

ORDINANCE NO. 2022-86

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS, ADDING CHAPTER 12.11, ENTITLED “ACQUISITION, DISPOSITION, AND USE OF CITY PROPERTY,” TO THE CODE OF ORDINANCES OF THE CITY OF GEORGETOWN, TEXAS; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Section 1.02 of the Charter of the City of Georgetown (the “Charter”) declares that the City “may acquire property within or without its corporate limits for any municipal purpose in fee simple, in or any lesser interest or estate, by purchase, gift, device, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it;” and

WHEREAS, Section 1.04 of the Charter declares that the City has “exclusive dominion, control and jurisdiction . . . in, upon, over and under all public property of the city”; and

WHEREAS, Section 8.02 of the Charter declares the City’s right to control public places of the City “inalienable by the City,” and that “no act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter;” and

WHEREAS, Local Government Code Chapter 51 authorizes home-rule municipalities to “hold property” and govern that property through its Charter and local ordinances and Local Government Code Chapter 253 authorizes home-rule municipalities to “sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building” provided the sale of parkland is put to a public vote; and

WHEREAS, the City Council of the City of Georgetown finds it in the best interest of the community to adopt and codify the City’s real estate policies governing the acquisition, disposition, and use of City property, in order to promote clarity and consistent application of the rules, to improve the enforceability of said rules, and to protect the taxpayers’ investments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS:

SECTION 1. The meeting at which this ordinance was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 2. The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

SECTION 3. Chapter 12.11, entitled "Acquisition, Disposition, and Use of City Property," attached hereto as Exhibit A, is hereby adopted and added to the Code of Ordinances of the City of Georgetown, Texas.

SECTION 4. The City Council hereby adopts the Real Estate Policies dated November 18, 2022 and on file at the City Secretary's office (the "Policies"). The Policies may be amended from time to time by Council resolution, or by the City Manager with written notice to the City Council.

SECTION 5. All ordinances and parts of ordinances that are in conflict with this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6. If any section or any portion of any section of this ordinance, or application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance; and that each section and each portion thereof not decreed to be invalid shall remain valid and enforceable, and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 7. The Mayor is hereby authorized to sign this ordinance and the City Secretary to attest. This ordinance shall become effective and be in full force and effect ten (10) days on and after publication in accordance with the provisions of the Charter of the City of Georgetown.

PASSED AND APPROVED on First Reading on the 8th day of November, 2022.

PASSED AND APPROVED on Second Reading on the 22nd day of November, 2022.

ATTEST:

THE CITY OF GEORGETOWN


Robyn Densmore, City Secretary

By: 
Joshua Schroeder, Mayor

APPROVED AS TO FORM:



Skye Masson, City Attorney

EXHIBIT A

CHAPTER 12.11. ACQUISITION, DISPOSITION, AND USE OF CITY PROPERTY

Sec. 12.11.010. Purpose; real estate policies adopted.

- A. To protect the health, safety, and welfare of its residents and the general public; to promote safe, orderly, and efficient development within its territory; and to safeguard the financial health of the organization and its use of taxpayer money, the City must establish policies governing the acquisition, disposition, and use of City property.
- B. The Real Estate Policies dated November 18, 2022 and on file with the City Secretary (the "Policies"), are hereby adopted. The Policies may be amended from time-to-time by resolution, or by the City Manager with written notice to the City Council.

Sec. 12.11.020. Definitions.

All capitalized terms in this chapter shall be defined herein; otherwise, all terms used herein shall be defined and have the same meaning as set forth in the Policies or, if not defined therein, in Section 16.02 of the City's Unified Development Code.

ARTICLE I. – ACQUISITION OF CITY PROPERTY

Sec. 12.11.110. Authority to initiate acquisition of real estate interests.

The City Manager, or designee, may, with no further authority than this Section, initiate acquisition of interests in real estate on behalf of the City in connection with any capital project approved by the City Council by adoption of an ordinance. Final approval of the acquisition must be approved by the City Council, and documents pertaining to the acquisition transaction must be in form satisfactory to the City Attorney.

Sec. 12.11.120. Authority to accept dedication or conveyance of real estate interests.

- A. The City Manager, or designee, may, with no further authority than this section, accept the dedication or conveyance of interests in real estate to the City, provided such dedication or conveyance is in accordance with the Policies. Documents pertaining to the dedication or conveyance transaction must be in form satisfactory to the City Attorney.
- B. When the City Manager learns of real property interests deeded or conveyed to the City (a) without the City's consent, or (b) which the City has never accepted, the City Manager, or

designee, may either accept the property or cause a notice of non-acceptance of the real property to be filed in the appropriate county records. Such notice of non-acceptance shall have the effect of rendering such deed or conveyance void and of no effect.

Sec. 12.11.130. Lease and license related matters.

- A. The City Manager, or designee, may, with no further authority than this section, on behalf of the City seek a lease or license on or across property owned by another. Final approval of the lease or license agreement must be approved by the City Council, and documents pertaining to the transaction must be in form satisfactory to the City Attorney.
- B. Leases and license agreements must be approved by the City Council, but nothing in this chapter impairs a delegation of authority outside this chapter. Lease amendments, renewals and extensions must be approved by the City Council unless the approved lease authorizes otherwise per its terms.
- C. If a lease is approved by the City Council, the lease and all lease-related documents may be signed by the City Manager, or his or her designee. If budgeted funds are available, a City Manager may, without further Council action, enter into leases, licenses, and similar agreements in which City is tenant or licensee for so long as the agreement is for a temporary use not to exceed a week, the temporary use is necessary for the proper administration of the affairs of the City, and the cost of the temporary use does not exceed \$50,000. This does not authorize renewals for succeeding weeks or combining serial, one-week uses for the same premises so that City has a term longer than one week. The agreements for temporary use must be approved as to form by the City Attorney's office.

