

**\*\*ATTENTION\*\***

The City Council meeting will be held in a hybrid format that may include both in-person AND virtual attendance via Zoom. Unless they have cause to appear virtually, Councilmembers will attend the meeting in person in Council Chambers, second floor of City Hall, 220 N. 27th Street. In order to honor the Right of Participation and the Right to Know in Article II, Sections 8 and 9, of the Montana Constitution, the City of Billings and City Council are making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: [www.billingsmt.gov](http://www.billingsmt.gov) and click on "Your Government," "City Council," and "Agendas & Minutes".
- View the meeting:
  - On Community 7 TV - Channel 7 or Channel 507 -- Spectrum Cable. (*On evenings when there is a conflict with School District No. 2 Board meetings, the City Council meeting will be broadcast on Channel 8 - Spectrum Cable.*)
  - Online at [www.comm7tv.com](http://www.comm7tv.com) and click on the "Watch Live" icon. Community 7 also has links to their Facebook page and YouTube channel.
  - On the City's website at [www.billingsmt.gov](http://www.billingsmt.gov) and click on "Watch Meetings Online" on the homepage.
  - In-Person.
  - Virtually via Zoom (see the link below).

Citizens may submit public comment via the following methods:

- Mail: City Clerk, P.O. Box 1178, Billings, MT 59103
- Email: [Council@billingsmt.gov](mailto:Council@billingsmt.gov).
  - Emails received after 3:00 PM on the day of the meeting, may be posted on the Council's webpage the following day for public viewing.
- Attend the meeting in person.
- Attend the meeting virtually through Zoom by entering the Webinar ID and Passcode indicated below. Click on *Zoom Meeting Instructions* and *Zoom Hybrid Meeting Details* below for more information. The link will allow you to attend, view and participate in the meeting on your computer, laptop or smart phone. (You must have the Zoom App on your device [Click Here to Download Zoom App](#)) To provide public comment at the appropriate time, click on the "raise hand" icon located at the bottom of the screen and the moderator will unmute your device.
  - **Don't have a smart phone, computer or laptop?** That's okay -- you can attend a Zoom meeting using your **landline phone**. Call the Zoom phone number, 1.253.215.8782 to join the meeting and follow the operator's instructions. Want to give public comment? Simply "*raise your hand*" by pressing \*9 and the moderator will give you permission to speak when it is your turn. *\*Note this is a long distance toll number and charges may apply depending on your plan.*
- Click Here for [Zoom Meeting IDs and Passcodes](#)
- Click Here for [Zoom Meeting Instructions for Attendees \(as guests\)](#)

Please contact Denise Bohlman, City Clerk, at [bohlmand@billingsmt.gov](mailto:bohlmand@billingsmt.gov), or at 406.657.8210, with any questions.



**VISION STATEMENT:**  
"The Magic City: A diverse,  
welcoming community  
where people prosper and  
business succeeds."

**WORK SESSION AGENDA  
SEPTEMBER 18, 2023**

**COUNCIL CHAMBERS**

**5:30 P.M.**

**CALL TO ORDER:** Mayor Cole

**PUBLIC COMMENT ON ALL ITEMS.** This is the time to comment on any matter (Agenda or Non-Agenda) falling within the scope of the Billings City Council. There will also be time in conjunction with each agenda item for public comment relating to that item. You may only speak once for each item during the meeting.

Please note, the City Council cannot take action on any item of significant interest to the public that does not appear on the agenda. Comments are limited to three (3) minutes during each public comment period or as set by the Mayor. **Speaker sign-in required.** Please sign the roster at the cart located at the back of the Council chambers or at the podium.

**1. Family Justice Center Update.**

- Presented by: Rich St. John, Police Chief

-Public Comment

**2. Crime Prevention Through Environmental Design (CPTED) Presentation.**

- Presented by: Chris Kukulski, City Administrator

-Public Comment

**3. Acquisition and Disposition of City Real Property.**

- Presented by: Gina Dahl, City Attorney

-Public Comment

**4. Highlight Upcoming Agenda Items of Council Interest.**

- Presented by: Chris Kukulski, City Administrator

-Public Comment

**COUNCIL DISCUSSION:**

**PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.** *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

**ADJOURN:**

Note:

- This meeting is an "informal" meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4) (a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

