

Ordinance NO. 906

An Ordinance establishing Title 12, Chapter 5 of the Red Lodge City Code concerning the disposition of city-owned lands.

WHEREAS: The City Council recognizes that City owned land is held in trust for all of the residents of the City of Red Lodge, AND;

WHEREAS: Montana Statute 7-8-4201 provides municipalities with the ability to sell or lease lands owned by the municipality, AND;

WHEREAS: The Red Lodge City Council has a fiduciary responsibility to manage such lands and associated assets to the betterment of the City and ALL of its citizenry, AND;

WHEREAS: The Red Lodge City Council identified the need to develop a comprehensive and fair method for the consideration and disposition of City owned land, AND;

WHEREAS: The Red Lodge City Council recognizes that any decision to sell, lease or rent City owned land must be an open and public process that affords all parties that may be interested in the parcel an opportunity to obtain the parcel,

Now Therefore,

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA;

A new Title 12, Chapter 5: Disposition of City-Owned Lands is hereby adopted as follows:

TITLE 12, CHAPTER 5: Disposition of City-Owned Lands

Section:

12-5-1: General Provisions

12-5-2: Application / Nomination

12-5-3: Review and Approval Process

12-5-4: Extension / Renewal of Existing Lease or Rental

12-5-5: Proceeds

12-5-6: Definitions

Appendix A. Flow Chart for Disposition of City-owned Land

12-5-1: General Provisions

12-5-1.10 Purpose and Intent

The purposes and intent of this chapter are:

12-5-1.11 To adequately protect the real property and associated assets owned by the City of Red Lodge

