

Introduced by: Council Member Maczynski
Introduction Date: September 22, 2015
Public Hearing: October 13, 2015
November 24, 2015
Action: Passed
Vote: 7-0

CITY OF BETHEL, ALASKA

Ordinance #15-29

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE 4.08, ACQUISITION AND DISPOSAL OF LAND

WHEREAS, the City's Planning Commission has a vital role in all the City's land use planning and regulations;

WHEREAS, the City of Bethel, City Council recognizes and values the role of the Planning Commission in developing and recommending the City's 2035 Comprehensive Plan as well as numerous other land use documents, and

WHEREAS, SEC. 4.08.050(C) Lease procedures, a notice to renew the lease must be provided by the lessee to the City Clerk's Office at least 180 days prior to the expiration of a lease agreement made between the City of Bethel and the Lessee; and

WHEREAS, the requirement to have the Planning Commission approve all lease renewals by a vote of the Planning Commission and the City Council creates a redundancy in these procedures, and

WHEREAS, the requirement to have the Planning Commission's recommendation on any sale, lease or exchange of city land could negatively impact the city's ability to timely engage in property transfer due to the Planning Commissions quorum requirements;

NOW, THEREFORE BE IT ENACTED by the City Council of Bethel Alaska as follows:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Amendment. The Bethel Municipal Code Chapter 4.08 is amended as follows (new language is underlined and old language is stricken out):

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Chapter 4.08

Acquisition And Disposal Of Land

4.08.010 Rights and powers of City.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of any interest in real property not prohibited by law.

A. Any sale, lease or exchange or purchase of city land shall be approved by the city council by ordinance after consideration of the recommendations of the planning commission.

B. Any lease, or lease renewal or exchange of city land shall be approved by the city council by ordinance.

4.08.020 Acquisition.

A. The city may acquire any interest in real property by purchase, lease, exchange, transfer, donation or any other method. All acquisitions not otherwise provided for by law shall be by ordinance enacted by a majority vote of the city council.

B. Real property shall be held in the name of the "city of Bethel."

4.08.030 Disposal.

A. Property No Longer Necessary for Municipal Purposes. The city council may, by ordinance, provide for the disposal of an interest in any real property which is no longer necessary for municipal purposes. All such disposals shall be by sealed bid to the highest bidder and shall be made at least at current assessed value or at current appraised value unless otherwise determined by ordinance.

B. Disposal to Entity Providing Necessary Public Service. The city council may, by ordinance, provide for the disposal of an interest in real property to a municipal, borough, state, or federal or other appropriate entity providing a necessary public service without seeking bids and for less than the current assessed value or current appraised value of that interest in real property. All disposals made pursuant to this subsection for less than the current assessed value or current appraised value shall include a condition requiring that the interest of the city being disposed of shall revert to the city in the event the real property disposed of is not being used to provide the necessary public service justifying the original disposal.

C. Disposal in Furtherance of Development of Local Trade or Industry. The city council may, by ordinance, provide for the disposal of an interest in real property to any person or entity in furtherance of the development of local trade or industry without seeking competitive bids but not for less than the

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current assessed value or current appraised value, whichever is higher, of that interest in real property. All disposals made pursuant to this subsection shall include a condition requiring that the interest of the city being disposed of revert to the city in the event that the real property disposed of is not being used in furtherance of the development of local trade or industry justifying the original disposal.

- D. Disposal to Compromise Claim. The city council may, by ordinance, compromise disputed claims of litigation by authorizing disposal of an interest in real property.
- E. Disposal to Individual With Equitable Claim. The city council may, by ordinance, provide for the disposal of an interest in real property to an individual with an equitable claim of an interest in the property by reason of their occupancy of the property as their principal place of residence prior to January 1, 1963, and their continued occupancy of the property as their principal place of residence after its transfer to the city by the federal townsite trustee without seeking bids and for less than the current assessed value or current appraised value of that property.
- F. Disposal to Native Tribal Council. All disposals made by the city to a native tribal council shall include a requirement that the native tribal council waive any immunity from suit for the purpose of enforcing any conditions attached to the disposal of the city's interest in the real property to the native tribal council.

4.08.040 Notice of disposal.

A notice of the proposed disposal of any interest in real property shall be posted in three (3) conspicuous public places within the city for not less than thirty (30) days and published in a newspaper with general circulation for three (3) weeks before the date of the bid opening or not less than thirty (30) days before the date of the passage of the ordinance authorizing the disposal. The notice shall include:

- A. A legal description of the property including the square footage contained therein;
- B. A description of the city's interest being disposed of;
- C. The method of disposal;
- D. The value of the city's interest being disposed of, according to current assessment or current appraisal;
- E. The date of the proposed disposal; and
- F. The time, place and manner in which the proposed disposal shall occur.

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4.08.050 Lease procedures.

- A. General Regulations. In addition to the regulations governing disposal of property, the following regulations shall apply specifically to leases. The city may renew a lease without public bid and during the renewal process, the city may change any term or condition contained in the original lease.
- B. Expiration. Unless the lease is terminated beforehand, or renewed as stated above, the lessee shall peaceably and quietly leave, surrender and yield up to the lessor all the leased land on the last day of the term of that lease.
- C. Renewal. If the lessee wishes to renew the lease, the lessee shall make written application to the city clerk for renewal of the lease at least one hundred eighty (180) days prior to the expiration of the lease. The written renewal application shall contain terms of the proposed renewal. The city manager shall, upon majority vote of the ~~planning commission and~~ city council after a public hearing, and after the recommendation of the planning commission, if available, deemed appropriate by City Manager, issue a renewal of the lease to the lessee.
- D. Subdivision Regulations. All leased property shall be subject to the land use and subdivision regulations of the city.

4.08.055 Use permit procedures.

In addition to the regulations governing disposal of property, the following regulations shall apply specifically to the issuance of use permits:

- A. Use Permits. The city may issue revocable use permits allowing for short term or seasonal uses of city property not to exceed six (6) months. The use permit shall include a provision that it is revocable by the city at any time during the term of the permit without liability to the city save for a pro-rata refund of any prepaid permit fees.
- B. Land Use Regulations. All property disposed of by use permit shall be subject to the land use regulations of the city. All property disposed of by use permit shall not be subject to the subdivision regulations of the city.

4.08.060 Definitions.

In this chapter, unless otherwise provided or the context otherwise requires:

- A. Appropriate Entity. A determination shall be made by the city council as to whether or not the entity in question will further the public interest.
- B. "Interest in real property" includes, but is not limited to, fee simple ownership, a lease, an easement, and the possibility of reverter.

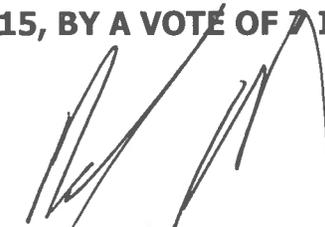
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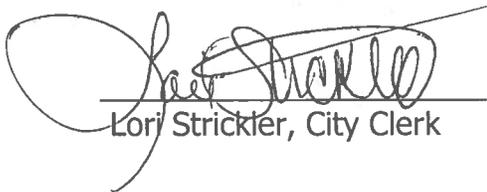
- C. "Necessary public service" includes, but is not limited to, police protection; fire protection; public health and safety; public education; electric, water and sewer utilities; and marine, land or air transportation.
- D. "Shall" is considered mandatory.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS 24 DAY OF NOVEMBER 2015, BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

ATTEST:



Richard Robb, Mayor

Lori Strickler, City Clerk