**City Council Work Session**

**Date:** 09/18/2023  
**Title:** Family Justice Center Update  
**Presented by:** Rich St. John, Police Chief  
**Department:** Police  
**Presentation:** Yes  
**Legal Review:** Not Applicable  
**Project Number:** N/A

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**RECOMMENDATION**

Leadership from the Family Justice Center Alliance ("the Alliance") will provide an informational presentation only, with no recommendations.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

Leadership from the Family Justice Center Alliance ("the Alliance") will present to Council for a brief summary of the July Study Tour conducted by the Alliance. The Alliance will also provide an overview of the Family Justice Center Strategic Planning session scheduled to take place from September 19th and 20th, with discussion groups including members of the community, the Alliance, and partnering agencies/organizations. All the technical assistance offered by the Alliance is included in the City's previously-approved Contract with the Alliance. (Contract expenses paid in full from the FY 2023 budget.)

As described above, the City agreed to use money allocated to the Crime Prevention and Domestic Violence Investigation Programs, along with some DVI Program grant funding, to Contract with the Family Justice Center Alliance in order to further the discussion of developing a Family Justice Center in the Billings community. Development of a Family Justice Center would be consistent with the City's goals, including to reduce violent crime and to increase partnerships with community-based organizations.

**STAKEHOLDERS**

Stakeholders currently include the City of Billings, the Billings PD, the YWCA, and numerous other community-based organizations and agencies from the Billings Area. A current list of participating agencies is available upon request.

**ALTERNATIVES**

N/A. Informational presentation only.  
 City Council may:

- Approve; or,
- Not Approve

**FISCAL EFFECTS**

The Contract with the Alliance was paid in full during FY 2023. A portion of the Crime Prevention Program budget, the Domestic Violence Investigations Program budget, and some funds from the DVI Program's grant (VAWA grant 23-W02-1486) were used to pay the cost of the Contract. The topics of future funding and sustainability of a future Family Justice Center will be discussed at the Strategic Planning session, but there is not an additional fiscal note to approve/disapprove at this time. Strategic Planning will make every effort to ensure that funding for a Family Justice Center does not fall on any one specific agency, including the City.

**SUMMARY**

As noted, this presentation is informational only. It is intended to provide Council with an update on the City's contract with the Alliance, and to provide an update on the discussion related to developing a Family Justice Center.

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**City Council Work Session**

**Date:** 09/18/2023  
**Title:** Crime Prevention Through Environmental Design (CPTED) Presentation  
**Presented by:** Chris Kukulski, City Administrator  
**Department:** City Hall Administration  
**Presentation:** Yes  
**Legal Review:** No  
**Project Number:** NA

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**RECOMMENDATION**

No action is needed - The City Administrator will give a brief overview of our organizational strategy to implement CPTED principles followed by a presentation from Nick Miller from the parks department.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

As we continue our focus to improve the safety of Billings, we are implementing CPTED principles in several public spaces. The parks department has done a number of projects that include public outreach that we wanted to share with the Council and community.

**ALTERNATIVES**

City Council may:

- Approve; or,
- Not Approve

**FISCAL EFFECTS**

NA

**SUMMARY**

NA

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**City Council Work Session**

**Date:** 09/18/2023  
**Title:** Purchase, sale, exchange, or donation of city real property  
**Presented by:** Gina Dahl  
**Department:** Legal  
**Presentation:** Yes  
**Legal Review:** Yes  
**Project Number:** N/A

**RECOMMENDATION**

Staff requests feedback regarding the proposed ordinance to amend city code and city resolution regarding the acquisition and disposition of city real property.

**BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)**

The City is routinely involved in numerous real property transactions and over the years, City Council has passed resolutions to address the acquisition of City property. There is currently a brief section in City Code that addresses disposition of City property. However, City staff has seen a need to address these issues in City Code to clarify procedures for both the acquisition and disposition of City property in a way that doesn't require routine policy updates and to clearly delegate appropriate authority. The proposed ordinance incorporates much of what is included in Resolution 21-10954 (establishing a policy related to the purchase of real property) but also includes issues that are not currently addressed in any way in City Code or in any City resolution but should be, like granting and accepting easements.

