

Chapter 16.05

REAL PROPERTY ACQUISITION

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- 16.05.010 Acquisition and ownership.
- 16.05.020 Real property defined.
- 16.05.030 Procedural requirements.
- 16.05.040 Ownership.
- 16.05.050 Rights and powers of the City.
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- 16.05.080 Federal and State aid.
- 16.05.090 Real property as security.

16.05.010 Acquisition and ownership.

The City may acquire, own, and hold real property inside or outside the City boundaries by purchase, gift, devise, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means or conveyances. [Ord. 01-77 Ch. 44 § 1].

16.05.020 Real property defined.

As used in this chapter, “real property” includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title, or interest in land or a building. [Ord. 01-77 Ch. 44 § 2].

16.05.030 Procedural requirements.

(a) The City may acquire, own, and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful means of conveyance or grant. Real property shall be held in the name of “City of Saxman, Alaska.”

(b) Any instrument requiring execution by the City shall be signed by the Mayor and attested by the Clerk. The form of any conveyance shall be approved by the City Attorney.

(c) Upon a specific resolution of the Council, the Mayor may act on its behalf in the acquisition of real property or interest in real property when that property to be acquired is for a valuable consideration or as part of a program of grants under which the City may receive only a limited amount of acreage. The resolution shall set forth the terms, conditions, and manner of acquisition.

(d) No Council approval is necessary to acquire any easement, right-of-way, permit, license, or other interest in real property if necessary for a utility or public improvement where the utility or public improvement has been authorized and approved by the Council.

(e) Prior to approval, the Mayor is to furnish the Council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition, but the failure to furnish the Council any such materials shall not affect the validity of any acquisition or purchase of real property by the City.

(f) Unless otherwise provided by the Council, the City shall purchase marketable title in real property. Unless otherwise provided by ordinance or resolution, or upon Council approval of a purchase, the Mayor is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property. [Ord. 01-77 Ch. 44 § 3].

16.05.040 Ownership.

(a) The City may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any person or governmental body for any public purpose. The City may hold real property in trust for any public purpose.

(b) The Council may approve and authorize the purchase of real property by contract of sale, deed of trust, or mortgage. [Ord. 01-77 Ch. 44 § 4].

16.05.050 Rights and powers of the City.

The City shall have and may exercise all rights and powers in the acquisition, ownership, and holding of real property as if the City were a private person. [Ord. 01-77 Ch. 44 § 5].

16.05.060 Dedication by plat.

The City may not acquire any real property by means of a dedication by plat unless the dedication of the real property is accepted in writing and signed by the Mayor and approved by Council motion. [Ord. 01-77 Ch. 44 § 6].

16.05.070 Sites for beneficial new industries.

The City may acquire, own, and hold real property, either inside or outside the City boundaries, as sites available for new industries which will benefit the City. [Ord. 01-77 Ch. 44 § 7].

16.05.080 Federal and State aid.

The City may apply for, contract with, and do all things necessary to cooperate with, the United States government and the State for the acquisition, holding, improvement, or development of real property inside and outside the City boundaries. [Ord. 01-77 Ch. 44 § 8].

16.05.090 Real property as security.

(a) The Council may pledge, mortgage, or otherwise secure City real property for the payment of City-bonded or other indebtedness when required, as authorized by law.

(b) The Council may pledge, mortgage, or otherwise secure City real property or dispose of real property in satisfaction of obligations secured by the land in exchange for value received.

(c) Disposal of real property in this manner, without public sale, is permitted notwithstanding Chapter 16.15 SMC. [Ord. 04-08-022 § 1; Ord. 01-77 Ch. 44 § 9].

Chapter 16.10

EMINENT DOMAIN – ADVERSE POSSESSION

Sections:

- 16.10.010 Eminent domain.
- 16.10.020 Adverse possession.

16.10.010 Eminent domain.

The City may exercise the powers of eminent domain and declaration of taking the performance of an authorized power or function of the municipality, in accordance with AS 09.55.240 through 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance. [Ord. 01-77 Ch. 45 § 1].

16.10.020 Adverse possession.

The City cannot be divested of title to real property by adverse possession. [Ord. 01-77 Ch. 45 § 2].

Chapter 16.15

REAL PROPERTY SALES BY THE CITY

Sections:

- 16.15.010 Power to dispose of real property.
- 16.15.020 Sale or disposal – Form.
- 16.15.030 Sale or disposal – Rights and powers.
- 16.15.040 Property exchanges.
- 16.15.050 Public sale – Required when.
- 16.15.060 Public sale procedures.
- 16.15.070 Minimum acceptable offer.
- 16.15.080 Conditions of sale.
- 16.15.090 Sales to governmental units.

