

ORDINANCE O-22-17

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, DECLARING THE DOCUMENT ENTITLED “PROCEDURES FOR THE TRANSFER OF CITY REAL PROPERTY” AS A PUBLIC RECORD; AMENDING THE CITY CODE BY REPEALING AND REPLACING SECTION 2.6.9 PROCEDURES FOR THE TRANSFER OF CITY REAL PROPERTY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, pursuant to City Charter Articles 1.3 and 7, the City of Bisbee possesses the power and authority to purchase, sell and exchange real property and set procedures for doing so; and,

WHEREAS, the City of Bisbee, pursuant to City Charter Article 7.5, is required to transfer City property by ordinance and the City Code sets forth the process for adopting such an ordinance; and,

WHEREAS, these procedures often result in a very cumbersome process for disposing of City property, to the detriment of the City and prospective purchasers; and,

WHEREAS, it is appropriate to enact a clear set of procedures for the transfers of City property by eliminating certain steps in the ordinance process and eliminating the public auction requirement where appropriate; and,

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to adopt the amendment to the City Code as set forth on Exhibit A hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. That document entitled “Procedures for the Transfer of City Real Property,” three (3) copies of which are on file in the office of the City Clerk of the City of Bisbee, Arizona, is hereby declared to be a public record.

Section 2. The City of Bisbee Code, Section 2.6.9, Procedures for the Transfer of City Real Property, is hereby amended by repealing and replacing Section 2.6.9 in its entirety as set forth in that certain document entitled “Procedures for the Transfer of City Real Property,” which document is a public record and attached hereto as Exhibit A and incorporated herein by reference.

Section 3. Providing for Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 4. Providing for Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of

ORDINANCE O-22-17

competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this 15th day of November, 2022.

APPROVED:


Ken Budge, Mayor

ATTEST:


Ashlee Coronado, City Clerk

APPROVED AS TO FORM:


Joseph D. Estes, City Attorney
Gust Rosenfeld, P.L.C.

EXHIBIT A

PROCEDURES FOR THE TRANSFER OF CITY REAL PROPERTY

2.6.9 Procedures for the Transfer of City Real Property

(A) Unless initiated by the City, any sale, exchange or abandonment of City real property (hereinafter the “transfer” of real property) shall be made by written application to the City on an application form provide by the City. The transfer of real property shall be subject to public auction, except as otherwise provided for herein. The final transfer of all real property shall be done by way of ordinance.

- (1) The City Manager, and/or his/her designee, shall perform an initial review of the application to determine if the proposed transfer of City real property is in the best interest of the City.
- (2) If the City Manager determines the transfer of the real property is in the best interest of the City, then the applicant shall then remit payment of the required application fee, as provided for in the City’s fee schedule, and the following additional information:
 - (i) The legal description or survey of the property. A survey is required if the sale is for a portion of an entire parcel.
 - (ii) An appraisal of the property completed by a certified general appraiser licensed in Arizona.
 - (iii) A signed acknowledgment that: (1) the approval of the application by the City Manager is no guarantee that the City Council will agree to the transfer of the property; (2) the transfer of the property shall be by public auction, except as otherwise provided for in Subsection E; and (3) the real property is subject to use and development restrictions imposed by the City’s general plan, City zoning ordinances, City adopted building codes and other applicable City, state and federal laws.
- (3) Once the applicant has submitted all required information, the application for the proposed transfer will be submitted to the Planning and Zoning Commission and City Council as provided for in this Section 2.6.9.
- (4) The City Manager’s denial of an application may be appealed to the City Council by submitting a written notice of appeal to the City Clerk within five (5) working days of the City Manager’s decision.
 - (i) The notice of appeal shall state the factual basis for the appeal.

- (ii) The appeal will be heard by the City Council within two (2) regular meetings following receipt of the notice of appeal.
- (iii) The decision of the City Council shall be the final decision.

(B) Applications for the transfer of real property under this Section shall be referred to the Planning and Zoning Commission for review and recommendation by that Commission, which shall consider the following:

- (1) Whether the proposed transfer is in conformity with any adopted general plan, including the City's policies for open space;
- (2) Whether the subject property is suitable for development under the Zoning Regulations;
- (3) Whether the proposed transfer and any anticipated development is compatible with the existing usage and development of the surrounding area;
- (4) Whether the proposed transfer would impose a burden or hardship on an adjacent property owner or the public; and
- (5) Whether the subject property is or is not suitable for public sale and auction pursuant to subsection E.

(C) Notice of the Planning and Zoning Commission meeting to recommend any such proposed transfer shall be provided by one publication in the City's newspaper of record; by posting notice on the subject property; and by first class mail notice sent to those property owners who own property within three hundred (300) feet of the subject property. This notice shall be completed not less than fifteen (15) days prior to date of the Planning and Zoning Commission meeting.

(D) After the Planning and Zoning Commission has made its recommendation, the application shall be submitted to the Mayor and City Council, who shall meet to consider whether or not to approve any such proposed transfer of City property and set the date and time of the public auction for the property, or determine that the provisions of Subsection E apply to the proposed transfer. The City Council shall also establish the minimum acceptable bid amount for the property and may impose other appropriate conditions upon any such transfer.

(E) For any parcel or portion of a parcel, which has an appraised value of less than \$7,000, or the requested abandonment of unnecessary public streets and rights-of-ways, the public auction requirement may be waived by the City Council upon the finding of the following requirements:

- (1) The property is not marketable to the general public because no one other than an adjoining property owner can, within the zoning code of the City, lawfully utilize the property, as determined by the City Council.
- (2) There is no other adjoining property owner who desires to purchase the property, or the property has historically been associated with, and used in connection with, a particular privately owned parcel.

(F) Except as provided in Subsection E above, the transfer of City real property shall be by public auction to the highest bidder. Not less than thirty days' notice of any such auction shall be provided by one publication in the City's newspaper of record; by posting notice on the property; and by first class mail notice sent to those property owners who own property within 300 feet of the subject property. The Mayor and Council reserve the right to reject any and all bids for such property and to re-offer the property if they determine, in their sole discretion, that the bids are inadequate.

(G) The net proceeds of any such sale of City real property shall be used for capital improvements of the City and shall be maintained in an appropriate account for this purpose. In the event of a fiscal emergency or change of circumstances, the Mayor and Council, by a vote of not less than five members, may re-allocate any such funds as they deem to be necessary.