12-5-1.10 1
12-5-1.11 2
12-5-2.1 3
12-5-2.2 4
12-5-2.3 5
12-5-2.4 6
12-5-2.5 7
12-5-2.6 8
12-5-2.7 9
12-5-2.8 10
12-5-2.9 11
12-5-2.10 12
12-5-2.11 13
12-5-2.12 14
12-5-2.13 15
12-5-2.14 16
12-5-2.15 17
12-5-2.16 18
12-5-2.17 19
12-5-2.18 20
12-5-2.19 21
12-5-2.20 22
12-5-2.21 23
12-5-2.22 24
12-5-2.23 25
12-5-2.24 26
12-5-2.25 27
12-5-2.26 28
12-5-2.27 29
12-5-2.28 30
12-5-2.29 31
12-5-2.30 32
12-5-2.31 33
12-5-2.32 34
12-5-2.33 35
12-5-2.34 36
12-5-2.35 37
12-5-2.36 38
12-5-2.37 39
12-5-2.38 40
12-5-2.39 41
12-5-2.40 42
12-5-2.41 43
12-5-2.42 44
12-5-2.43 45
12-5-2.44 46
12-5-2.45 47
12-5-2.46 48
12-5-2.47 49
12-5-2.48 50
12-5-2.49 51
12-5-2.50 52
12-5-2.51 53
12-5-2.52 54
12-5-2.53 55
12-5-2.54 56
12-5-2.55 57
12-5-2.56 58
12-5-2.57 59
12-5-2.58 60
12-5-2.59 61
12-5-2.60 62
12-5-2.61 63
12-5-2.62 64
12-5-2.63 65
12-5-2.64 66
12-5-2.65 67
12-5-2.66 68
12-5-2.67 69
12-5-2.68 70
12-5-2.69 71
12-5-2.70 72
12-5-2.71 73
12-5-2.72 74
12-5-2.73 75
12-5-2.74 76
12-5-2.75 77
12-5-2.76 78
12-5-2.77 79
12-5-2.78 80
12-5-2.79 81
12-5-2.80 82
12-5-2.81 83
12-5-2.82 84
12-5-2.83 85
12-5-2.84 86
12-5-2.85 87
12-5-2.86 88
12-5-2.87 89
12-5-2.88 90
12-5-2.89 91
12-5-2.90 92
12-5-2.91 93
12-5-2.92 94
12-5-2.93 95
12-5-2.94 96
12-5-2.95 97
12-5-2.96 98
12-5-2.97 99
12-5-2.98 100
12-5-2.99 101
12-5-2.100 102
12-5-2.101 103
12-5-2.102 104
12-5-2.103 105
12-5-2.104 106
12-5-2.105 107
12-5-2.106 108
12-5-2.107 109
12-5-2.108 110
12-5-2.109 111
12-5-2.110 112
12-5-2.111 113
12-5-2.112 114
12-5-2.113 115
12-5-2.114 116
12-5-2.115 117
12-5-2.116 118
12-5-2.117 119
12-5-2.118 120
12-5-2.119 121
12-5-2.120 122
12-5-2.121 123
12-5-2.122 124
12-5-2.123 125
12-5-2.124 126
12-5-2.125 127
12-5-2.126 128
12-5-2.127 129
12-5-2.128 130
12-5-2.129 131
12-5-2.130 132
12-5-2.131 133
12-5-2.132 134
12-5-2.133 135
12-5-2.134 136
12-5-2.135 137
12-5-2.136 138
12-5-2.137 139
12-5-2.138 140
12-5-2.139 141
12-5-2.140 142
12-5-2.141 143
12-5-2.142 144
12-5-2.143 145
12-5-2.144 146
12-5-2.145 147
12-5-2.146 148
12-5-2.147 149
12-5-2.148 150
12-5-2.149 151
12-5-2.150 152
12-5-2.151 153
12-5-2.152 154
12-5-2.153 155
12-5-2.154 156
12-5-2.155 157
12-5-2.156 158
12-5-2.157 159
12-5-2.158 160
12-5-2.159 161
12-5-2.160 162
12-5-2.161 163
12-5-2.162 164
12-5-2.163 165
12-5-2.164 166
12-5-2.165 167
12-5-2.166 168
12-5-2.167 169
12-5-2.168 170
12-5-2.169 171
12-5-2.170 172
12-5-2.171 173
12-5-2.172 174
12-5-2.173 175
12-5-2.174 176
12-5-2.175 177
12-5-2.176 178
12-5-2.177 179
12-5-2.178 180
12-5-2.179 181
12-5-2.180 182
12-5-2.181 183
12-5-2.182 184
12-5-2.183 185
12-5-2.184 186
12-5-2.185 187
12-5-2.186 188
12-5-2.187 189
12-5-2.188 190
12-5-2.189 191
12-5-2.190 192
12-5-2.191 193
12-5-2.192 194
12-5-2.193 195
12-5-2.194 196
12-5-2.195 197
12-5-2.196 198
12-5-2.197 199
12-5-2.198 200
12-5-2.199 201
12-5-2.200 202
12-5-2.201 203
12-5-2.202 204
12-5-2.203 205
12-5-2.204 206
12-5-2.205 207
12-5-2.206 208
12-5-2.207 209
12-5-2.208 210
12-5-2.209 211
12-5-2.210 212
12-5-2.211 213
12-5-2.212 214
12-5-2.213 215
12-5-2.214 216
12-5-2.215 217
12-5-2.216 218
12-5-2.217 219
12-5-2.218 220
12-5-2.219 221
12-5-2.220 222
12-5-2.221 223
12-5-2.222 224
12-5-2.223 225
12-5-2.224 226
12-5-2.225 227
12-5-2.226 228
12-5-2.227 229
12-5-2.228 230
12-5-2.229 231
12-5-2.230 232
12-5-2.231 233
12-5-2.232 234
12-5-2.233 235
12-5-2.234 236
12-5-2.235 237
12-5-2.236 238
12-5-2.237 239
12-5-2.238 240
12-5-2.239 241
12-5-2.240 242
12-5-2.241 243
12-5-2.242 244
12-5-2.243 245
12-5-2.244 246
