

CHAPTER 20K. CITY INTERESTS IN REAL PROPERTY

Sec. 20K.001. Intent and purpose.

- (a) The purpose of this chapter is to establish procedures for real property transactions by the City. The City's acquisition of or transfer of interests in real property shall be conducted as provided in this chapter. Nothing in SRC 20K shall require additional procedures or limit the authority of the Director to issue any permits or licenses authorized by the Salem Revised Code.
 - (b) Real property owned by the City shall be disposed of as provided in this chapter, unless another procedure is specified in the SRC or in an intergovernmental agreement.
 - (c) The powers and authority set forth in this chapter are in addition to those provided under Oregon law.
- (Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.010. Applicability.

- (a) Except as provided below, this chapter applies to all acquisitions or transfers of interests in land by the City, including interests that are granted to or by the City for no consideration, and as specifically set out in this chapter to licenses or permits of entry for the use of land.
- (b) Exemptions. Specific dispositions of interest in real property and permits or licenses otherwise regulated in the SRC, including, but not limited to, vacations, the dedication or removal of easements or right-of-way through land divisions, and right-of-way encroachment permits are not subject to this chapter.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.020. Definitions.

Unless the context otherwise specifically requires, terms used in this chapter shall have the meanings set forth in this chapter. Where a term is not defined within this chapter or in SRC 1.020, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's Third New Int'l Dictionary (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

Appraisal means a written report by a certified appraiser estimating the fair market value of a real property interest.

Certified Appraiser means a person licensed by the state of Oregon as a State Certified General Appraiser and holding any necessary certificates for the type of appraisal sought.

Dispose or disposition means the sale, lease, exchange or donation of real property, or any interest therein.

Fair Market Value means the price that a seller is willing to accept, and a buyer is willing to pay on the open market and in an arm's-length transaction.

Interest in Real Property means any interest in real property recognized by law, including, but not limited to, fee interests, easements, dedications, covenants, equitable servitudes, and leases.

Lease means a tenancy in real property granting the right of possession for a specified term for consideration of at least 30 days. "Lease" does not include a permit, license, or a franchise agreement authorizing the use of City-owned or controlled real property or right-of-way.

License means permission to use the land of another for a particular purpose. See, "Permit."

Permit or permit-of-entry means permission to use the land of another for a particular purpose. See, "License."

Remnant Land means a unit of land, that may or may not be lawfully established that does not meet applicable standards and, on its own, is not developable due to size, shape, or location.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.030. Administration; rulemaking.

The Director shall administer the provisions of this chapter and shall have the authority to render written and oral interpretations and to adopt administrative rules and procedures necessary for its proper administration.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.040. Surplus real property.

- (a) The Director may declare any City-owned real property surplus when it is not needed for a public purpose or when it may be put to a private use until it is needed for a public use. Upon such declaration, the property shall be disposed of as provided in this chapter. If real property declared surplus has not been disposed of within one year of the declaration, the declaration shall terminate and must be renewed before disposition of the property.
- (b) City-owned real property may be disposed of notwithstanding that it has not been declared surplus if the City Council determines that the public interest may be served by disposition of the real property.
- (c) Remnant land is declared surplus and is exempt from the requirements of this section.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.050. Disposition of real property.

Unless otherwise provided by this chapter or in the SRC, the acquisition or disposal of interests in real property by the City shall be approved by the City Council after a public hearing conducted pursuant to ORS 221.727.

- (a) Designation of Classes of Real Property Disposition; Delegation to the City Manager. The City Manager is delegated authority to consummate the following classes of real property transactions, consistent with this chapter, without further action by the City Council:
 - (1) The acquisition of interests in real property for streets, trails, and utilities, if the funding for the acquisition has been authorized in the approved City budget.
 - (2) The acceptance of donations of interests in real property.
 - (3) Release, termination, or quit claim of City-held easements that are no longer needed for a public purpose.