Currently, BMCC section 22-902 does not provide a clear process to dispose of City property and there has often been confusion about how and when notice is required, how many public hearings are required and when those hearings are to be held. Additionally, the current code section limits Council to only one process for the sale of property, which is by competitive bid. The proposed ordinance clarifies the process for disposing of property and provides more options to dispose of real property. For example, prior to any sale, exchange or donation of any real property, the Council must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation. This finding must be made by six Council members. The final decision to transfer City owned property must be made at a subsequent public hearing where the Council will decide whether to approve the specific sale, exchange, or donation. The final decision to approve the sale, exchange, or donation must also be made by six Council members. The proposed ordinance also provides that Council may dispose of property by bid, public auction, or direct negotiated sale.

The proposed ordinance enables the exchange of City property for property of equivalent value or, if the property is not of equivalent value, for sufficient consideration as determined by a majority of Council. It also addresses transfers with other governmental entities by providing authority to sell at a reduced rate, exchange of property, or donation of real property if the property will continue to be used for governmental purposes. Additionally, the proposed ordinance provides circumstances for Council to authorize the sale of property at a reduced rate for the following reasons: to preserve historically significant property, for constructing low-income housing or emergency shelter, to aid in economic development, or to further the sustainability goals of the City.

An important aspect of this ordinance provides a clear delegation of authority for the City Administrator to grant and accept rights-of-way or public infrastructure. Council currently reviews these on its consent agenda during regular business meetings. These easements may also come before Council as part of final plat. Examples of other easements frequently seen on the consent agenda include temporary easements to allow for improvements to be completed to public infrastructure. The delegation of this authority to the City Administrator will eliminate unnecessary delay on obtaining the approval of an easement and save staff time. For dedications required as part of a final subdivision plat, in compliance with State law, the acceptance of infrastructure or an easement will require the Council's approval of the final plat before the dedication or easement can be accepted.

The proposed ordinance also addresses the requirement for appraisals (with some exceptions, e.g., transfers between governmental entities) for the purchase of real property; leases of city property; and some less common issues like water rights and issuing licenses and permits that affect real property.

**ALTERNATIVES**

City Council may provide staff direction regarding the proposed ordinance.

## **FISCAL EFFECTS**

Adoption of the proposed ordinance will result in efficiencies in process and saving staff time.

## **SUMMARY**

The proposed revisions to this Article incorporate much of what is included in Resolution 21-10954, which provides guidance for the purchase of real property, but it also expands Council's ability to dispose of city owned real property.

The proposed ordinance provides authority for the administrative acceptance of rights-of-way and dedications of infrastructure which will increase efficiencies related to development review and includes some items not currently addressed by any policy or City code section. The intent of this ordinance is to codify or clarify current practices to establish clear delegation of authority.

This proposal will be presented to Council at its regular business meeting on September 25, 2023, for first reading. That agenda packet has already been submitted so any changes made during this work session will not be reflected in the packet materials. However, staff will make any changes requested by a majority of Council and those will be included in the version to be considered on first reading.

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### **Attachments**

Current Article 22-900 - Sale, Exchange or Donation of City Real Property

Resolution 21-10954

Proposed ordinance - CLEAN VERSION

Proposed ordinance - REDLINED VERSION

## **ARTICLE 22-900. SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY<sup>1</sup>**

### **Sec. 22-901. State law superseded.**

Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease or sale of city property is hereby superseded.

(Ord. No. 12-5578, § 1, 9-10-12)

### **Sec. 22-902. Sale, exchange or donation of city real property.**

- (1) Subject to the provisions of subsections (a) and (b) below, the city council may sell, exchange or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present. The city council shall advertise for competitive bids on any real property prior to sale, exchange or donation. The city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid or it may reject any and all bids. Other local, state or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided in subsections (a) and (b) and approve the Resolution described above when considering the sale, exchange or donation to another governmental entity.

In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange or donation of land.

Prior to selling exchanging or donating said real property, the city administrator or his/her designee shall:

- (a) Publish notice in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.
  - (b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.
- (2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.
- (3) The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion

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<sup>1</sup>Editor's note(s)—Ord. No. 12-5578, § 1, adopted September 10, 2012, amended article 22-900 in its entirety to read as herein set out. Formerly, article 22-900 pertained to the sale, disposal or lease of city property and derived from Ord. No. 90-4826, §§ 1, 2, adopted March 26, 1990.

Cross reference(s)—Administration, Ch. 2.

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to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to the prepare all appropriate documents for signature by the mayor.