12-5-2.245 247
12-5-2.246 248
12-5-2.247 249
12-5-2.248 250
12-5-2.249 251
12-5-2.250 252
12-5-2.251 253
12-5-2.252 254
12-5-2.253 255
12-5-2.254 256
12-5-2.255 257
12-5-2.256 258
12-5-2.257 259
12-5-2.258 260
12-5-2.259 261
12-5-2.260 262
12-5-2.261 263
12-5-2.262 264
12-5-2.263 265
12-5-2.264 266
12-5-2.265 267
12-5-2.266 268
12-5-2.267 269
12-5-2.268 270
12-5-2.269 271
12-5-2.270 272
12-5-2.271 273
12-5-2.272 274
12-5-2.273 275
12-5-2.274 276
12-5-2.275 277
12-5-2.276 278
12-5-2.277 279
12-5-2.278 280
12-5-2.279 281
12-5-2.280 282
12-5-2.281 283
12-5-2.282 284
12-5-2.283 285
12-5-2.284 286
12-5-2.285 287
12-5-2.286 288
12-5-2.287 289
12-5-2.288 290
12-5-2.289 291
12-5-2.290 292
12-5-2.291 293
12-5-2.292 294
12-5-2.293 295
12-5-2.294 296
12-5-2.295 297
12-5-2.296 298
12-5-2.297 299
12-5-2.298 300
12-5-2.299 301
12-5-2.300 302
12-5-2.301 303
12-5-2.302 304
12-5-2.303 305
12-5-2.304 306
12-5-2.305 307
12-5-2.306 308
12-5-2.307 309
12-5-2.308 310
12-5-2.309 311
12-5-2.310 312
12-5-2.311 313
12-5-2.312 314
12-5-2.313 315
12-5-2.314 316
12-5-2.315 317
12-5-2.316 318
12-5-2.317 319
12-5-2.318 320
12-5-2.319 321
12-5-2.320 322
12-5-2.321 323
12-5-2.322 324
12-5-2.323 325
12-5-2.324 326
12-5-2.325 327
12-5-2.326 328
12-5-2.327 329
12-5-2.328 330
12-5-2.329 331
12-5-2.330 332
12-5-2.331 333
12-5-2.332 334
12-5-2.333 335
12-5-2.334 336
12-5-2.335 337
12-5-2.336 338
12-5-2.337 339
12-5-2.338 340
12-5-2.339 341
12-5-2.340 342
12-5-2.341 343
12-5-2.342 344
12-5-2.343 345
12-5-2.344 346
12-5-2.345 347
12-5-2.346 348
12-5-2.347 349
12-5-2.348 350
12-5-2.349 351
12-5-2.350 352
12-5-2.351 353
12-5-2.352 354
12-5-2.353 355
12-5-2.354 356
12-5-2.355 357
12-5-2.356 358
12-5-2.357 359
12-5-2.358 360
12-5-2.359 361
12-5-2.360 362
12-5-2.361 363
12-5-2.362 364
12-5-2.363 365
12-5-2.364 366
12-5-2.365 367
12-5-2.366 368
12-5-2.367 369
12-5-2.368 370
12-5-2.369 371
12-5-2.370 372
12-5-2.371 373
12-5-2.372 374
12-5-2.373 375
12-5-2.374 376
12-5-2.375 377
12-5-2.376 378
12-5-2.377 379
12-5-2.378 380
12-5-2.379 381
12-5-2.380 382
12-5-2.381 383
12-5-2.382 384
12-5-2.383 385
12-5-2.384 386
12-5-2.385 387
12-5-2.386 388
12-5-2.387 389
12-5-2.388 390
12-5-2.389 391
12-5-2.390 392
12-5-2.391 393
12-5-2.392 394
12-5-2.393 395
12-5-2.394 396
12-5-2.395 397
12-5-2.396 398
12-5-2.397 399
12-5-2.398 400
12-5-2.399 401
12-5-2.400 402
12-5-2.401 403
12-5-2.402 404
12-5-2.403 405
12-5-2.404 406
12-5-2.405 407
12-5-2.406 408
12-5-2.407 409
12-5-2.408 410
12-5-2.409 411
12-5-2.410 412
12-5-2.411 413
12-5-2.412 414
12-5-2.413 415
12-5-2.414 416
12-5-2.415 417
12-5-2.416 418
12-5-2.417 419
12-5-2.418 420
12-5-2.419 421
12-5-2.420 422
12-5-2.421 423
12-5-2.422 424
12-5-2.423 425
12-5-2.424 426
12-5-2.425 427
12-5-2.426 428
12-5-2.427 429
12-5-2.428 430
12-5-2.429 431
12-5-2.430 432
12-5-2.431 433
12-5-2.432 434
12-5-2.433 435
12-5-2.434 436
12-5-2.435 437
12-5-2.436 438
12-5-2.437 439
12-5-2.438 440
12-5-2.439 441
12-5-2.440 442
12-5-2.441 443
12-5-2.442 444
12-5-2.443 445
12-5-2.444 446
12-5-2.445 447
12-5-2.446 448
12-5-2.447 449
12-5-2.448 450
12-5-2.449 451
12-5-2.450 452
12-5-2.451 453
12-5-2.452 454
12-5-2.453 455
12-5-2.454 456
12-5-2.455 457
12-5-2.456 458
12-5-2.457 459
12-5-2.458 460
12-5-2.459 461
12-5-2.460 462
12-5-2.461 463
12-5-2.462 464
12-5-2.463 465
12-5-2.464 466
12-5-2.465 467
12-5-2.466 468
12-5-2.467 469
12-5-2.468 470
12-5-2.469 471
12-5-2.470 472
12-5-2.471 473
12-5-2.472 474
12-5-2.473 475
12-5-2.474 476
12-5-2.475 477