ARTICLE II. – DISPOSITION OF CITY PROPERTY

Sec. 12.11.210. Authority to initiate sale of surplus real estate interests.

- A. Applications for abandonment, vacation, or release of a City easement or public right-of-way must be made in accordance with state law, Chapter 12.10 of this Code, and the Policies.
- B. Requests for the sale of other City property must be submitted to the City in accordance with the Policies. The City Manager or designee will process requests in accordance with the Policies and may establish forms and procedures to carry out this section. A request to designate a particular City-owned property as surplus for disposition purposes may be initiated by a department director and shall be processed in accordance with the Policies, although such requests shall not be subject to any application fees.
- C. The City Manager may, with written notice to the City Council, contract with a broker to sell property in accordance with Chapter 253 of the Local Government Code.

Sec. 12.11.220. Sale of surplus real estate interests; Council approval required.

- A. Surplus status of real property may finally be determined only by the City Council, and only the City Council can authorize sales.
- B. All sales of property must conform to law, including but not limited to Chapters 253 and 272 of the Local Government Code. Documents pertaining to the sale transaction must be in form satisfactory to the City Attorney.

ARTICLE III. – USE OF CITY PROPERTY

Sec. 12.11.320. Work within City-owned property; permit required.

- A. No one may use property in which the City has an interest, whether in fee or easement, without acquiring the appropriate permit, license, lease, franchise, or temporary easement from the City, in accordance with the City Charter, this Code, and the Policies.
- B. An instrument may not be granted for uses or activities that would substitute for compliance with another chapter of the Code of Ordinances, including the Unified Development Code. No right granted under this chapter substitutes for compliance with the requirements of another chapter of the Code of Ordinances or the Unified Development Code. No grant of general right under this chapter substitutes for acquiring a more specific applicable right provided for under this chapter.
- C. Any city official to whom authority is delegated under this chapter may further delegate that authority to subordinates, although authority to bind the City to a contract may not be delegated below the level of director, unless the delegation has been authorized by the City Council. All delegations must be in writing.
- D. Neither permits nor licenses under this chapter create property rights, and no permittee or licensee is entitled to compensation if the city revokes a permit or license.
- E. All construction, excavation, and placement of utilities or other facilities in public rights-of-way is subject to regulation under Chapter 12.08 of the Code of Ordinances. All construction, excavation, and placement of utilities or other facilities on or across other City-owned property shall comply with this Code, the City's adopted Construction Standards and Specification Manual, the Policies, and all other applicable law.

Sec. 12.11.330. Use of City-owned property; fee required.

A permit, license, lease, franchise, or temporary easement required under this Chapter or the Policies shall not be issued until the applicable fee, as determined by the fee schedule established under this Chapter, has been paid in full to the City, unless otherwise waived by the City Council or otherwise required by law. The fee schedule may be amended from time to time by a resolution of the City Council.

Sec. 12.11.340. Penalty.

- A. It is unlawful for an individual or company to undertake activity subject to this Chapter without first obtaining authorization as listed in Subsection 12.11.320.A above, the Policies, or the appropriate permit, license, lease, franchise, or temporary easement.
- B. Any person who violates a provision of this Section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,000.00 per offense. Any person who shall aid, abet or assist in a violation of any provision of this Chapter shall also be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$2,000.00 per offense. Each day a violation occurs shall be considered a separate offense. (See also Section 1.08.010 of the Code of Ordinances).
- C. In addition to the criminal penalties set forth herein, the City Manager shall have the authority to assess civil penalties against any individual or company who violates, or who aids, abets, or assists in a violation of, this Chapter or the Policies, in accordance with the schedule of fines established by this Chapter. The schedule of fines may be amended from time to time by a resolution of the City Council. Any fines issued in accordance with this Section may be appealed in writing to the City Council within ten (10) days of the City Manager's assessment thereof. Unless otherwise permitted by the City Manager, an individual or company may not apply for a permit unless and until all outstanding fees and fines have been paid in full or waived by the City.

Sec. 12.11.350. Stop work orders.

- A. Whenever any work is being done contrary to the provisions of this Chapter, the Policies, or the appropriate permit, license, lease, or temporary easement, the City Manager or his or her designee may order the work stopped, and also suspend or revoke the permit, license, lease, or temporary easement theretofore issued, by notice in writing served on any person listed on the application or on any person engaged in the doing or causing of such work to be done. Such person shall forthwith stop and cause to be stopped such work until authorized by the City Manager, or his or her designee, to recommence and proceed with the work or upon issuance of a permit in those cases in which the permit has been revoked. Such stop work order and suspension or revocation of permit shall be posted on work being done in violation of this Code.
- B. Whenever a posted stop work order due to a violation of any provisions of this Code is removed, the removal shall constitute a separate violation of this Chapter, and penalties shall be enforced pursuant to Section 12.11.340.
- C. Any stop work order issued in accordance with this Section may be in addition to any penalties assessed under Section 12.11.340.

Sec. 12.11.360. Notice of intent to suspend or revoke.

- A. Before suspension or revocation pursuant to this Chapter, the City Manager may give notice of intent to suspend or revoke, which notice may specify a reasonable time for compliance with this Code.
- B. If notice of intent is given, suspension or revocation shall not occur before the time for compliance has expired.
- C. The City Manager shall not be required to provide notice of intent to suspend or revoke for violations of this Code that may cause imminent destruction of property or injury to persons.