(Ord. No. 12-5578, § 1, 9-10-12)

**RESOLUTION 21-10954**

**A RESOLUTION REPEALING RESOLUTION 93-16740, AND  
ESTABLISHING A POLICY OF THE CITY OF BILLINGS, MONTANA AS  
IT RELATES TO THE PURCHASE OF REAL PROPERTY.**

WHEREAS, from time to time the City of Billings has need to purchase real property in order to carry out the programs and projects adopted by the City Council; and

WHEREAS, the City is desirous of developing a uniform guide for the purchase of real property; and

WHEREAS, market value shall be defined as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts regarding the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

Resolution No. 93-16740 is hereby repealed.

A. NEGOTIATIONS: City staff may enter into negotiations with the property owner prior to determining market value and may prepare, but not execute, a draft acquisition agreement with contingencies that shall not be binding upon the City until executed by the mayor or City Administrator pursuant to authorization granted by the City Council or this resolution. Contingencies include, but are not limited to, market value determination and City Council or City Administrator approval.

B. GUIDE TO DETERMINE MARKET VALUE: Except as provided herein, the City of Billings shall have an appraisal performed to assist in determining the market value prior to purchase of real property. The appraisal must be by disinterested, certified, general real estate appraiser selected by staff. The City Administrator may waive this requirement for an appraisal if the purchase price of the real property is less than \$25,000, provided that the City Administrator determines that it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arm-length sales of this or comparable properties, etc.

Staff shall review the appraisal and bring their recommendation of market value to the City Council for approval. In cases where staff does not recommend approval of the appraisal, staff may request additional appraisals and/or that a certified appraiser reviews the appraisal(s). Except as expressly provided in this resolution, no determination of market value expressed in an appraisal obtained by the City shall be binding upon the City, and the City may accept or reject the findings of any appraisal in the discretion of the City.

Appraisals for property \$750,000 and over in value must be reviewed by a qualified review appraiser selected by the City of Billings. After the review appraiser has reviewed the appraisal(s) and arrived at a market value of the property being appraised, the city staff will present the review appraisal to the City Council for the purpose of establishing the market value.

The City may not purchase property for more than the appraised market value, except as expressly allowed by this resolution or later approval of the City Council.

The City Administrator may approve real property purchases with appraised values within the limits of his/her signing authority.

C. NEGOTIATING FLEXIBILITY: In cases of significant need where purchase of property is critical to the success of a public improvement project or would fulfill another public purpose, the City Administrator may bring to the City Council an offer over the fair market value. The City Council will then determine if the amount over market value is appropriate and, if it is, the council may accept the same in its discretion.

For purchases within his or her signing authority, the City Administrator may also approve a purchase price above the appraised value in his or her discretion based on the same criteria described in the previous paragraph.

D. THIS RESOLUTION IS INTENDED TO PROVIDE A SET OF GUIDELINES FOR THE CITY'S PURCHASE OF REAL ESTATE IN FEE. THIS RESOLUTION IS NOT INTENDED FOR PROPERTY AGREEMENTS INVOLVING THE ACQUISITION OF OTHER INTERESTS IN PROPERTY, SUCH AS EASEMENTS AND DEEDED ACCESS.

E. THIS RESOLUTION IS NOT INTENDED FOR CONDEMNATION OR EMINENT DOMAIN ACTIONS.

F. WHERE THE REAL PROPERTY WILL BE PURCHASED WITH FEDERAL FUNDS, THE CITY IS REQUIRED TO FOLLOW THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AS AMENDED.

G. IN CASES WHERE THE DEMANDS OF A PROJECT REQUIRE A VARIANCE FROM THESE GUIDELINES, THE CITY ADMINISTRATOR MAY COME TO THE CITY COUNCIL TO REQUEST A VARIANCE.

APPROVED AND PASSED by the Council of the City of Billings this 24th day of May, 2021.



