

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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