12-5-2.476 478
12-5-2.477 479
12-5-2.478 480
12-5-2.479 481
12-5-2.480 482
12-5-2.481 483
12-5-2.482 484
12-5-2.483 485
12-5-2.484 486
12-5-2.485 487
12-5-2.486 488
12-5-2.487 489
12-5-2.488 490
12-5-2.489 491
12-5-2.490 492
12-5-2.491 493
12-5-2.492 494
12-5-2.493 495
12-5-2.494 496
12-5-2.495 497
12-5-2.496 498
12-5-2.497 499
12-5-2.498 500
12-5-2.499 501
12-5-2.500 502
12-5-2.501 503
12-5-2.502 504
12-5-2.503 505
12-5-2.504 506
12-5-2.505 507
12-5-2.506 508
12-5-2.507 509
12-5-2.508 510
12-5-2.509 511
12-5-2.510 512
12-5-2.511 513
12-5-2.512 514
12-5-2.513 515
12-5-2.514 516
12-5-2.515 517
12-5-2.516 518
12-5-2.517 519
12-5-2.518 520
12-5-2.519 521
12-5-2.520 522
12-5-2.521 523
12-5-2.522 524
12-5-2.523 525
12-5-2.524 526
12-5-2.525 527
12-5-2.526 528
12-5-2.527 529
12-5-2.528 530
12-5-2.529 531
12-5-2.530 532
12-5-2.531 533
12-5-2.532 534
12-5-2.533 535
12-5-2.534 536
12-5-2.535 537
12-5-2.536 538
12-5-2.537 539
12-5-2.538 540
12-5-2.539 541
12-5-2.540 542
12-5-2.541 543
12-5-2.542 544
12-5-2.543 545
12-5-2.544 546
12-5-2.545 547
12-5-2.546 548
12-5-2.547 549
12-5-2.548 550
12-5-2.549 551
12-5-2.550 552
12-5-2.551 553
12-5-2.552 554
12-5-2.553 555
12-5-2.554 556
12-5-2.555 557
12-5-2.556 558
12-5-2.557 559
12-5-2.558 560
12-5-2.559 561
12-5-2.560 562
12-5-2.561 563
12-5-2.562 564
12-5-2.563 565
12-5-2.564 566
12-5-2.565 567
12-5-2.566 568
12-5-2.567 569
12-5-2.568 570
12-5-2.569 571
12-5-2.570 572
12-5-2.571 573
12-5-2.572 574
12-5-2.573 575
12-5-2.574 576
12-5-2.575 577
12-5-2.576 578
12-5-2.577 579
12-5-2.578 580
12-5-2.579 581
12-5-2.580 582
12-5-2.581 583
12-5-2.582 584
12-5-2.583 585
12-5-2.584 586
12-5-2.585 587
12-5-2.586 588
12-5-2.587 589
12-5-2.588 590
12-5-2.589 591
12-5-2.590 592
12-5-2.591 593
12-5-2.592 594
12-5-2.593 595
12-5-2.594 596
12-5-2.595 597
12-5-2.596 598
12-5-2.597 599
12-5-2.598 600
12-5-2.599 601
12-5-2.600 602
12-5-2.601 603
12-5-2.602 604
12-5-2.603 605
12-5-2.604 606
12-5-2.605 607
12-5-2.606 608
12-5-2.607 609
12-5-2.608 610
12-5-2.609 611
12-5-2.610 612
12-5-2.611 613
12-5-2.612 614
12-5-2.613 615
12-5-2.614 616
12-5-2.615 617
12-5-2.616 618
12-5-2.617 619
12-5-2.618 620
12-5-2.619 621
12-5-2.620 622
12-5-2.621 623
12-5-2.622 624
12-5-2.623 625
12-5-2.624 626
12-5-2.625 627
12-5-2.626 628
12-5-2.627 629
12-5-2.628 630
12-5-2.629 631
12-5-2.630 632
12-5-2.631 633
12-5-2.632 634
12-5-2.633 635
12-5-2.634 636
12-5-2.635 637
12-5-2.636 638
12-5-2.637 639
12-5-2.638 640
12-5-2.639 641
12-5-2.640 642
12-5-2.641 643
12-5-2.642 644
12-5-2.643 645
12-5-2.644 646
12-5-2.645 647
12-5-2.646 648
12-5-2.647 649
12-5-2.648 650
12-5-2.649 651
12-5-2.650 652
12-5-2.651 653
12-5-2.652 654
12-5-2.653 655
12-5-2.654 656
12-5-2.655 657
12-5-2.656 658
12-5-2.657 659
12-5-2.658 660
12-5-2.659 661
12-5-2.660 662
12-5-2.661 663
12-5-2.662 664
12-5-2.663 665
12-5-2.664 666
12-5-2.665 667
12-5-2.666 668
12-5-2.667 669
12-5-2.668 670
12-5-2.669 671
12-5-2.670 672
12-5-2.671 673
12-5-2.672 674
12-5-2.673 675
12-5-2.674 676
12-5-2.675 677
12-5-2.676 678
12-5-2.677 679
12-5-2.678 680
12-5-2.679 681
12-5-2.680 682
12-5-2.681 683
12-5-2.682 684
12-5-2.683 685
12-5-2.684 686
12-5-2.685 687
12-5-2.686 688
12-5-2.687 689
12-5-2.688 690
12-5-2.689 691
12-5-2.690 692
12-5-2.691 693
12-5-2.692 694
12-5-2.693 695
12-5-2.694 696
12-5-2.695 697
12-5-2.696 698
12-5-2.697 699
12-5-2.698 700
12-5-2.699 701
12-5-2.700 702
12-5-2.701 703
12-5-2.702 704
12-5-2.703 705
12-5-2.704 706
12-5-2.705 707
12-5-2.706 708
12-5-2

