

Request for City Council Action

Date: October 9, 2012

Agenda Section: Consent Agenda No. 5	Originating Department: City Manager's Office
Item: Ordinance Amending Title One (1) of the Carbondale Revised Code as it Relates to the Sale/Transfer of Real Estate No. 5.2	Approved:

Background:

On January 18, 2011 the City Council amended Title One (1) Section 1-13-8 of the Carbondale Revised code by adding Subsection K which allowed the Mayor to transfer real estate without consent of the City Council under certain specific conditions and as long as that real estate was de minimus or did not exceed one thousand dollar (\$1,000.00) value.

The City Council believes that real estate should only be transferred after consideration by the full City Council including publication of a legal notice and the holding of a public hearing.

Attached is Exhibit A, which indicates Subsection K as being removed from Title One (1) Section 1-13-8 of the Carbondale Revised Code.

Recommended Action:

It is recommended that the City Council adopt an ordinance amending Title One (1) of the Carbondale Revised Code to remove Subsection K of Section 1-13-8 of the Carbondale Revised Code.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

**CITY OF CARBONDALE, ILLINOIS
ORDINANCE NO. 2012-**

AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED CODE

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 9TH DAY OF OCTOBER, 2012**

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 10th day of October, 2012.

CERTIFICATE OF PUBLICATION

I, Rachael E. Moore, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 10th day of October, 2012.

Rachael E. Moore, City Clerk

ORDINANCE NO. 2012-

AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED CODE

WHEREAS, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Code of the City of Carbondale, Illinois, under Title 1, Section 13 covers the requirements for the acquisition, ownership, and sale of real estate by the City for real estate within the City of Carbondale; and

WHEREAS, Section 1-13-8 specifically covers the sale of City owned real estate; and

WHEREAS, on January 18, 2011, pursuant to Ordinance 2011-07, the City adopted an Ordinance amending Section 1-13-8, being the addition of subsection K, which allowed the Mayor to transfer certain residential real estate lots without specific Council approval; and

WHEREAS, the remaining sections of 1-13-8 allow for the sale and transfer of real estate pursuant to Council action, including notification of the public and specific required action by the City Council; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to require the City Council to take specific action prior to the transfer of any real estate owned by the City of Carbondale.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:

SECTION 1. The City Council deems that it is in the best interest of the citizens of Carbondale that the authorization for sale, distribution, or conveyance of real estate owned by the City, should require specific City Council action.

SECTION 2. That subsection K of the Revised Code of the City of Carbondale be repealed and removed from Section 1-13-8 of the Revised Code, as set out in Exhibit A, a copy of which is attached hereto and incorporated herein.

SECTION 3. That the remaining subsections A through J of 1-13-8 of the Revised Code of the City of Carbondale remain in full force and effect.

SECTION 4. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 5. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

SECTION 6. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 7. That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

SECTION 8. That this Ordinance shall be known as Ordinance No. 2012- of the City of Carbondale, Illinois, and shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Joel Fritzler, Mayor

FOR: _____
AGAINST: _____
PASSED: _____
APPROVED: _____
RECORDED: _____
PUBLISHED: _____

ATTEST: _____
Rachael E. Moore, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

EXHIBIT A

1-13-8: SALE OF CITY OWNED REAL ESTATE:

Real estate owned by the city shall be sold by one of the following methods as determined appropriate by the city council:

- A. **Bidding Process:** Upon the adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, the city council may authorize the sale of real estate. Said ordinance shall specify the location of the real estate, the use thereof, and such conditions with respect to further use of the real estate as the city council may deem necessary and desirable to the public's interest. Upon the adoption of said ordinance, notice shall be published once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation in the city. The first publication shall be not less than thirty (30) days before the day provided in the notice for the opening of bids for the real estate. The notice shall advertise for bids, contain an accurate description of the property, state the purpose for which it is used, when the bids will be opened, and at what city council meeting the bids will be considered. All bids shall be opened in public by the city manager, or his designee. The bids shall be presented to the city council for consideration at a regular or special city council meeting. The city council may accept the high bid or any other bid determined to be in the best interests of the city by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office; but a simple majority vote of the city council members then holding office may reject any and all bids. The consideration for such a sale may include, but need not be limited to, the provision of off street parking facilities by the purchaser, which parking facilities may be made part of the municipal parking system. Such consideration may also include the provision of other public facilities by the purchaser.
- B. **Alternative Process:** The city may, upon passage of a resolution by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, authorize the sale or public auction of surplus real estate. The value of the real estate shall be determined by a written MAI certified appraiser or by a written certified appraisal of a state certified or licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the city manager or his designee; by listing with any local licensed real estate agency, in which case the terms of the agent's compensation shall be included in the resolution; or by public auction. The resolution shall be published in a newspaper of general circulation in the city at the first opportunity following its passage. The resolution shall also contain pertinent information concerning the size, location, use, and zoning of the real estate and the terms of sale. The city council may accept any contract proposal determined to be in the best interests of the city by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, but in no event at a price less than eighty percent (80%) of the appraised value. (Ord. 97-165)
- C. **Conveyance Of Surplus Real Property:** Any real property, that is acquired or held by the city of Carbondale for any purpose whatsoever, may be conveyed to any person, entity, corporation, organization or agency, upon the city council's determination that such real property is no longer necessary, appropriate, required for the use of, profitable to or for the best interests of the city of Carbondale, upon the adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office. Notice of the proposed sale or conveyance shall be published in a newspaper of general circulation in the city no less than seven (7) days and no more than thirty (30) days prior to the meeting at which the ordinance shall be considered by the city council. The notice shall contain a general description of the property, the purpose for which it is to be used by the purchaser, the terms of the conveyance or sale, and the benefits to the community to be served thereby. The city manager is hereby authorized to negotiate the terms, conditions and consideration for the sale or conveyance. (Ord. 2003-29)
- D. **City Manager/Real Estate Agencies/Public Auction:**
1. If the city has either: a) adopted an ordinance to sell public real estate, pursuant to subsection A of this section, but has received no bid on a particular parcel; or b) adopted a resolution to sell surplus public real estate under subsection B of this section and has received no acceptable offer on a particular parcel within six (6) months after passage of the resolution, then the city council may, upon passage of a resolution by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, authorize that parcel of real estate be sold in one of the following manners:
 - a. Authorize the city manager to negotiate the sale of real estate;
 - b. List the real estate with any local licensed real estate agency; or
 - c. Sell the real estate by public auction.
 2. The resolution shall include the terms of the sale, the compensation of the agent (if any), the time and place of the auction (if applicable), a legal description of the property and its size, and the use and zoning of the property. The resolution shall be published once each week for three (3) successive weeks in a newspaper of general circulation in the city on a daily or weekly basis. No sale may be conducted until at least thirty (30) days after the

first publication. The city council may, by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, accept any offer or bid determined to be in the best interests of the city.

