

Introduced by: Council Member Cory Nichols  
1st Reading: January 19, 2021  
2nd Reading: February 1, 2021

**ORDINANCE NO. 2020-8160**

**AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, TO AMEND CHAPTER 2, ARTICLE I, SECTION 2-1.1(e) OF THE CODE OF ORDINANCES TO PROVIDE THE CITY MANAGER WITH LIMITED SOLE DISCRETION AND AUTHORITY TO SELL CITY-OWNED REAL ESTATE THAT MEETS CERTAIN CRITERIA AND CONDITIONS, AND TO PERMANENTLY DELEGATE ADMINISTRATIVE AUTHORITY TO THE CITY MANAGER TO DETERMINE SURPLUS CITY PERSONAL PROPERTY ITEMS, AND TO PLACE SUCH PROPERTY FOR SALE BY A COMPETITIVE AWARD PROCESS OR BY PUBLIC AUCTION OR OTHER MEANS OF DISPOSITION; PROVIDING FOR LEGISLATIVE FINDINGS, REPEAL OF CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Jacksonville Beach (“City”) has the authority to adopt this Ordinance pursuant to Art. VIII, § 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes; and

**WHEREAS**, Florida’s Municipal Home Rule Powers Act, Chapter 166 Florida Statutes, grants the City broad exercise of home rule powers, including the exercise of powers for municipal governmental, corporate, and proprietary purposes; and

**WHEREAS**, Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes establish that the City is empowered to acquire, hold, sell, and dispose of real estate for the benefit of the City; and

**WHEREAS**, by virtue of the Constitution of the State of Florida and Municipal Home Rule Powers Act, the City retains sole discretion to determine what terms, conditions, and methods to employ in exercising power to sell surplus municipal real estate, so long as it is for a valid municipal purpose and not expressly prohibited by law; and

**WHEREAS**, the City Council may, in its discretion, choose and utilize any method or procedure it decides will be in good faith, serve the City’s best interests, and most likely produce the best price and results for the sale of City real estate; and

**WHEREAS**, City Charter Chapter I, Section 1 states, in pertinent part, that the City may sell, lease, hold, manage, and control real property and real estate within City boundaries as its interests may require, except as prohibited by the Constitution and Laws of the State of Florida; and

**WHEREAS**, City Charter Chapter V, Section 31 establishes that the City Manager can perform such other duties as may be prescribed by the City Charter or required by ordinance or resolution of the City Council, not inconsistent with the Charter; and

**WHEREAS**, currently the City Code of Ordinances Chapter 2, Sec. 2-1.1 *Purchase procedures; contracts, etc.* is a limited and minimal purchasing code that is in line to be revised by the City Attorney, Finance Department, and the Property and Procurement Officer; and

**WHEREAS**, City Code Sec. 2-1.1 does not adequately address the topic of disposition and sale of certain types of surplus real property and small or non-conforming real estate owned by the City; and

**WHEREAS**, currently City Code Sec. 2-1.1(e) reads as “*Title to property.* Whenever the city council determines that it possesses real or personal property in excess of the needs of the public, it shall sell same by a competitive award process or by public auction. Surplus property can also be disposed of by public auction, trading in on new commodities, donating it to another governmental agency or by junking if the property is determined to be unfit for sale and of no usable value.”; and

**WHEREAS**, occasionally the City owns certain small or non-conforming parcels of surplus real estate that the City departments and City Manager have determined serve no current or future purpose or need of the City and may be disposed or sold in the best interests of the City; and

**WHEREAS**, these certain small or non-conforming parcels of surplus real estate are not suitable for disposition or sale by competitive award process or by public auction, but are better sold in good faith at the sole discretion of the City Manager to serve the best interests and public purposes of the City; and

**WHEREAS**, a revision to City Code Sec. 2-1.1(e) should provide the City Manager with procedures, criteria, discretion, and authority to sell certain small or non-conforming parcels of City real estate using a method and manner that the City Manager determines is in good faith, at a fair market price, a good value to the City, and that serves the best interests and public purposes of the City; and

**WHEREAS**, the City Council resolves that sale of small or non-conforming parcels, with a valuation below the City Manager’s purchasing authority (as established by either the City of Jacksonville Property Appraiser or a certified appraisal), may be sold at the City Manager’s discretion; while the sale of conforming parcels of real estate, or parcels of real estate with a valuation above the City Manager’s purchasing authority (as defined above) shall require City Council authorization and determination of the sales and disposition process; and

**WHEREAS**, historically, a list of City surplus personal property items have been identified by the Finance Department and provided to the City Council as an agenda item for approval to dispose of the surplus property using a competitive award process or public auction; and

**WHEREAS**, City Code Sec. 2-1.1(e) puts the burden on the City Council to determine that the City possesses personal property in excess of the needs of the public, and to authorize that the property shall be sold by a competitive award process or by public auction so that this process always requires an agenda item be submitted to Council; and