16.15.010 Power to dispose of real property.

The City may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, to otherwise dispose of City-owned real property by any lawful means or conveyances. [Ord. 01-77 Ch. 46 § 1].

16.15.020 Sale or disposal – Form.

The City may sell or dispose of real property by any lawful means. Any instrument requiring execution by the City shall be signed by the Mayor and attested by the City Clerk. [Ord. 01-77 Ch. 46 § 2].

16.15.030 Sale or disposal – Rights and powers.

The City shall have and may exercise all rights and powers in the sale and disposal of real property as if the City were a private person. The City may sell or dispose of any real property, including property acquired or held for or devoted to a public use, when in the judgment of the City Council it is no longer required for City purposes. [Ord. 01-77 Ch. 46 § 3].

16.15.040 Property exchanges.

The Council may approve after public notice the conveyance and exchange of a parcel of City property for an equivalent parcel of property owned by another person subject to such conditions as the Council may impose on the exchange, whenever in the judgment of the City Council it is advantageous to the City to make the property exchange. [Ord. 01-77 Ch. 46 § 4].

16.15.050 Public sale – Required when.

Unless otherwise provided in this chapter, real property no longer used or useful for a public use or purpose shall be sold to the highest responsible bidder at a public sale. Public sale shall not be required where the real property of the City is subject to any term or condition restricting or limiting the ability of the City to obtain the fair market value of the property. Public sale shall not be required to persons who agree to operate a beneficial new industry; provided, however, that the Council shall find that the new industry will be advantageous to the City and that the buyer agrees to the terms and conditions set forth by the Council for the sale of real property. [Ord. 01-77 Ch. 46 § 5].

16.15.060 Public sale procedures.

Real property of the City, except as provided otherwise in this chapter, and except land acquired by tax foreclosure, shall be sold or permanently disposed of as follows:

(a) Appraisal. An estimated value of the property shall be made by a qualified appraiser or the Assessor of the Ketchikan Gateway Borough.

(b) Land valued at under \$50,000 shall be disposed of as follows:

- (1) The Mayor may, if in his opinion it is in the best interests of the City to do so, recommend to the Council that such parcels of land to be sold. Such recommendation shall set out the development of the property, if the Mayor determines such a plan to be necessary, the estimated value of the property as made by a qualified appraiser and the recommended terms and conditions of sale.

(2) After receipt of the recommendations, the Council may, by resolution, direct the sale or lease of such lands under such terms and conditions as it requires.

(3) If there is a newspaper of general circulation within the City, notice of disposition and the manner in which the land is to be disposed of shall be published in a newspaper of general circulation within the city once each week for two successive weeks not less than 30 days prior to the date of disposal.

(4) Notice shall also be posted in at least three public places within the City for at least 30 days prior to the disposal.

(5) Notice may also be given by other means considered reasonable by the Mayor or Council.

(6) The notice must contain a brief description of the land, its area and general location, proposed use, term, computed annual minimum rental or minimum offer, limitations, if any, and time and place set for the action or bid opening if applicable.

(7) The procedure for disposal shall be in a manner provided by ordinance.

(c) Sale or other permanent disposition of land valued at \$50,000 or more shall be in the manner prescribed in subsection (b) of this section except that:

(1) Council action under subsection (b)(5) of this section shall be by ordinance; and

(2) No disposition of land valued at \$50,000 and over shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. A notice stating the time of the election and place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, shall be given by posting a copy of it in at least three public places in the City at least 30 days before the election. [Ord. 08-2009-017; Ord. 01-77 Ch. 46 § 6; Ord. 129 § 1].

16.15.070 Minimum acceptable offer.

If there are no acceptable offers, the Mayor may negotiate for the sale or lease of the land, but the Council must, by ordinance, approve the terms and price of any such negotiated sale or lease before such sale or lease shall be binding upon the City. [Ord. 01-77 Ch. 46 § 7].

