

Presented by: The Manager
Introduced: 05/13/2013
Drafted by: J.W. Hartle

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2013-18

An Ordinance Amending the Land Management Code.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

Section 2. Amendment of Chapter. CBJ 53.09 Land Management Code is repealed and reenacted to read:

53.09.200 General.

(a) Methods of disposal. City and Borough land may be conveyed by lottery, auction, over-the-counter sale, negotiated sale, sealed bid, land exchange, or other methods as the assembly may approve by ordinance.

(b) Inclusion in Land Management Plan. Except for property acquired by tax foreclosure or reconveyance agreement, real property should not be conveyed prior to inclusion in a land management plan.

(c) Satisfaction of CBJ 53.09.260(a). Real property recommended for negotiated sale in management plan adopted by the Assembly not more than two years prior to commencement of negotiations for a negotiated sale shall be deemed to have satisfied CBJ 53.09.260(a) Sales, leases, and exchanges by negotiation or competitive proposal.

(d) Ordinance. Terms and conditions for each land sale shall be approved by the assembly by ordinance.

(e) Sale price. Except as provided in CBJ 53.09.260, Disposals for public use, the sale price for City and Borough land shall not be less than market value as determined by the manager.

(f) Sales brochure. The manager shall prepare, and make available to the public, a sales brochure detailing the terms and conditions of sale for competitive land sales.

(g) Qualification. To qualify for a land sale, the applicant must be an individual 18 years of age or older at the time of registering for the sale or a business, licensed to conduct business in the State of

Alaska. No person or business entity may apply for, or purchase, a parcel offered for sale if he or she has defaulted on a prior purchase of City and Borough property within the five years preceding the proposed sale. To qualify for a parcel, the registrant or authorized agent must be present at the lottery, auction, bid opening, or over-the-counter sale.

(h) **Agent.** An agent participating for another person or entity shall identify himself or herself as an agent, submit a written agency agreement, power of attorney, or other document showing the agent's authority, and shall identify the agent's principal. **This information shall be available to the other participants.**

(i) **Disqualification.** The manager may disqualify from participating in a land sale conducted under CBJ 53.09.210 - .250 lottery, auction, over-the-counter and sealed bid sales, any person who willfully violates the provisions governing bidder, applicant, or purchaser qualifications.

(j) **Public notice and marketing.** Not less than 45 days before the date of a land lottery, auction, sealed bid opening, or the commencement date of an over-the-counter sale, the manager shall place an advertisement providing notice and a description of the sale in a newspaper of general circulation in the municipality, which shall run one day per week for at least four consecutive weeks. The manager may use whatever additional advertising media, format, or frequency he or she determines will best inform the public of the sale and most advantageously market the property.

(k) **Deposit.** Prior to the close of business on the day of the lottery, auction, or bid opening, the buyer or the buyer's agent shall provide the City and Borough a non-refundable down payment equal to five percent of the purchase price, submit any proof of buyer's qualification, and execute the purchase agreement and other required documentation as stated in the sales brochure. The deposit shall be in cash or by check or similar instrument. If the buyer fails to prove the buyer's qualifications or to tender the required down payment or to execute the necessary purchase agreement or other instruments to close the sale, or if the check does not clear, the sale is void, and all rights of the buyer in the property arising out of the sale are terminated. Unless specifically provided otherwise by the manager in writing, the buyer shall have no right of possession to the property until all necessary notes, security and other instruments necessary to close the sale have been executed and the sale closed.

(l) **Payment of balance.** The balance shall be paid over a period not to exceed ten years in equal annual, quarterly, or monthly payments of principal and interest with interest on the unpaid balance at a rate established by the assembly by ordinance. The manager may direct loan payments to a bank of his or her choice and establish service fees, the payment of which shall be the purchaser's responsibility. There shall be no prepayment penalty.

(m) **Subordination.** The manager shall not subordinate the security interest of the City and Borough to that of another lender.