CITY OF BILLINGS:

By: William A. Cole

William A. Cole, Mayor

ATTEST:

By: Denise R. Bohman  
Denise R. Bohman, City Clerk

**ORDINANCE 23-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING ARTICLE 22-900 – SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY TO BE ENTITLED REAL PROPERTY AND GENERALLY REVISING THE ENABLING LEGISLATION OF THE PURCHASE AND DISPOSAL OF REAL PROPERTY, INTERESTS IN WATER, AND THE GRANTING AND ACCEPTANCE OF EASEMENTS**

**WHEREAS**, the City of Billings has adopted self-government powers as those powers are enumerated in its Charter, and the laws and Constitution of the State of Montana; and

**WHEREAS**, pursuant to its Charter, the Montana Constitution, and state law, the City may exercise any power not prohibited by the constitution, law or charter and neither the Montana Constitution, state law, nor the City Charter prohibits the City Commission from adopting this Ordinance; and

**WHEREAS**, pursuant to §7-8-4201 the City may sell, dispose of, donate, or lease any property belonging to the city; and

**WHEREAS**, pursuant to §7-14-4101 the City has the authority to establish, alter, and maintain traffic ways and public grounds; and

**WHEREAS**, pursuant to §7-8-103 the City has the authority to accept, receive, take, hold, own and possess any gift, donation, grant, devise, or bequest, any real property; any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland reserve; any fish or game reserve in any part of the state and to own, hold, work, and improve the same; and

**WHEREAS**, pursuant to §7-8-101 the City may sell or trade to any political subdivision any property, however held or acquired, that is not necessary for the conduct of the city business; and

**WHEREAS**, the city recognizes these amendments are necessary to clarify processes for the disposal of city owned real property and increase efficiencies in the process to grant and accept of easements of real property, rights-of-way, or public infrastructure.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:**

**Section 1.** That Article 22-900 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

## **Article 22-900. – REAL PROPERTY**

### **Sec. 22-901. State law superseded.**

Pursuant to the city's self-government powers, MCA 7-8-4201 which addresses the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

### **Sec. 22-902. Authorization for the sale, exchange, or donation of city real property.**

- a. The city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose. The city administrator may negotiate and enter into agreements to sell, exchange, or donate real property subject to ratification by the city council and compliance with this article.
- b. The city administrator may approve and take necessary action to finalize a sale, exchange, or donation of real property with a market value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- c. An exchange of real property may not be made unless property received in exchange for the city property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if the city receives sufficient consideration approved by a majority of city council members present and voting in addition to the delivery of title. Sufficient consideration may include but is not limited to financial compensation or a public benefit as determined by a majority of city council members present and voting.
- d. The city may sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose, at a reduced rate to another governmental entity for a governmental purpose. At the discretion of the city council, the transfer of such property may provide for the reversion of the property, including any improvements made to the real property, to the city in the event the recipient no longer uses the property for governmental purposes.
- e. The city may donate or sell at a reduced rate city owned real property:
  1. Containing a historically significant building or monument to an entity that agrees to restore or preserve the property. The contract for the transfer of such property must contain provisions that:

- A. Require the property to be preserved in its present or restored state upon any subsequent transfer; and
  - B. Provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
2. For economic development purposes to an entity that agrees to develop the property for economic development purposes. The contract for the transfer of such property must contain provisions that:
- A. Require the property be developed in such a manner as to provide economic development opportunities, including job creation or retention, for industries of value to the city, or for development implementing an urban renewal plan; and
  - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
3. To an entity for the purpose of constructing buildings which will provide emergency or transitional shelter housing or rental housing for low to moderate-income households, or buildings which may be sold as low to moderate-income households. The contract for the transfer of such property must contain at minimum, provisions that:
- A. Provide, for a period of time and under the conditions specified in the transfer, emergency or transitional shelter or housing for low to moderate-income households; and
  - B. At the discretion of the city council, provides for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
4. For sustainability purposes to an entity that agrees to develop or otherwise utilize the property for purposes that further the sustainability goals of the city. The contract for the transfer of such property must contain at minimum, provisions that:
- A. Require the property be developed or otherwise utilized in such a manner as to further the sustainability goals of the city; and
  - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property,

to the city for noncompliance with conditions attached to the transfer.

- f. The city administrator may, by administrative order, establish procedures for the purchase, exchange, donation, or sale of city real property.
- g. Any sale, donation, or exchange of real property must comply with the provisions of this article.

**Sec. 22-903. Additional requirements for sale, exchange, or donation of city real property.**

- a. Prior to the sale, exchange, or donation of any real property, no less than six (6) city council members must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city property.
- b. If council makes a finding as required above and approves and adopts a resolution of intent to sell, exchange, or donate the city property, Council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no less than six (6) city council members. Prior to the public hearing, the city must provide notice, as required by MCA 7-1-4217, of the resolution of intent to sell, exchange, or donate the city real property.
- c. For the sale of real property, the city may sell property by bid, public auction, or direct negotiated sale. For exchanges and donations, the city may negotiate directly with a specific person or entity, including other governmental entities, without advertising for bids.
- d. The city may terminate the process at any time and may reinstate the same process or begin anew at a later date.