12-5-1.12 To establish a process for the disposition of city-owned lands that both ensures adherence to the City's fiduciary responsibilities and allows for a fair, open, and public opportunity for all interested parties to obtain a specified parcel of city-owned land.

12-5-1.13 To ensure that any proceeds from such a disposition of City land are adequately preserved for the future acquisition of needed lands, buildings, or other real property.

12-5-1.20 Applicability

12-5-1.21 Lands upon which the City merely has a platted right-of-way shall be subject to Montana State Statute regarding the vacation of streets (MCA 7-14-4114) and may not be sold or leased under the provisions of this chapter.

12-5-1.22 Leases and rentals of hangars and other buildings or lands within the City Airport are governed by the inter-local agreement between the City and the Carbon County Airport Board and are therefore not subject to this chapter. However, other lands owned by the City near the airport, but outside of the Airport's boundaries are still subject to this chapter.

12-5-1.23 This chapter shall only apply to long-term or permanent dispositions of City-owned lands. Short term uses of City Land shall be subject to the City Code regarding Use of City-Owned Lands. (Ordinance 893)

12-5-1.24 All other lands and/or buildings of which the City of Red Lodge has a fee-simple ownership shall be subject to this process whether or not they fall within the city limits.

12-5-1.25 Entities with the power of eminent domain over the City may purchase, lease, or rent properties owned by the City without using the provisions set out in this chapter as long as it is done through a reasonable and public process.

12-5-1.26 The City Council may terminate the process of disposition at any time prior to final determination. The decision to sell, lease, or rent City-owned lands and / or facilities is at the sole discretion of the City Council of the City of Red Lodge.

12-5-2: Application / Nomination

12-5-2.10 Nomination

Any person wishing to purchase, lease or rent land or a facility owned by the city must submit a nomination application to the Community Development Director, or designee. The nomination of a City-owned piece of land or facility to be considered for sale, lease or rent shall include:

1. Description of the property to be considered including address and legal description
2. Name, address, and contact information of person(s) nominating the land or facility for disposition.

3. Detailed use plan that adequately addresses the criteria established in 12-5-3.10
4. Fees as defined below.

12-5-2.11 The City Council may, at its discretion, nominate a parcel for disposition without an external applicant. In this case, there would not be a use plan submitted or an application fee assessed to the City. All bidders however would still need to submit all items required in 12-5-3.52 and 12-5-3.53

12-5-2.20 Application Fees

12-5-2.21 An application fee shall be required along with an application / nomination of City-owned land or facilities for consideration for disposition.

12-5-2.22 These fees shall be used to offset the costs of the administrative and public processes associated with considering a City-owned parcel of land or facility for sale, lease, or rent.

12-5-2.23 The amount of such fees shall be set by resolution of the City Council. The Council may set different application fee levels for sales, leases, and rentals based upon estimated costs of the process.

12-5-2.24 Application fees shall be non-refundable except as provided in article 3 of this chapter. If the applicant terminates the process at any point, all application fees shall be kept by the City.

