AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE SECTION 25.30.020 TO INCLUDE
AGREEMENTS TRANSFERRING OPERATIONAL CONTROL OVER
MUNICIPAL PROPERTY IN THE CATEGORY OF DISPOSALS OF AN INTEREST
IN MUNICIPAL LAND REQUIRING APPROVAL BY ORDINANCE.

WHEREAS, from time to time the Municipality enters an agreement with a third party
to operate a municipal building or property on its behalf, with terms that confer
management and control to the contractor; and

WHEREAS, the Municipality also occasionally enters use agreements that allow the
contractor to occupy and use municipal buildings or property to the exclusion of the
public or others; and

WHEREAS, Section 10.02(8) of the Anchorage Municipal Charter requires an
ordinance to authorize the conveyance or lease of “any interest in lands of the
municipality”; and

WHEREAS, Section 17.13 of the Charter, Definitions, states that “interest in lands
means any estate in real property or improvements thereon excluding revocable
permits or licenses, rights-of-way, or easements which the assembly finds to be
without substantial value to the municipality,” (emphasis added); and

WHEREAS, the Anchorage Assembly has implemented the above Charter
provisions and provided more clarity to its directives through enactment of
Anchorage Municipal Code section 25.30.020, Disposal by Ordinance; and

WHEREAS, the aforementioned agreements for operations or use of municipal
property, convey to the contractor a long-term interest in the municipal property or
improvements often to the exclusion of others, but may not be captured within the
scope of AMC section 25.30.020; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 25.30.020 is hereby amended to
read as follows:

25.30.020 - Disposal by Ordinance

A. Except as required or provided otherwise by law, the municipality may
dispose of municipal land or any interest therein only by ordinance.
B. For purposes of this section, an interest in municipal land means any estate in real property or improvements thereon, but excluding the following if found by the assembly to be without substantial value to the municipality:
   1. Revocable permits.
   2. Licenses.
   4. Easements.

C. Revocable permits or licenses, rights-of-way or easements are deemed to be without substantial value to the municipality if the agreement meets the following conditions:
   1. The stated value to the municipality for the term of the agreement is $50,000.00 or less;
   2. The term of the agreement is for one year or less; and
   3. If a structure or improvement is authorized, it must be removable within 30 days of termination of the agreement.

D. Any conveyance, disposal, contract or other agreement that transfers or conveys substantial or total control over the operation or use of a municipal property or facility shall be treated as a disposal for purposes of this subsection and require an ordinance, excluding the following:
   1. Short term rental or use agreements for less than 90 days, including options and renewals.
   2. Rental or use agreements limited to a small portion of a facility, such as a room or rooms, or a particular or area for a designated use.
   3. Agreements for operation or use limited to interests in land identified in Subsection B. and C.
   4. Operating agreements and similar agreements to the extent the agreement is competitively procured under Title 7 and is subject to assembly approval and public process under Title 7.

E. Subsequent material amendments to the scope, term, or control of a disposal under Subsection D. shall also require assembly approval of an ordinance.

F. An ordinance disposing of municipal land formally dedicated to permanent or long-term park or recreational purposes is valid only upon approval by a majority of those voting on the questions at a regular or special election. When municipal land disposal requires voter approval, public notice of the proposed disposal of municipal land shall meet the requirements of section 25.30.025 prior to assembly action authorizing the ballot proposition.

(AO No. 79-170; AO No. 80-48(S); AO No. 2007-102, § 1, 8-14-07; AO No. 2015-47, § 2, 5-14-15)

Section 2. This ordinance shall be effective immediately upon passage and approval by the Assembly.
PASSED AND APPROVED by the Anchorage Assembly this _______ day of ______________, 2023.

__________________________________________

Chair

ATTEST:

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Municipal Clerk
From: Assembly Chair Constant and Vice Chair Zaletel

Subject: AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 25.30.020 TO INCLUDE AGREEMENTS TRANSFERRING OPERATIONAL CONTROL OVER MUNICIPAL PROPERTY IN THE CATEGORY OF DISPOSALS OF AN INTEREST IN MUNICIPAL LAND REQUIRING APPROVAL BY ORDINANCE.

Charter Section 10.02 has always required that the Assembly use ordinances to "convey or lease, or authorize the conveyance or lease, of any interest in the lands of the municipality." An “interest in land” is defined in the charter as “any estate in real property or improvements thereon excluding revocable permits or licenses, rights-of-way, or easements which the assembly finds to be without substantial value to the municipality.” Charter Sec.17.13(e). These sections of the Charter were implemented in Title 25, specifically at 25.30 .020 – Disposal by ordinance.

Essentially, all conveyances of any interest in land must be approved by ordinance except identified smaller types of conveyances such as revocable permits, licenses, rights-of-way, and easements, with limited value and terms. See AMC subsections 25.30.020B and C. For example, all leases require assembly approval by ordinance.

The framers of the Charter recognized the importance of public process, including both public input, public hearing, and assembly approval, when dealing with municipal land and improvements (buildings and facilities). The framers carved out less substantial interests, which the Assembly then codified.

Over time, additional types of conveyances have evolved such as use or operating agreements wherein a contractor is awarded the control of a substantial municipal facility, such as the Sullivan Arena, library, or Performing Arts Center. Many of the larger operating agreements are procured under Title 7 with public process and approval requirements.

This ordinance serves to clarify that these other types of agreements which involve the use of municipal facilities require Assembly approval, if not under Title 7, then under Title 25. The ordinance continues to recognize and carve out smaller, less substantial interests.

Prepared by: Assembly Counsel’s Office
Respectfully submitted: Christopher Constant, Assembly Chair
District 1, North Anchorage

Meg Zaletel, Assembly Vice Chair
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