**Sec. 22-904. Authorization for city to obtain property.**

Except as may otherwise be provided by this Code, the city council has the authority, under such limitations and restrictions as are prescribed by law, to purchase and accept by donation or exchange any real property necessary for the use of the city and to preserve, take care of, manage, and control the same.

- a. The city administrator may approve and take necessary action to finalize real property purchases with an appraised value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).

- b. The city administrator may enter into leases on behalf of the city for the purposes of providing facilities for city operations.

**Sec. 22-905. Appraisal required for certain transfers of real property; exceptions.**

- a. An appraisal is required when the city purchases a fee simple interest in real property or a conservation easement using public funds, unless specifically exempted. The city administrator may waive this requirement provided the city administrator determines it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arms-length sales of this or comparable properties, etc.
- b. An appraisal is not required when the purchase, sale, exchange, or donation of real property is to or between another governmental entity if the property will continue to be used for governmental purposes.
- c. An appraisal is not required for the acquisition of interests in water rights or rights-of-way for utility or road purposes.
- d. For any transfer requiring an appraisal under this article, the property must be appraised within one year prior to the date of adoption of the resolution approving the transfer unless waived by city council.

**Sec. 22-906. Terms of sale.**

Unless otherwise determined by no less than six (6) of the city council members:

- a. Except for sales conducted pursuant to 22-902 c. and d., a sale under this article must be for cash or on terms approved by no less than six (6) members of the city council.
- b. The title to any property sold may not pass from the city until the purchaser or the purchaser's assigns have met all obligations of the sale or exchange agreement.

**Sec. 22-907. Lease and licensing of city property.**

- a. The city council has the power to lease any lands, buildings, structures, or improvements, owned by the city, however acquired, for any length of time and for any purpose. The council, or city administrator as provided herein, may enter into such leases at a reduced rate if the city property is to be used for a public purpose.
- b. The development or other use of any city lands, buildings, structures, or improvements, whether by a lessee, or their invitees, must comply with City Code.

- c. The leasing of one or more parts of a building, improvement, or structure may be approved by the city administrator. The leasing of a portion or an entire tract of record owned by the city must be approved by city council unless the annual value of the lease is within the limits of the city administrator's signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).
- d. The city administrator may grant a license for a temporary use of city real property or facilities under conditions determined by the city administrator.
- e. The city administrator or designee has the power to issue permits for parking spaces in parking structures and parking lots and establish standards for the same.

**Sec. 22-908. Easements.**

- a. The city administrator may on behalf of the city accept the grant or dedication of real property, rights-of-way, or public infrastructure. The acceptance must be in writing. The acceptance must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk. Nothing herein may be construed to authorize the city administrator to accept an easement or grant as shown on a subdivision plat until such final plat has been approved by the city pursuant to law.
- b. The city administrator may grant rights-of-way for private, municipal, or public utilities across land owned by the city. The city administrator may determine whether consideration for the grant is required. The grant must be in writing. The grant must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk.
- c. The city administrator may authorize, subject to the availability of funds, the purchase of right-of-way for public infrastructure or public purposes.

**Section 2. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 3. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the \_\_\_\_\_ day of \_\_\_\_\_,  
2023.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_\_ day of  
\_\_\_\_\_, 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_  
William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_  
Denise R. Bohlman, City Clerk

**ORDINANCE 23-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY REVISING ARTICLE 22-900 – SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY TO BE ENTITLED REAL PROPERTY AND GENERALLY REVISING THE ENABLING LEGISLATION OF THE PURCHASE AND DISPOSAL OF REAL PROPERTY, INTERESTS IN WATER, AND THE GRANTING AND ACCEPTANCE OF EASEMENTS**

**WHEREAS**, the City of Billings has adopted self-government powers as those powers are enumerated in its Charter, and the laws and Constitution of the State of Montana; and

**WHEREAS**, pursuant to its Charter, the Montana Constitution, and state law, the City may exercise any power not prohibited by the constitution, law or charter and neither the Montana Constitution, state law, nor the City Charter prohibits the City Commission from adopting this Ordinance; and