12-5-3: Review and Approval Process (See Appendix A. Flow Chart for Disposition of City-owned Land)

12-5-3.10 Staff Determination of Suitability

Once a complete application has been received, the Community Development Director, or designee, shall evaluate the nominated property or facility to determine if it is suitable for disposition as proposed by the applicant. If the nominated property is owned by an enterprise fund, the staff that administers that fund shall be included in the suitability determination. This determination shall be made based upon review of the parcel nominated and review of the proposed future use.

12-5-3.11 The nominated parcel shall be reviewed to determine if it is needed to perform a function, protect an asset, or achieve another goal of the City of Red Lodge. The Red Lodge Growth Policy, the Revitalization Master Plan, the Development Code (Title 12), and other applicable policies shall be considered in this determination.

12-5-3.12 The future uses of property being sold, leased, or rented by the City shall be in compliance with the intent of the Red Lodge Growth Policy, The Red Lodge Revitalization Master Plan for the historic downtown area, the Development Code (Title 12), and other applicable policies.

- a) Specifically the future use must meet the Standards of General Applicability defined in Article 4.5 of the Red Lodge Zoning Regulations (Title 12, Chapter 4 of the City Code)

12-5-3.13 All leases, and/or rentals shall further require the lessee to meet the requirements of the use approval, including conditional use permits if required. The agreement for the disposition of land will require assurance of plan implementation within a certain time or an agreed upon sanction shall be enforced by the City.

12-5-3.20 Review by Land Use and Planning Committee

After the Staff has made a determination of suitability and issued a staff report explaining the determination, the application shall be reviewed by the Land Use and Planning Committee of the City Council.

12-5-3.21 If the Staff determination is that the land or facility was NOT suitable for disposition, the Committee review will act as an appeal. In this case, the Committee shall review the property and/or facility using the same criteria used by staff.

- a) If the Committee agrees with staff that the parcel is not suitable for disposition, the application will be denied, the parcel will be removed from consideration, and 75% of the application fee shall be returned to the applicant.
- b) If the Committee disagrees with staff and believes that the parcel is suitable for disposition, the Committee may over-rule the staff decision and send the application on to the full City Council with both the staff report and a brief written explanation of the rationale to over-rule the staff determination.

12-5-3.22 If the Staff determination is that the land or facility was suitable for disposition, the Committee shall review the parcel and pass the application on to the full City Council with a preliminary recommendation.

12-5-3.30 Public Hearing and Final Determination of Suitability

Any disposition of City-owned lands shall require a public hearing to allow the citizenry to express opinions regarding both the suitability of the parcel for disposition as well as the value of assets of the parcel to be considered in the appraisal and in setting a minimum bid for the parcel.

The public hearing shall be held at a regularly scheduled meeting of the City Council. Public hearings shall have at least 15 days published notice. Published notice shall meet the standard requirements for land use public hearings as established in the zoning regulations, including mailings to the adjacent land owners. The public hearing shall be held within 30 days after the review by the Land Use and Planning Committee.

After the public hearing, the City Council shall make a final determination on the suitability of the parcel for disposition.

- a) If the Council determines that the parcel is NOT suitable for disposition, the application will be denied; the parcel will be removed from consideration, and 25% of the application fee shall be returned to the applicant.
- b) If the Council determines that the parcel is suitable for disposition, the Council shall move forward with the process to determine fair market value of the parcel.

12-5-3.40 Parcel Appraisal and Setting of Minimum Bid

Before opening the public auction, the nominated parcel shall be appraised to determine the fair market value. Different processes shall be used for sales than for leases and rentals.

12-5-3.41 In the case of a sale, the parcel shall be appraised by a General Real Estate Appraiser certified by the State of Montana. The appraiser shall show no interest in the parcel and no conflict of interest. Any bidders who are shown to have a substantial relationship with the appraiser shall be removed from consideration. This appraisal shall be the lowest possible value for the minimum bid for the sale.

12-5-3.42 In the case of a lease or rental, the council must determine an estimated current land value (CLV), a lease term in months (T), a residual value of the land at the end of the term (RV), and a rate of return (RR)

- a) Current land value shall be determined based upon appraised value of comparable parcels.
- b) Lease term shall be no longer than 300 months (25 years)
- c) Residual value of the land at the end of the term shall include the future value of the land, the value of any assets (or liabilities) that are expected to remain on the land at the end of the term (adjusted for depreciation) and inflation.
- d) Rate of return shall be no less than the greater of 4% or the previous five year average of the consumer price index as determined by Montana Department of Labor and Industry.(CPI)

