



Oak Harbor Garry Oak Society
Outreach | Education | Preservation



Oak Harbor Election Provision Municipal Code Section 1.30.010 Fact Sheet

Oak Harbor's Public Parks In Jeopardy

The Oak Harbor City Council is considering amending a code requirement for a public election before the city can sell or dispose of parkland which puts Oak Harbor's public parks in great jeopardy.

What's The Difference?

Current Code: The current Oak Harbor Municipal Code Section 1.30.010 has a provision that requires the city to hold a public election before the sale or disposition of city park property.

"Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section."

The caveat is subsection (2):

*"No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a **necessary public purpose** including, but not limited to, water, sewer or roadway improvements."*



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Staff Recommendation: City staff suggests that city-wide economic development is a "necessary public purpose" akin to water, sewer, or roadway improvements.

Proposed Change: City staff proposes the election requirement be disregarded if the city council reviews a developer agreement between the city and a private entity and determines that a property exchange is calculated at a 1:1 ratio OR an exchange of equal or greater market value is negotiated OR the value of physical infrastructure to city parkland provided by the private entity is at least 150% of market value OR some portion or all of a developed park is required to accomplish "a necessary public purpose."

The Problem: The proposed change would allow Oak Harbor to sell or dispose of public parkland that isn't currently protected by grant or deed of sale* without input or oversight from the public.

The proposed language for a 1:1 land swap is vague and allows for major loopholes. How is a 1:1 land swap to be determined? How is this land exchange defined? How is the market value for public land determined? If economic development is defined as a "necessary public purpose" and a caveat to the election requirement is when some portion or all of a developed park is required to accomplish "a necessary public purpose," the council and staff have effectively created a loophole that circumvents the election requirement entirely.



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A comprehensive strategy for parks needs to happen before **any** action is taken. The 1:1 land swap conversation needs to happen as a part of a larger strategic vision for city parks, with the participation of the Parks and Planning Commissions, **before** it is written, thoughtfully, into the city code.

August 13 is not the time, and Code 01.30.010 is not the place to be making this critical decision on behalf of the city.

**There are currently only 6 parks in Oak Harbor protected by grant or deed of sale: Windjammer Park, Flintstone Park, Freund Marsh, Smith Park, Catalina Park, Ruth Cohen Memorial Park*

What Can You Do About It?

Demand the city council vote with the will of the people by voting NO to Ordinance 1999 and keeping the election provision as it is.

Demand the city council address the 1:1 land swap and other proposed land exchanges as a part of the Parks Plan and the Oak Harbor Comprehensive Planning process. A decision like this needs to be made with full stakeholder participation and with the larger vision of Oak Harbor's parks in mind, not haphazardly added to city code without proper review to benefit a single developer.



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WRITE OR CALL IN: Write or call into Oak Harbor's City Council **before their August 13** meeting to defend the people of Oak Harbor's right to vote to choose what happens to their parkland.

How to submit public comment:

- Send an email to the OH City Clerk at jlindsey@oakharbor.org
- Leave a voicemail for the OH City Clerk at 360-279-4571
- Submit comments through the city website:
<https://oakharbor.gov/467/Public-Comment-Form-for-Council-Adv>
[isory](#)

ATTEND THE MEETING: Join us at city hall on August 13, 2024, at 5:30 pm in solidarity with the Oak Harbor community.

City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

NOTE: If you send written comments ahead of the meeting, you will not be allowed to speak during the meeting. If you would like to give oral comments during the meeting, please bring your comments with you and sign up to speak when you arrive.

ORDINANCE NO. 1999

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON,
AMENDING SECTION 1.30.010 OF THE OAK HARBOR MUNICIPAL CODE;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE
DATE

WHEREAS, Chapter 1.30 of the Oak Harbor Municipal Code (“OHMC”), entitled “Sale or Exchange of Real Property” was adopted by Ordinance 1578 in 2010 and modified in Ordinance 1728 in 2015 with the intent of requiring voter approval by way of election prior to disposal of certain City property; and

WHEREAS, a requirement for voter approval of the sale or transfer of public park lands has the potential to hinder cooperation between the City and private property owners, the development of park lands and the overall economic development of the community; and

WHEREAS, community apprehension about the sale or loss of park lands has been considered and appropriate mitigations developed to address those concerns; and

WHEREAS, the City Council wishes to remove the requirement for voter approval prior to sale or trade of developed park property under specific circumstances to streamline the process of potential disposal of developed city parks property when it is determined to benefit the city and its citizens;

NOW THEREFORE, the CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. OHMC 1.30.010, Amended. Section 1.30.010 of the Oak Harbor Municipal Code, entitled Requirements for sale or disposition of city real property, is hereby amended to read as follows:

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city’s official newspaper at least 10 days prior to the hearing.

(2) Developed city park property shall not be disposed of in any manner without citizen approval in an election, except when presented, reviewed, and approved at a public hearing that meets at least one of the following criteria:

(a) The city council reviews a development agreement between the city and private entity and determines that; the property exchange is calculated at a one-to-one ratio of land area or greater in benefit to the city, the privately owned

land offered in exchange is of equal or greater market value than the publicly owned land, and the private land offered is an appropriate replacement for the public property to be granted. The city council shall determine that the property exchange is beneficial to the city based on park needs, location, environmental standards and accessibility to park users and in its discretion approve a development agreement.

(b) The city council reviews a development agreement between the city and private entity and determines that the value of physical infrastructure to city park land or improvements to city park land provided by the private entity is at least 150% of the market value of the land granted by the city to the private entity. Such values shall be determined by all parties in a mutually agreed development agreement approved by the city council.

(c) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Section Two. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication.

ADOPTED by the City Council this _____ day of _____, 2024.

THE CITY OF OAK HARBOR

By: _____
Ronnie Wright, Mayor

Dated: _____

ATTEST/AUTHENTICATED:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

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