- E. Economic, Industrial, Commercial Or Residential Development Or Redevelopment: The city council may convey or sell real estate which has been purchased by the city for promoting economic, industrial, commercial, or residential development or redevelopment within the city or when other city owned real estate is no longer necessary, appropriate, required for the use of, profitable to or for the best interests of the city but instead would be of value to promote economic, industrial, commercial or residential development or redevelopment within the city, upon the adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, at a regular or special meeting. Notice of the proposed sale or conveyance shall be published in a newspaper of general circulation in the city at least seven (7) days but not more than thirty (30) days prior to the meeting at which the ordinance is considered by the city council. The notice shall contain a description of the property, the purpose for which it is to be used by the purchaser, the terms of the conveyance or sale (including the sale price, if any), and the benefits to the community to be served thereby. The city manager is hereby authorized to negotiate the terms, conditions and consideration of the sale or conveyance. When considering the ordinance, the city council may take into consideration factors such as the number of jobs to be created, the amount of increase to the community's tax base, long term economic, industrial, commercial or residential growth, and the physical development or redevelopment of the community.
- F. Sale Of City Owned Real Estate In An Enterprise Zone: Upon being declared surplus, the city may dispose of unused structures or vacant land owned by the city and located within an enterprise zone, through any method for conveying real estate pursuant to this chapter, upon the adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office. Upon the city establishing an urban homestead or shopstead program, disposal of real estate under such programs shall be pursuant to 20 Illinois Compiled Statutes 655/10 et seq., or as hereafter amended.
- G. Real Estate Acquired By State Or Federal Funding: If the city has acquired real estate with funds from the state or the United States and a condition of the receipt of such funds was that the real estate would be sold in a manner prescribed by the state or the United States and said conditions and prescriptions remain in effect at the time of the proposed sale, then the sale shall be in conformity with said conditions and prescriptions. Such sale shall be approved upon the adoption of an ordinance by an affirmative vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office.
- H. Cemetery Property: The sale of city owned cemetery spaces, lots and blocks shall be pursuant to [title 6, chapter 2](#) of this code.
- I. Exchange Of City Owned Real Estate: The city may exchange real estate for property held by another party when the following conditions are met:
1. A public hearing on the proposal to exchange real estate shall be held by the city council at a time and place to be designated by them upon such proposal, pursuant to notice of public hearing duly published in a newspaper of general circulation in the city. Said notice shall be so published not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing, shall set forth a legal description of the property or properties to be exchanged, as well as the property or properties that the city is to receive through such exchange, and the proposed terms and conditions otherwise of such exchange.
 2. After the conclusion of said public hearing, the city council may, upon adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, authorize the exchange proposed, or as modified by the city council after the public hearing. The authorization shall state the following findings that: a) the premises to be conveyed by the city under such exchange is no longer necessary, useful to, or in the best interests of the city; b) the premises to be received by the city under such exchange will prove useful to the public's interests; and c) the total value of the substitutional premises is approximately equal to or exceeds the value of the premises for which same is being exchanged, as determined by the city council, taking into consideration the long term best interests of the public.
- J. Easements To Public Utility Services: The city may, upon the adoption of an ordinance by a vote of two-thirds ($\frac{2}{3}$) of the city council members then holding office, convey or grant an easement to public utility companies or entities for the use of city owned real estate upon determining that such conveyance would be in the best interests of the city. Any easement conveyed pursuant to this subsection shall be executed by the mayor, attested to by the city clerk and duly recorded in the Jackson County clerk's office. (Ord. 97-165; Ord. 2003-29)

~~K. Residential Stabilization, Development Or Redevelopment: The mayor of the city of Carbondale may take any action necessary to convey real estate held by the city which meets the following criteria:~~

~~1. The said real estate is not necessary, appropriate, required for the use of, profitable to, or usable by the city for governmental purposes.~~

~~2. That said real estate is located within the city limits of the city of Carbondale in areas zoned for residential use.~~

~~3. That the city's cost for acquiring said real estate was de minimus or did not exceed one thousand dollars (\$1,000.00).~~

~~4. That the property is conveyed for the sole purpose of the placing or construction of one or two family dwellings on the property, built to fully comply with all zoning requirements of the city of Carbondale, which said construction must be started within eighteen (18) months of the conveyance of said real estate, and if building construction has not commenced within eighteen (18) months of the conveyance, it will revert to the city.~~

~~When considering any conveyance, the mayor may take into consideration factors such as the residential neighborhood in which the property is located, the stabilization of the neighborhood around the said property, the amount of increase to the community's tax base following new development in that neighborhood, long term residential growth, and the physical development or redevelopment of the neighborhood and community. (Ord. 2011-07)~~