12-5-3.43 The minimum monthly payment (MMP) for a lease or rental shall be calculated using the criteria from 12-5-3.42 and the formula

$$MMP = \frac{CLV \cdot r \cdot (1 + r)^T}{(1 + r)^T - 1} \quad \text{where } r = RR/1200$$

12-5-3.44 The Council may, at its discretion, raise the minimum bid to account for a variety of factors including but not limited to:

- a. Additional costs of this process not covered by the application fee
- b. Assets or other value of the parcel that the Council feels is not adequately reflected in the appraisal.
- c. Potential future value of the parcel
- d. Other factors to fulfill the City's fiduciary obligations

12-5-3.45 If the Council wishes to place covenants or other restrictions on the parcel, they shall be placed at the same time the minimum bid is set.

12-5-3.50 Sealed Bid Public Auction

12-5-3.51 Once the minimum bid has been set, the public auction shall be advertised and open for at least 30 days after the date of first publication. All bids must be received at City Hall in a sealed envelope before the deadline set by the City Council.

12-5-3.52 All bids must include:

- a) Name, address, and contact information of person(s) submitting the bid.
- b) A written statement indicating the amount of the bid. The bid must be equal to or greater than the minimum bid set by the Council.
- c) A bid bond, in the form of a Money Order or equivalent, payable to the City of Red Lodge to guarantee the completion of the disposition. In the case that the disposition should fail to occur due to no fault of the City, the bond of the high qualified bidder shall be kept by the City. The amount of the bond shall be:
 - a. In the case of a sale, 15% of the bid amount.
 - b. In the case of a lease or rent, two months payment based upon the submitted bid.
- d) A bid may include an offer of land and / or other assets instead of money. Any such bid must include a qualified appraisal of those lands and / or assets.

12-5-3.53 Bids submitted by persons other than the original applicant must also include:

- a) Detailed use plan that adequately addresses the criteria established in 12-5-3.10
- b) An additional check equal in amount to the application fees required of an original applicant.

12-5-3.54 Within 15 days after the bid deadline, the Land Use and Planning Committee of the City Council shall meet along with the Community Development Director, or designee, to open and certify the bids. Bids that do not include all of the items required in 12-5-3.52 and 12-5-3.53 shall be deemed incomplete and shall be returned to the bidder without further consideration.

12-5-3.55 The complete bids shall be placed into order from highest bid to lowest bid. If multiple bidders have the exact same bid, the tie shall be broken by the following criteria, in this order:

- a) In the case of a lease or rent, the current lessee or tenant shall be deemed the higher bidder

- b) If the original applicant is one of the bidders, the original applicant shall be deemed the higher bidder
- c) In all other cases, the tie bids shall be placed in the order received with the first bid received at City Hall placed highest in the order.
- d) Toss of a coin

12-5-3.56 The highest bidder must be reviewed to determine if the proposed use is qualified based on the criteria applied to the original applicant in 12-5-3.12 and 12-5-3.13.

- a) If the highest bidder is deemed qualified, they shall be named the high qualified bidder and the winner of the auction.
- b) If the highest bidder is not deemed qualified, they shall be removed from further consideration and the next highest bidder shall be reviewed.
- c) If the highest bidder is the original applicant, then that bid shall automatically be deemed qualified and shall be named the high qualified bidder and the winner of the auction.

12-5-3.60 Final Review by City Council

Once all of the bids have been opened and reviewed the City Council shall decide whether or not to accept the high qualified bid.

12-5-3.61 If the Council decides NOT to accept the high qualified bid, the application will be denied and the parcel will be removed from consideration. All bid bonds and fees related to this process shall be returned EXCEPT for the application fee from the original applicant.

12-5-3.62 If the Council accepts the high qualified bid, the council shall empower the Mayor to execute the documents to finalize the disposition. All funds from the high qualified bidder shall be deposited according to article 4 of this chapter. All other bid bonds and fees related to this process shall be returned.

- a) If the high qualified bidder is not the original applicant, the original applicant's application fee shall be refunded and replaced with the check from the high qualified bidder of the equal amount.

12-5-3.63 The final determination of the City Council regarding any disposition of any City-owned parcel shall be final and may not be appealed.

12-5-4: Extension / Renewal of Existing Lease or Rental

12-5-4.10 Extension

An existing lease or rental of City-owned lands may be extended provided that the following conditions are met:

12-5-4.11 Both the City Council and the person(s) leasing / renting the City-owned parcel must agree to an extension. Either side may choose to not extend the lease / rental for

any reason. Desire to extend the lease / rental must be expressed in writing at least 4 months prior to the end of the existing term.