**WHEREAS**, pursuant to §7-8-4201 the City may sell, dispose of, donate, or lease any property belonging to the city; and

**WHEREAS**, pursuant to §7-14-4101 the City has the authority to establish, alter, and maintain traffic ways and public grounds; and

**WHEREAS**, pursuant to §7-8-103 the City has the authority to accept, receive, take, hold, own and possess any gift, donation, grant, devise, or bequest, any real property; any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland reserve; any fish or game reserve in any part of the state and to own, hold, work, and improve the same; and

**WHEREAS**, pursuant to §7-8-101 the City may sell or trade to any political subdivision any property, however held or acquired, that is not necessary for the conduct of the city business; and

**WHEREAS**, the city recognizes these amendments are necessary to clarify processes for the disposal of city owned real property and increase efficiencies in the process to grant and accept of easements of real property, rights-of-way, or public infrastructure.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:**

**Section 1.** That Article 22-900 of the Billings, Montana City Code (BMCC) is amended so that such section shall read as follows:

**Article 22-900. – ~~SALE, EXCHANGE, OR DONATION OF CITY REAL PROPERTY~~**

**Sec. 22-901. State law superseded.**

Pursuant to the city's self-government powers, MCA 7-8-4201, ~~of the state law dealing with which addresses~~ the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

**Sec. 22-902. Authorization for the sale, exchange, or donation of city real property.**

~~(1) Subject to the provisions of subsections (a) and (b) below, the city council may sell, exchange or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present. The city council shall advertise for competitive bids on any real property prior to sale, exchange or donation. The city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid or it may reject any and all bids. Other local, state or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided in subsections (a) and (b) and approve the Resolution described above when considering the sale, exchange or donation to another governmental entity.~~

~~In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange or donation of land.~~

~~Prior to selling, exchanging or donating said real property, the city administrator or his/her designee shall:~~

~~(a) Publish notice in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.~~

~~(b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.~~

~~(2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.~~

~~(3) — The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to the prepare all appropriate documents for signature by the mayor.~~

- ~~a. The city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose. The city administrator may negotiate and enter into agreements to sell, exchange, or donate real property subject to ratification by the city council and compliance with this article.~~
- ~~b. The city administrator may approve and take necessary action to finalize a sale, exchange, or donation of real property with a market value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).~~
- ~~c. An exchange of real property may not be made unless property received in exchange for the city property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if the city receives sufficient consideration approved by a majority of city council members present and voting in addition to the delivery of title. Sufficient consideration may include but is not limited to financial compensation or a public benefit as determined by a majority of city council members present and voting.~~
- ~~d. The city may sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose, at a reduced rate to another governmental entity for a governmental purpose. At the discretion of the city council, the transfer of such property may provide for the reversion of the property, including any improvements made to the real property, to the city in the event the recipient no longer uses the property for governmental purposes.~~
- ~~e. The city may donate or sell at a reduced rate city owned real property:
  - ~~1. Containing a historically significant building or monument to an entity that agrees to restore or preserve the property. The contract for the transfer of such property must contain provisions that:
    - ~~A. Require the property to be preserved in its present or restored state upon any subsequent transfer; and~~~~~~

- B. Provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 2. For economic development purposes to an entity that agrees to develop the property for economic development purposes. The contract for the transfer of such property must contain provisions that:
  - A. Require the property be developed in such a manner as to provide economic development opportunities, including job creation or retention, for industries of value to the city, or for development implementing an urban renewal plan; and
  - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 3. To an entity for the purpose of constructing buildings which will provide emergency or transitional shelter housing or rental housing for low to moderate-income households, or buildings which may be sold as low to moderate-income households. The contract for the transfer of such property must contain at minimum, provisions that:
  - A. Provide, for a period of time and under the conditions specified in the transfer, emergency or transitional shelter or housing for low to moderate-income households; and
  - B. At the discretion of the city council, provides for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.
- 4. For sustainability purposes to an entity that agrees to develop or otherwise utilize the property for purposes that further the sustainability goals of the city. The contract for the transfer of such property must contain at minimum, provisions that:
  - A. Require the property be developed or otherwise utilized in such a manner as to further the sustainability goals of the city; and
  - B. At the discretion of the city council, provide for the reversion of the property, including any improvements made to the real property, to the city for noncompliance with conditions attached to the transfer.

f. The city administrator may, by administrative order, establish procedures for the purchase, exchange, donation, or sale of city real property.

g. Any sale, donation, or exchange of real property must comply with the provisions of this article.

