Chapter 18.06 Municipal Property Acquisition

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18.06.010 Real property acquisitions, authority. a. The City may acquire, own and hold real property within or outside the City boundaries by any lawful means or conveyance, and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the City were a private person.
b. The City may acquire real property by exercise of the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the City in accordance with AS 09.55.240 through AS 09.55.460 (Ord. 90-11 3, 1990.)

18.06.020 Real property acquisitions, form; procedure. a. The City may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of the City. The form of any conveyance shall be approved by the City Attorney prior to execution.
b. Unless otherwise provided by Council, the City shall purchase marketable title in the real property. Unless otherwise provided by resolution or upon Council approval of a purchase, the City Manager is authorized to obtain title insurance, to execute any instruments and to take all steps necessary to complete and close the purchase and acquisition of the real property.
c. Prior to any acquisition subject to 18.06.030, the City Manager shall furnish the Council with a title report, the borough tax assessment value or an appraisal of the real property, and a review of any problems in acquisition, but the failure to furnish the Council any such material shall not affect the validity of any acquisition or purchase of real property by the City. (Ord. 90-11 §3, 1990.)

18.06.030 Real property acquisition--Council approval.
In addition to any other Council action that may be required by law or this Code with regard to real property acquisition by the City, the following shall be subject to Council approval:
a. All acquisitions of real property, except:
1. Acquisitions for which the specific location is identified and specifically authorized for purchase under an approved capital improvement budget;
2. Acquisitions of rights-of-way or easements incidental to a construction project which has been approved by the Council;
3. Acquisitions by foreclosure when no taxes or assessments are due another governmental entity or by judicial proceedings or settlements other than proceedings in eminent domain;
4. Acquisition pursuant to the selection of State lands under the provisions of AS 29.65.010, et seq. ;
5. Acquisitions by the dedication of any interest in property in connection with the approval of a subdivision plat; however, the City's obligations with respect to such dedications are subject to 18.02.030.
b. The institution of eminent domain proceedings on behalf of the City, except that in an emergency where the public interest so requires, the City Manager may institute eminent domain proceedings without Council approval, informing the Council thereof and the justification therefore as soon as practicable. (Ord. 90-28 §12, 1990; Ord. 90-11 §3, 1990.)

18.06.040 Real property acquisition--acceptance by City Manager. No conveyance of real property to the City shall be effective until accepted in writing by the City Manager or his designee; provided, that no such acceptance shall be required to perfect a property interest in lands:
1. Acquired by foreclosure when no taxes or assessments are due another governmental entity or by judicial proceedings or settlements including proceedings in eminent domain;
2. Acquired pursuant to the selection of State lands under the provisions of AS 29.65.010 et seq.;
3. Acquired through the physical appropriation of lands by an act giving rise to a finding of inverse condemnation;
4. Acquired through the dedication of any interest in property in connection with the approval of a subdivision plat; however, the City's obligations with respect to such dedications are subject to 18.02.030. (Ord. 90-28 §13, 1990; Ord 90-11 §3, 1990.)

18.06.042 Real property acquisition--classification of foreclosed properties conveyed to the City. a. The City shall, by ordinance, determine whether foreclosed property conveyed to the City should be retained for a public purpose or, following
a. finding that a public need does not exist, should be offered for sale.
b. Property retained for a public purpose may be classified for a public use consistent with the provisions of the Comprehensive Plan and Homer Zoning Code or may be classified as "undesignated".
c. Property not required for public use and classified for sale shall be sold pursuant to the provisions of Chapter 18.12.
d. The ordinance required by this section shall contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as the name appears on the assessment rolls.
e. The City Clerk or the Clerk's designee shall send a copy of the published notice of the hearing of the ordinance required by subsection a. by certified mail to the former record owner of the property that is the subject of the ordinance provided that the subject property has been held by the City less than ten years after the close of the redemption period. The notice shall be mailed within five days after its first publication and shall be sufficient if mailed to the last record owner of the property as the name appears on the City assessment roll. (Ord. 90-28 §11, 1990.)

18.06.044 Payment of taxes on foreclosed property retained for public purpose. If the City retains foreclosed property for a public purpose pursuant to 18.06.042, it shall satisfy unpaid taxes and assessments against the property held by the Kenai Peninsula Borough, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed value of the property, the City shall pay the Borough the assessed value. (Ord. 90-28 §16, 1990.)

18.06.050 Exemption from competitive bidding. Because of the unique nature of real property, the City need not acquire real property by competitive bidding. (Ord. 90-11 §3, 1990.)

18.06.060 Multi-year contracts. The City may acquire real property over a term extending beyond the current fiscal year:
a. For capital improvements: by a contract involving debt if authorized by the City Council and ratified by a majority of those qualified to vote and voting on the question at a City election; or
b. For any public purpose: by a contract not involving debt and not requiring funds from future appropriations, which shall mean a contract:
1. Under which the City's performance during succeeding fiscal years shall be subject to the availability of funds lawfully appropriated therefore; and
2. As to which the seller's only security for payment of the acquisition price is the real property being acquired, without recourse against the City or any other City assets. (Ord. 90-11 §3, 1990.)

18.06.070 Lease--purchase agreements. The City may acquire real property by a lease-purchase agreement under 18.06.060, which shall mean an agreement:
a. Under which the City pays rent for the use of the real property; and
b. Which grants the City an option to purchase the real property; and
c. Which allows the City to apply all or part of the rent payments to the purchase price of the real property. (Ord. 90-11 §3, 1990.)

18.06.075 Real property acquisitions--Trade or exchange.
a. Real property needed for a public purpose may be acquired by the City from any person through trade or exchange of other City real property no longer needed for a public purpose. The value of all property to be traded

or exchanged shall be determined pursuant to 18.12.020. Any difference between the values of the properties to be traded or exchanged may be made up by the payment of additional consideration.
b. The terms of any such transaction shall be fixed by resolution of the City Council. Prior to closing the transaction, the City Council shall make findings by resolution that the property to be acquired is needed for a public purpose and the property to be conveyed in the trade or exchange is no longer required for public purposes, except no property acquired by the City through a foreclosure proceeding shall be traded or exchanged unless an ordinance retaining the property for public purposes or classifying it for resale shall previously have been adopted pursuant to 18.06.042.
c. The provisions of 18.06.020 through 18.06.040 and 18.06.050 shall apply to the property acquired by the City through trade or exchange, to the extent those provisions are not inconsistent with this section. (Ord. 97-9, 1997.)

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