16.15.080 Conditions of sale.

The Council in the ordinance authorizing the sale of real property shall set forth the terms and conditions of the public sale. The Council may reserve the right to reject any and all bids received at the public sale, if the highest bid is below the fair market value and cost of sale or is not made by a responsible bidder. The ordinance shall provide if the sale is for cash, or cash deposit and purchase agreement. The City Council shall approve all public sales of real property, and shall approve any purchase agreement prior to its execution by the City. The approval of any public sale by the Council authorizes the Mayor to take all steps and execute all instruments to complete and close the sale. The Mayor or his designee shall conduct the sale, and shall give to the buyer a receipt of all moneys received by the City. A purchaser at a public sale who fails to make such other cash payments within the times required by the ordinance shall forfeit any cash deposit paid to the City. [Ord. 01-77 Ch. 46 § 8].

16.15.090 Sales to governmental units.

Sales, leases, or dispositions of City-owned real property or an interest in real property which are to be made by the City to the United States, the State, or a political subdivision, be provided for by resolution setting forth the reasons of the Council for making the sale, lease, or other disposition and empowering the City officers to sign the papers of transfer. [Ord. 01-77 Ch. 46 § 9; Ord. dated 1973].

Chapter 16.20

LEASE OF CITY LANDS

Sections:

- 16.20.010 Property available for leasing.
- 16.20.020 Term of lease.
- 16.20.030 Lease procedure.
- 16.20.040 Fair rental value.
- 16.20.050 Adjustment of rental.
- 16.20.060 Transfer of lessee's interest.
- 16.20.070 Improvements and chattels.
- 16.20.080 Inspection of leased premises.
- 16.20.090 Easements and right-of-way.
- 16.20.100 Condemnation of premises – Lease termination.

16.20.010 Property available for leasing.

All real property, including tide, submerged, or shore lands, which the City owns, or in which the City has right, title and interest, or to which the City may become entitled, may be leased as provided in this chapter. The term “property” as used in this chapter includes any and all interests in real property. [Ord. 01-77 Ch. 47 § 1].

16.20.020 Term of lease.

No lease shall be for a term of more than 21 years unless the Council shall determine from the purpose, use of the premises, and nature of improvements which may be placed thereon that a longer term would benefit the City and would be consistent with City planning. A lease having a term of greater than five years shall first be approved by the City Council. Any renewal period or option to renew the lease period shall be included in the term of the lease in computing the five-year period of time. [Ord. 01-77 Ch. 47 § 2].

16.20.030 Lease procedure.

The provisions of SMC 16.20.080 and 16.20.090 on the method of disposition of City-owned property shall apply to all leases of City land authorized by this chapter. The Council may lease property to a party if it determines the lease to be in the best interest of the public. [Ord. 01-77 Ch. 47 § 3].

16.20.040 Fair rental value.

Property shall be leased for a fair rental value. “Fair rental value” means the highest price described in terms of money for which the property would rent, if exposed for rent for a reasonable time in the open market, for the use permitted by the City. [Ord. 01-77 Ch. 47 § 4].

16.20.050 Adjustment of rental.

A lease having a term of more than two years shall provide for adjustment of rentals at specified intervals during the term of lease, and the intervals shall be every two years. This section shall be incorporated in each lease by reference and enforceable as if fully stated in the lease. [Ord. 01-77 Ch. 47 § 5].

16.20.060 Transfer of lessee's interest.

A lessee may sublease or assign the lease only upon approval of the transfer by the City in writing. [Ord. 01-77 Ch. 47 § 6].

16.20.070 Improvements and chattels.

The lease shall provide the terms, conditions, and limitations of the removal or reversion of the improvements or chattels upon the lease premises after termination of the lease. The retiring lessee may, with the consent of the Mayor, sell the improvements to the succeeding lessee. If the improvements or chattels are not removed within the time set forth in the lease, the improvements and chattels may, upon reasonable notice to the lessee, be sold at public sale to be provided by regulations of the Mayor. The proceeds of such sale shall be deposited into the City general fund. [Ord. 01-77 Ch. 47 § 7].

16.20.080 Inspection of leased premises.

The lessee shall allow an authorized representative of the City to enter the leased premises for inspection at any reasonable time. [Ord. 01-77 Ch. 47 § 8].

16.20.090 Easements and right-of-way.

The City expressly reserves the right, without compensation or adjustment in rentals to the lessee, to grant surface, underground or overhead utility easements or rights-of-way in or upon the leased property. [Ord. 01-77 Ch. 47 § 9].

16.20.100 Condemnation of premises – Lease termination.

Upon condemnation of the premises or any part thereof by the State, Borough, or Federal government or agency thereof, including inverse condemnation, the lease shall terminate without any liability to the City. The City shall not be liable in damages or pay any compensation to the lessee as a result of the condemnation terminating the lease. [Ord. 01-77 Ch. 47 § 10].