shall periodically identify potential surplus property within the possession of their department and report such property to the City Manager for consideration for disposal.

SURPLUS PROPERTY AND METHODS OF DISPOSTION

City property determined to be surplus under the criteria ~~set forth~~ in this part may be disposed of by one or more of the following means:

a. **Trade.** The City Manager under the direction of the City Council, may authorize surplus property to be traded for other property ~~as set forth~~ in Section 10-8-2, of the Utah Code.

b. **Sale, Lease or Irrevocable Transfer.** The Director of Finance shall adopt specific written guidelines establishing requirements for notice, bidding or other conditions of sale, lease or transfer of City property. Such guidelines shall be approved by the City Manager. The sale, lease or transfer of any real property by the city shall be preceded by a planning commission review under ~~the provisions of~~ Section 10-9-305, of the Utah Code, or its successor; however, such review shall not be required for property transfers ~~which are~~ by their nature revocable by the city.

d. **Revocable Transfers.** Permits, licenses, easements, franchises and other transfers of City property that are, by the term of conveyance, revocable by the city, shall be permitted under ~~the provisions of~~ this chapter.

e. **Salvage or Destruction.** Inventoried city buildings and related facilities shall be salvaged or destroyed only upon authorization of the City Council or City Manager, if so directed by the City Council.

CONVEYANCE FOR VALUE

1. Every sale of city-owned real property shall be conducted by the City Manager, or under his/her express written authority, as directed by the City Council. Other (not real property) conveyances for value shall be conducted by the Director of Finance, under the direction of the City Manager. All conveyances or encumbrances of such property shall be based on the highest and best economic return to the city, except that consideration for property conveyed may be based on other public policy factors when conveyed to units of government or other public or quasi-public organizations.

2. The highest and best economic return to the city, as referred to in this part, shall be estimated by one or more of the following methods:

a. Sealed competitive bid;

b. Evaluation by qualified and disinterested appraiser;

c. Professional publications and valuation services; or

d. An informal market survey conducted by the Director of Finance ~~in the case of~~ for items of City property possessing readily discernible market value.

3. Sales of City property shall be based, whenever possible, on competitive sealed bids. The Director of Finance, in consultation with the City Manager, may, however, waive the competitive bidding requirement when the value of the property has been estimated by an alternate method specified under subsection B of the section, and:

- a. The value of the property is ~~considered~~-negligible in relation to the costs of sale by bid; or
- b. Sale by bidding procedure is deemed unlikely to produce a competitive offer; or
- c. Circumstances indicate that bidding on the property will not be in the best interests of the city.

SALE OF CITY PROPERTY – NOTICE AND HEARING

1. Property of the city and legal interest therein shall not be sold, traded, leased or otherwise conveyed or encumbered until notice of the pending -proposal has been delivered to the office of the City Council and posted in the office of the City Recorder for a period of not less than (15) fifteen days. Such notice shall ~~specify the followings~~specify:

- a. A description of the property to be conveyed or encumbered;
- b. The nature of the proposed conveyance or encumbrance whether the property is to be sold, traded or encumbered, ~~including the nature of the conveyance if the property is to be sold, or~~and if a trade or lease of property is contemplated, a ~~brief~~-summary of the proposed transaction;
- c. Persons to whom interests are to be conveyed;
- d. Any consideration tendered;
- e. The name of the person, department or entity requesting such action;
- f. The basis upon which the value of the interest has been determined by the city;
- g. The date, time and location of a hearing to be held if written call for hearing is made by a member of the City Council within 15 days of posting of the notice. The notice shall further state that interested persons may appear and comment upon the proposal if a call for hearing by a council member has been made under ~~the provisions of~~ this section.
- h. Such notice shall operate in effect as a consent calendar. If a written call for hearing has been made by the Council within (15) fifteen days from the date notice is first posted, the Mayor or his or her designee shall meet thereafter to

hear and consider comments upon proposals to convey or encumber city property as specified in the notice. Such hearing shall take place before, after, or in conjunction with a regularly scheduled City Council meeting.