12-5-4.11

12-5-4.12 A new payment rate must be agreed upon. The City shall use the criteria in 12-5-3.40 to determine a new minimum acceptable payment.

12-5-4.13 The term of the extension shall be not less than three (3) years and not more than 5 years.

12-5-4.14 A lease or rental may NOT be extended any sooner than one (1) year prior to the end of the existing term.

12-5-4.15 NO application fee shall be required for the extension of a lease or rental.

12-5-4.20 Renewal

Any request to continue a lease or rental of a City-owned parcel that does not meet the requirements established in 12-5-4.10 shall be deemed a renewal rather than an extension and shall be subject to the full process established in sections 12-5-2 and 12-5-3 including the application fees.

12-5-5

12-5-5: Proceeds

12-5-5.10 Accounting / Distribution of Proceeds

Upon receipt of proceeds from any sale, lease, or rent acquired through the provisions of this chapter, funds shall be distributed according to the following:

12-5-5.11 If the proceeds are from the disposition of a parcel of dedicated park land, 100% of all proceeds must be distributed to a dedicated fund and preserved for the future acquisition of additional dedicated parks.

12-5-5.12 If the proceeds are from the disposition of a parcel of land owned by an enterprise fund, 100% of all proceeds must be distributed to the enterprise fund.

12-5-5.13 In all other cases, at least 90% of all proceeds from the sale, lease, or rent of City-owned lands shall be placed into a reserved account to be known as the City Land / Facility Acquisition Fund (CLFAF). Money within the CLFAF may only be used for acquisition of additional land or the construction of new buildings or other facilities on City-owned land. All purchases with such funds must be to the benefit of the City.

12-5-5.14 No more than 10% of the proceeds may be used to offset administrative and clerical costs associated with the disposition that generated said proceeds beyond those covered by the application / nomination fee.

12-5-5.15 Proceeds may not be distributed to any other purpose or fund.

12-5-5.20 Subsequent Use of Proceeds

12-5-5.20

12-5-5.21 Any use of CLFAF funds, established in 12-5-4.11, shall require a super-majority affirmative vote of at least five (5) of the six (6) members of the City Council. Such expenditures shall be explicitly discussed and voted upon at a regular meeting of the City Council as an independent matter and shall not be simply lumped into a vote on the budget as a whole.

12-5-5.22 The following criteria shall be used to evaluate a proposed use of CLFAF funds:

1. Is this acquisition consistent with the Growth Policy, the Zoning Regulations, the Subdivision Regulations, the Floodplain Regulations and other ordinances and policies of the City?
2. Does this acquisition help the City to achieve one of the goals or objectives of the Growth Policy?
3. Does this acquisition have any significant adverse impacts upon the city or adjacent land-owners?
4. Is this the highest and best use of CLFAF funds?
5. Is this expenditure consistent with the City's fiduciary obligations?

12-5-5.23 If CLFAF funds are used to acquire land or facilities to be used by an enterprise fund, the enterprise fund must repay the entirety of the acquisition cost to the CLFAF with financing terms to be determined by the City Council at the time of the acquisition.

12-5-5.24 If CLFAF funds are used to acquire land to be dedicated as park land, the land shall be first acquired simply as fee simple lands owned by the city. Dedication as park land shall be done separately according to procedures set out for that task.

12-5-6: Definitions

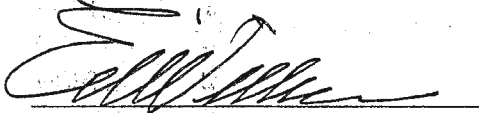
12-5-6.10 Purpose and Intent

The purpose and intent of this article is to define words, terms and phrases that are important in the application of this chapter and require specification beyond the definitions in a common dictionary to describe their applicability in this chapter. Definitions provided here are intended for use within this chapter only and may not be appropriate to other sections of the Red Lodge City Code.

12-5-6.20 Definitions

1. **Disposition:** Sale, Lease, or Rent of City-owned land.
2. **Long-term Disposition:** Any sale of City-owned land or any lease or rental of City owned land or facilities for a period longer than 30 calendar days.
3. **Parcel:** Piece of property and/or facility nominated for either sale, lease or rent

4. **Short-term Use:** Any use of City-owned lands or facilities by a third party for 30 calendar days or less.



City of Red Lodge
Ed Williams, Mayor

First April 22, 2014
Second May 13, 2014



Debbie Tomidich, City Clerk