**Sec. 22-903. Additional requirements for sale, exchange, or donation of city real property.**

a. Prior to the sale, exchange, or donation of any real property, no less than six (6) city council members must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city property.

b. If council makes a finding as required above and approves and adopts a resolution of intent to sell, exchange, or donate the city property, Council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no less than six (6) city council members. Prior to the public hearing, the city must provide notice, as required by MCA 7-1-4217, of the resolution of intent to sell, exchange, or donate the city real property.

c. For the sale of real property, the city may sell property by bid, public auction, or direct negotiated sale. For exchanges and donations, the city may negotiate directly with a specific person or entity, including other governmental entities, without advertising for bids.

d. The city may terminate the process at any time and may reinstate the same process or begin anew at a later date.

**Sec. 22-904. Authorization for city to obtain property.**

Except as may otherwise be provided by this Code, the city council has the authority, under such limitations and restrictions as are prescribed by law, to purchase and accept by donation or exchange any real property necessary for the use of the city and to preserve, take care of, manage, and control the same.

a. The city administrator may approve and take necessary action to finalize real property purchases with an appraised value within the limits of his/her signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).

b. The city administrator may enter into leases on behalf of the city for the purposes of providing facilities for city operations.

**Sec. 22-905. Appraisal required for certain transfers of real property; exceptions.**

- a. An appraisal is required when the city purchases a fee simple interest in real property or a conservation easement using public funds, unless specifically exempted. The city administrator may waive this requirement provided the city administrator determines it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arms-length sales of this or comparable properties, etc.
- b. An appraisal is not required when the purchase, sale, exchange, or donation of real property is to or between another governmental entity if the property will continue to be used for governmental purposes.
- c. An appraisal is not required for the acquisition of interests in water rights or rights-of-way for utility or road purposes.
- d. For any transfer requiring an appraisal under this article, the property must be appraised within one year prior to the date of adoption of the resolution approving the transfer unless waived by city council.

**Sec. 22-906. Terms of sale.**

Unless otherwise determined by no less than six (6) of the city council members:

- a. Except for sales conducted pursuant to 22-902 c. and d., a sale under this article must be for cash or on terms approved by no less than six (6) members of the city council.
- b. The title to any property sold may not pass from the city until the purchaser or the purchaser's assigns have met all obligations of the sale or exchange agreement.

**Sec. 22-907. Lease and licensing of city property.**

- a. The city council has the power to lease any lands, buildings, structures, or improvements, owned by the city, however acquired, for any length of time and for any purpose. The council, or city administrator as provided herein, may enter into such leases at a reduced rate if the city property is to be used for a public purpose.
- b. The development or other use of any city lands, buildings, structures, or improvements, whether by a lessee, or their invitees, must comply with City Code.
- c. The leasing of one or more parts of a building, improvement, or structure may be approved by the city administrator. The leasing of a portion or an entire

tract of record owned by the city must be approved by city council unless the annual value of the lease is within the limits of the city administrator's signing authority as established by Resolution No. 18-10756 (i.e., an amount that does not exceed the threshold amount for competitive bids set forth in MCA §7-5-4302).

- d. The city administrator may grant a license for a temporary use of city real property or facilities under conditions determined by the city administrator.
- e. The city administrator or designee has the power to issue permits for parking spaces in parking structures and parking lots and establish standards for the same.

**Sec. 22-908. Easements.**

- a. The city administrator may on behalf of the city accept the grant or dedication of real property, rights-of-way, or public infrastructure. The acceptance must be in writing. The acceptance must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk. Nothing herein may be construed to authorize the city administrator to accept an easement or grant as shown on a subdivision plat until such final plat has been approved by the city pursuant to law.
- b. The city administrator may grant rights-of-way for private, municipal, or public utilities across land owned by the city. The city administrator may determine whether consideration for the grant is required. The grant must be in writing. The grant must be recorded in the records of the county clerk and recorder and the original must be returned to the city clerk.
- c. The city administrator may authorize, subject to the availability of funds, the purchase of right-of-way for public infrastructure or public purposes.

**Section 2. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 3. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_  
William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_  
Denise R. Bohlman, City Clerk