- i. [Notice of the public hearing scheduled to provide an opportunity for public comment on the proposed conveyance shall be mailed to all abutting property owners, delivered to the office of the City Council, posted in the office of the City Recorder, delivered to a local media representative, and posted on the City's website.](#)

2. The conveyance or encumbrance of property of the City may be finalized as follows:

- a. By the City Manager, if so directed by the City Council, following notice and/or public hearing, where required by this section; or
- b. If the transfer is revocable and the City Manager has determined that an unanticipated combination of facts and conditions of pressing necessity has emerged which requires that action be taken prior to notice or hearing. Such conditions shall not be deemed to arise, unless ~~it appears that~~ the delay from a notice or hearing would produce:

(1). Great or irreparable injury to persons seeking the conveyance or encumbrance, with negligible impact upon City interests.

(2) Serious detriment to the social or economic interest of the community as a whole, or

(3). Substantial economic loss to the City.

3. Any decision by the Mayor or City Manager to forego the notice and hearing provisions of this section shall be made in writing to the City Council, stating the specific reasons upon which the decision was based.

VALIDITY OF ACTIONS

No provision of this part shall be construed to require or to invalidate any conveyance or encumbrance by the City or to vest rights or action of any kind against the City, its officers, agents or employees.

DISPOSITION OF PROCEEDS

All proceeds or revenue from the sale of any City property sold by the City shall be deposited in a surplus property account within the general fund. However, if the property was purchased with moneys from an enterprise fund, or from properties attributable by the City Manager to use by an existing enterprise fund, then the proceeds or revenue shall be deposited in a surplus property

account within that fund. Funds within surplus property accounts may not be expended without prior appropriation or approval of the City Council.

RECORD OF FIXED ASSETS

Whenever payment is made for acquisition of a fixed asset and whenever acquisition costs ~~of said asset of the asset~~ exceed \$1,000 the Director of Finance shall forthwith enter a record ~~of said acquisition of the acquisition~~ upon the inventory records of the City.

INSPECTION OF MERCHANDISE RECEIVED

1. It shall be the responsibility of the Department Head or his/her designees to immediately inspect all material, supplies, equipment, and personal property of any nature purchased ~~to under~~ pursuant this ordinance immediately upon delivery from the vendor and prior to the acceptance of the delivery.

2. The signature of the individual(s) conducting the inspection shall be required on all invoices to designate that they have inspected and received the merchandise listed on said invoice.

3. Damaged property or items not specified on the purchase order shall not be accepted, and the non-conforming nature of the goods, together with the reason for rejection thereof, shall be noted in writing upon the delivery receipt.

(9.010) - K. Disposal of Surplus Property

SURPLUS CITY PROPERTY IDENTIFICATION, DEFINITIONS, NOTICE, AND REPORTING REQUIREMENTS

Definitions

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3. Comments and recommendations from the Planning Commission, following the required public hearing shall be delivered to the City Council, via the City Recorder, and shall be considered by the City Council before deciding on the proposed conveyance.

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- d. **Revocable Transfers.** Permits, licenses, easements, franchises and other transfers of City property that are, by the term of conveyance, revocable by the city, shall be permitted under this chapter.
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2. The highest and best economic return to the city, as referred to in this part, shall be estimated by one or more of the following methods:
 - a. Sealed competitive bid;
 - b. Evaluation by qualified and disinterested appraiser;
 - c. Professional publications and valuation services; or
 - d. An informal market survey conducted by the Director of Finance for items of City property possessing readily discernible market value.
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competitive bidding requirement when the value of the property has been estimated by an alternate method specified under subsection B of the section, and:

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- c. Persons to whom interests are to be conveyed;
- d. Any consideration tendered;
- e. The name of the person, department or entity requesting such action;
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