(n) **Application form and registration fee.** The application shall be on a form provided by the City and Borough. A nonrefundable registration fee must accompany the application.

(o) **Tax foreclosed land.** Applicable provisions of state law shall govern the disposal of land acquired by tax foreclosure to the extent state law and this chapter are in conflict on such disposals.

53.09.210 Lottery sales.

The nonrefundable registration fee for each lottery parcel applied for is \$25.00 and must accompany the application. An applicant may not file more than one application on any parcel. The manager shall conduct the lottery drawings in an order based on the number of applications per parcel, starting with the highest.

53.09.230 Auction sale.

- (a) The auction shall be an outcry auction.
- (b) Registration. Prior to bidding on any parcel, a bidder or the bidder's agent shall register with the auctioneer or the auctioneer's designee and be given a bidder identification.
- (c) Minimum bid. The minimum acceptable bid shall be the market value as determined by the City and Borough manager.

53.09.240 Over-the-counter sales.

- (a) Lands available. Parcels may be made available for over-the-counter sales under such procedures as the manager may prescribe.
- (b) Sale procedure. The manager shall establish a method of determining who has first and subsequent chance of purchasing parcels among those who are present at the time over-the-counter parcels are first available.

53.09.250 Sealed competitive bids.

- (a) Registration. The registration fee for participating in a sealed bid sale shall be \$500 per application. The registration fee shall be returned to unsuccessful bidders. For a successful bidder, the registration fee shall be applied toward the down payment of the lot for which the fee was paid.
- (b) Post bid negotiations. If a significant factor in the award of the bid is to be the development proposal made by the bidder and if the bidders have been so informed either in the advertisement or on the bid form, the manager may negotiate with the best bidder or, in the manager's sole discretion, with the two best bidders.
- (c) Assembly approval. The award of a bid in which the development proposal is a significant factor in the award is subject to approval by the assembly.

53.09.260 Negotiated sales, leases, and exchanges.

- (a) Application, initial review, Assembly authority to negotiate. Upon application, approval by the manager, and payment of a \$500 fee a person or business entity, may submit a written proposal to lease, purchase, exchange, or otherwise acquire City and Borough land for a specified purpose. The proposal shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals. Upon direction of the assembly by motion, the manager may commence negotiations for the lease, sale, exchange, or other disposal of City and Borough land.

(b) Planning Commission review, final assembly approval. Upon satisfactory progress in the negotiation or competition undertaken pursuant to subsection (a) of this section, and after review by the planning commission and authorization by the assembly by ordinance, the manager may conclude arrangements for the lease, sale, or exchange or other disposal of City and Borough land. The final terms of a disposal pursuant to this section are subject to approval by the assembly unless the minimum essential terms and the authority of the manager to execute the disposal are set forth in the ordinance enacted pursuant to this subsection. The disposal may not be executed until the effective date of the ordinance.

53.09.270 Disposals for public use.

(a) Disposal to governmental agency. The lease, sale, or other disposal of municipal land or resources may be made to a state or federal agency for less than the market value provided the assembly approves the terms and conditions of such disposal by ordinance.

(b) Disposal to nongovernmental agency. The sale, lease, or other disposal of City and Borough land or resources may be made to a private, nonprofit corporation at less than the market value provided the disposal is approved by the assembly by ordinance, and the interest in land or resource is to be used solely for the purpose of providing a service to the public which is supplemental to a governmental service or is in lieu of a service which could or should reasonably be provided by the state or the City and Borough.

(c) The market value, as determined by the manager, of City and Borough land, interest in land or resources, which is granted to a governmental or nongovernmental agency under this section, shall be set forth in the authorizing ordinance. The City and Borough may require the grantee to provide an appraisal to determine the market value.

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ARTICLE VI. - MISCELLANEOUS

53.09.600 Municipal land fund revenues.

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53.09.610 *Reserved.*

53.09.690 *Reserved.*

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption. Adopted this 3rd day of June, 2013.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Clerk