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- (4) The grant of temporary or permanent easements across City-owned real property if the easement will not unreasonably disrupt current or future public use of the property.
 - (5) Leases of City-owned real property, if the form of lease has been approved by City Council and the rent is at market rate or better, and there is no modification of any material term or condition of the approved lease form.
 - (6) Licenses or permits of entry allowing the use of City-owned real property for a period not to exceed one year. Permits under this subsection granted by the City may not be extended or renewed without City Council approval. The City Manager may sub-delegate the authority to execute permits of entry or licenses at the discretion of the City Manager.
 - (7) The subordination or reconveyance of City security interests in real property, including the authorization of the City's trustee to execute subordinations or reconveyances.
 - (8) A public hearing is not required for any lease involving the City, notwithstanding that City Council approval may be required.
- (b) Determining price. The Director shall determine the sales price of real property to be disposed of by the City by directing qualified city staff to offer an opinion of value or by obtaining an appraisal from a certified appraiser.
 - (c) Recommendation to City Council. Unless the disposition of the real property is delegated to the City Manager as set forth in subsection (a) of this section, the City Council shall determine the minimum sales price and terms of sale upon the recommendation of the Director, which shall be made in executive session.
 - (d) Disposition. Once the minimum sales price and terms of sale have been determined, the real property will be disposed of pursuant to this Chapter. If the City receives an offer at less than the minimum price, or on terms inconsistent with the approved terms of sale, the Director shall reject the offer or refer the offer to the City Council in executive session for consideration.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.060. Broker's policy.

The City Council may, by resolution, adopt a policy authorizing the payment of a broker's fee for the sale or lease of real property. The policy may include payment for specific transactions and may specify a class or classes of real property that are eligible for payment of the broker's fee at a specified rate.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.070. Exchanges of real property.

When real property is exchanged by the City, the value of the real property accepted by the City, plus cash if any, shall not be less than the value of the City-owned real property relinquished, unless approved by City Council.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.080. Acquisition of interests in real property.

- (a) City Council Approval. Except as otherwise provided in this chapter or in the SRC, all acquisitions of interests in real property shall be approved by the City Council.

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- (b) Environmental Assessment. The City shall conduct due diligence before acquiring interests in real property, including, but not limited to reviewing existing environmental data, approving the title report for the property, and obtaining a phase one environmental site assessment and further site assessments if warranted upon review of the existing environmental data.
 - (c) Determination of Price. The Director may rely on an opinion of value by qualified staff for any real property with a fair market value of \$100,000 or less as indicated in the real property records of the applicable county. For all real property with a fair market value of more than \$100,000 or if qualified staff determine the value of the real property is more than \$100,000, the Director shall obtain an appraisal from a certified appraiser.
- (Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20K.090. Real property relocation benefits and assistance.

- (a) Whenever a program or project is undertaken by the City that will result in the acquisition of real property, persons who are displaced by the acquisition shall be provided fair and reasonable relocation payments and assistance as required by ORS 35.510(1). In addition, the City shall provide such other programs, assistance, payments, and reimbursement as required by ORS 35.510(2)-(6).
- (b) Except as otherwise provided in this section, in providing payments, reimbursement and assistance for relocation resulting from the acquisition of real property, the City Manager shall follow the procedures established by 49 C.F.R. §§ 24.1—24.603.
- (c) Any person who applies for relocation benefits or assistance shall receive a written decision from the Director awarding or denying benefits. The decision shall be mailed to the person, by first class mail, postage prepaid, or delivered by personal service. The notice of decision awarding or denying benefits shall contain the following:
 - (1) A statement of the amount awarded;
 - (2) A statement of any findings of fact made in arriving at the decision;
 - (3) A reference to the legal authority that is the basis for award of relocation benefits;
 - (4) A statement of the person's right to appeal the decision of the Urban Development Director; and
 - (5) A statement of the authority under which the appeal will be held.
- (d) Appeals of final decisions by the Director are contested cases as defined in SRC 20J.020. The applicant may appeal the final decision by filing a notice of appeal with the City Recorder within 60 business days after the date the notice of decision is delivered to the applicant or is deemed to have been received by the applicant as set forth in SRC 20J.210. The appeal shall be held according to procedures set forth in 49 C.F.R. § 24.10 and SRC Chapter 20J, with the provisions of 49 C.F.R. § 24.10 being used in the event of a conflict.

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)

Sec. 20k.100. Property within 100 feet of a railroad right-of-way or within 500 feet of an at-grade rail crossing; notice required.

At least 30 days before listing or placing real property, for sale, exchange or conveyance, the City shall notify the Oregon Department of Transportation of its intent to sell, exchange or convey the real property if the real property is within 100 feet of a railroad right-of-way or is within 500 feet of an at-grade rail crossing. Notwithstanding the above, the notice requirement does not apply to an easement or other interests in real property except under state law, pursuant to ORS 270.310(3)(a).

(Ord. No. 6-21 , § 1(Exh. A), 7-26-2021, eff. 8-25-2021)