**WHEREAS**, to alleviate that burden and the extra unnecessary steps to sell surplus personal property, the City Council adopted and approved Resolution No. 2058-2020, which in Section 3 permanently delegated to the City Manager the administrative authority to declare surplus personal property and sell same by a competitive award process or by public auction; and

**WHEREAS**, Section 4 of Resolution No. 2058-2020 directed that the City Attorney shall submit for City Council approval an Ordinance to revise the Code of Ordinances to reflect the permanent delegation of administrative authority to the City Manager to determine surplus personal property and place such property for sale by a competitive award process or by public auction; and

**WHEREAS**, the City Council intends that the amendments made by this Ordinance shall be immediately implemented and codified upon adoption, but shall also be incorporated into any new amendments and revisions to Chapter 2 of the City Code and/or the purchasing and procurement codes and policies; and

**WHEREAS**, the City Council hereby finds that this Ordinance serves legitimate government purposes, it is a permissible exercise of the City's powers and authority, and it serves the best interests of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:**

**SECTION 1. RECITALS AND LEGISLATIVE FINDINGS.** The above recitals and legislative findings are ratified, correct, and made a part of this Ordinance.

**SECTION 2. THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, CHAPTER 2, SEC. 2-1.1(e) IS HEREBY AMENDED AND SHALL READ AS FOLLOWS.<sup>1</sup>**

Sec. 2-1.1(e) Title to property. Whenever the city council determines that it possesses real or personal property in excess of the needs of the public, it shall sell same by a competitive award process or by public auction. The City Manager is delegated the administrative authority to declare surplus City personal property and sell the same by a competitive award process or by public auction. Surplus property can also be disposed of, as determined at the discretion of the City Manager, by public auction, trading in on new commodities, donating it to another governmental agency, or by junking if the property is determined to be unfit for sale and of no usable value. Exception is made for the sale of small or non-conforming real estate with a valuation below the City Manager's purchasing authority (as established by either the City of Jacksonville Property

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<sup>1</sup> ~~Strikethrough~~ text denotes text to be deleted; underlined text denotes text to be added.  
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Appraiser or certified appraisal), which may be sold at the City Manager's discretion. The sale of conforming real estate, or real estate with a valuation above the City Manager's purchasing authority (as defined above) shall require City Council authorization and determination of the sales process. For the sale of small or non-conforming real estate which requires only the City Manager's authorization to be sold, the following procedures shall be used:

1. The City department interested in selling real estate will initiate a memorandum to the City Manager indicating the interest, providing a general description of the real estate, and providing the reasons for sale. The department shall indicate in the memorandum which department employee will be assigned as the department's representative for issues related to the sale. The department's representative, Procurement Officer, City Attorney, and City Manager or designee will comprise the committee that will coordinate the efforts to sell the real estate.
2. The City Manager will determine the appropriate method of determining the valuation of the subject real estate.
3. The appropriate staff members will be requested to negotiate the business terms of the sales agreement.
4. Once the business terms are agreed to, the City Attorney will draft the sales agreement.
5. The finalized sales agreement, fully executed by the City Attorney's Office, will be presented to the City Manager for approval.
6. If the City Manager approves the sales agreement, the purchaser will order the survey and title, assuming that the purchaser is responsible for ordering the survey and/or title. The purchaser may order an environmental survey at their discretion. The City Attorney's Office will distribute a contract schedule (developed by the purchaser) that will be distributed to the City Manager or designee, Procurement Officer, and department's representative. Any issues that arise from the purchasers' performance of due diligence will be distributed to the full committee. The City Attorney will be responsible for completing the closing with the assistance of other staff members and expert consultants assistance, if necessary.

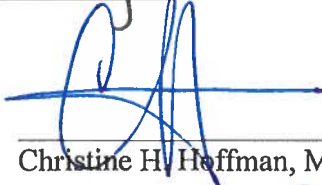
**SECTION 3. CONFLICTING ORDINANCES, RESOLUTIONS, POLICIES AND ACTS.** All ordinances, resolutions, policies, and acts previously adopted or entered into by the City that are in conflict with this Ordinance are repealed to the extent inconsistent herewith.

**SECTION 4. SEVERABILITY.** If any section, subsection, clause, or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. CODIFICATION.** The City Council intends that this Ordinance be made a part of and codified in the City of Jacksonville Beach Code of Ordinances.

**SECTION 6. EFFECTIVE DATE.** This Ordinance will immediately take effect upon its adoption by the City Council.

AUTHENTICATED THIS 1<sup>st</sup> DAY OF February A.D., 2021.

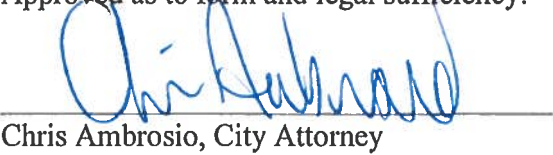


Christine H. Hoffman, Mayor



Laurie Scott, City Clerk

Approved as to form and legal sufficiency:



Chris Ambrosio, City Attorney