

ORDINANCE NO. 20-___-__

AN ORDINANCE OF CITY OF JOHN DAY ADOPTING POLICIES AND PROCEDURES GOVERNING THE DISPOSAL OF CERTAIN CLASSES OF CITY-OWNED REAL PROPERTY.

WHEREAS, City of John Day (“City”) has all the powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, ORS 271.310(1) provides that a city may sell, exchange, convey, or lease real property no longer needed for public use or whenever the public interest may be furthered; and

WHEREAS, ORS 221.725 outlines certain notice, hearing, and approval requirements for a city to dispose of real property; and

WHEREAS, ORS 221.727 provides that a city council may, after notice and a hearing, adopt an alternative procedure for the sale of individual parcels of a class of City-owned real properties in lieu of the procedure under ORS 221.725; and

WHEREAS, the John Day City Council (the “Council”) finds that policies and procedures governing the disposal of certain classes of city-owned real property are necessary to ensure the efficient, consistent, and equitable disposal of certain classes City-owned real property, including, without limitation, certain industrial, commercial, and low value properties; and

WHEREAS, the Council desires to adopt this Ordinance No. _____ (this “Ordinance”) to establish policies and procedures governing the transfer of certain classes of City-owned real property.

NOW, THEREFORE, the City of John Day ordains as follows:

1. Findings. The above-stated findings contained in this Ordinance are hereby adopted.

2. Purpose; Scope.

2.1 Purpose. The purpose of this Ordinance is to establish policies and procedures governing the transfer of certain classes of City-owned real property.

2.2 Scope. Except as expressly provided otherwise by the Council from time to time, City-owned real property will be transferred subject to and in accordance with the provisions contained in this Ordinance. Nothing contained in this Ordinance will be construed to require additional procedures applicable to the transfer of City-owned real property classified under this Ordinance and/or limit the authority of the city manager to issue any permits or licenses authorized by other City ordinances, codes, rules, and/or regulations.

3. Definitions. Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below, whether capitalized or not:

“City” means the City of John Day, Oregon, an Oregon municipal corporation.

“City manager” means City’s city manager or his or her designee.

“Commercial property” means any interest in City-owned real property in any commercial district, as defined in the John Day Development Code, whether now owned or hereinafter acquired.

“Council” means the John Day City Council.

“Industrial property” means any interest in City-owned real property in any industrial district, as defined in the John Day Development Code, whether now owned or hereinafter acquired.

“Lease” means a tenancy in real property granting the right of possession for a specified term [in excess of _____ years] for consideration; provided, however, for purposes of this Ordinance, "lease" does not include a permit, license, or franchise to use any City-owned or controlled real property or public right-of-way.

“Low value property” means any interest in City-owned real property with an estimated market value of less than \$_____ regardless of the property’s zoning designation.

“Person(s)” means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity.

“Transfer” means the sale, lease, lease-option, disposal, exchange, and/or donation of real property.

4. Property Classifications. City hereby classifies City-owned real property as follows: (a) commercial property; (b) industrial property; and (c) low value property. Prior to disposing of any real property under this Ordinance, City will determine (y) that the property is not needed for public use and/or (z) that the public interest may be furthered by disposal of such real property. Council will make the aforementioned determination; provided, however, the city manager may, without Council approval and/or authorization, make such determination for any low value property.

5. Real Property Transfer – Procedures. Subject to the provisions contained in this Ordinance, City may transfer City-owned real property in accordance with the following procedures:

5.1 Appraisal. When City desires to transfer any City-owned real property, the city manager will obtain an appraisal or other evidence of the market value of the property, which evidence may include, without limitation, a broker price opinion.

5.2 Determination; Minimum Terms. Upon receiving the appraisal and/or evidence of market value, the Council will determine whether to offer the property for sale and will establish minimum acceptable terms for the transfer of such property. In establishing the minimum acceptable terms for purposes of the transfer, the Council may consider such information as is necessary and appropriate, including, without limitation, the appraisal(s) and/or other evidence of market value. If the Council decides to offer the property for sale (transfer), the city manager will transfer the property in accordance with Section 5.3 or as otherwise directed by the Council.

5.3 Procedures. Unless expressly directed otherwise by the Council, the city manager may, in the city manager’s discretion, transfer City-owned real property through such method

of transfer that the city manager determines is in the best interests of City, including, without limitation, the following: (a) by listing the designated parcel(s) of City-owned real property with a licensed realtor; (b) through a solicitation or bid process; (c) by auction or liquidation sale; and/or (d) after providing public notice of City-owned real property offered for sale.

5.4 Documentation. City's transfer of real property pursuant to the procedures contained in this Section 5 will be conditioned upon the transferee entering into such agreements, documentation, and/or instruments as City determines necessary and/or appropriate to effectuate the transfer, which may include, without limitation, a purchase and sale agreement. Notwithstanding anything contained in this Ordinance to the contrary, the transfer agreement(s), document(s), and/or instrument(s) (a) will be in form and content satisfactory to City and contain such terms and conditions the city manager and/or city attorney determine necessary and/or appropriate, which may include, without limitation, that the real property will be transferred "as is" and "with all faults", City will transfer and convey the property (i) subject to all encumbrances of record and (ii) subject to and in accordance with all applicable federal, state, and/or local laws, rules, regulations, codes, and/or ordinances, and (b) will be subject to the review and approval of the city manager and city attorney.

5.5 Conditions of Sale. In determining whether to transfer any City-owned real property under this Ordinance, City may, in its sole discretion, consider whether to establish certain requirements as conditions of the transaction, which may include, without limitation, requiring that the property be developed to a certain standard by a specified date, that the property not be placed in tax-exempt status for a specified length of time, and/or such other conditions City may deem necessary and/or appropriate.

6. Exemptions. The following transfer(s) of real property are exempt from the procedures contained in Section 5.

6.1 Transfer to Government Entities. Notwithstanding anything contained in this Ordinance to the contrary, City may transfer real property to any federal, state, and/or local agency, government, and/or political subdivision if the Council finds (a) that the property is not needed for public use and/or (b) that the public interest may be furthered by disposal of such real property. City may transfer City-owned real property to another government entity with or without consideration.

6.2 Transfer of Low Value Property. Whenever the city manager and/or Council finds (a) that low value property is not needed for public use and/or (b) that the public interest may be furthered by disposal of such real property, the city manager may direct the transfer of such property in such manner as the city manager deems necessary and/or appropriate, including, without limitation, by direct sale to a private party and/or by donation.

7. Alternate Procedures. Notwithstanding the provisions of this Ordinance, the Council may, from time to time, adopt, after public notice and hearing, a resolution establishing a procedure for the sale of individual parcels of a class of City-owned real properties, or any interest in the properties, under a single program established within City for the sale of that class of properties. City may thereafter sell any parcel under that adopted procedure in lieu of the procedure established in this Ordinance.

8. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as

the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors. City staff and/or its designee may renumber, format, and make all other edits necessary to codify this Ordinance into the John Day City Code.

This Ordinance was PASSED by the City Council by a vote of ___ for and ___ against and APPROVED by the Mayor on this ___ day of _____, 2020.

Ron Lundbom, Mayor

ATTEST:

Nicholas Green, City Manager