

<b>A BILL FOR AN ORDINANCE CREATING          PROCEDURES FOR SELLING CITY OWNED          REAL ESTATE AND CREATING A NEW          CHAPTER 3.16 OF THE LEBANON MUNICIPAL          CODE</b>	) ) ) ) ) )	<b>Ordinance Bill <u>  13</u>          for 2005</b>  <b>Ordinance Number <u>  2382</u></b>
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**WHEREAS**, the State of Oregon, by the provisions of ORS 221.725 and ORS 221.727, has created methods by which City owned real property may be sold; and

**WHEREAS**, the City desires to create a procedure, consistent with the requirements of state law, to sell real property which is owned by the City, but is not needed for public use by the City;

**NOW, THEREFORE, the City of Lebanon does ordain as follows:**

**Section 1.** There is hereby created a new chapter of the Lebanon Municipal Code, Chapter 3.16, Sale of City Owned Real Property, as follows:

3.10.010 **Purpose.** This ordinance is created to provide a procedure by which the City sells real property owned by the City which has been determined to no longer have public need. This ordinance may be known as “Procedures to Sell City Owned Real Property.” It is intended that the provisions of this chapter shall supplement the requirements of Oregon law in the sale of city owned real property. In the event that any provision of this chapter shall conflict with state law, state law shall control.

3.10.020 **Decision to Sell Real Property.** In the event that the City council should decide that a parcel or parcels of real property owned by the City is not longer needed for a public use, the Council may order that the property be sold pursuant to the procedures of this chapter. The decision of the Council to order the property sold shall be made at a regular or special meeting of the City council, and shall be based upon evidence and recommendations gathered by City staff. Unless otherwise required by the Council, no public hearing shall be required for the Council to make a determination that the real property is not needed for public use or to decide to sell the real property, subject to the public hearing procedures required by Oregon law and this Chapter.

3.10.030 **Procedure to Sell Real Property.** If the City council decides to sell real property pursuant to this Chapter, the City Administrator, or the City Administrator’s designee, shall prepare a request for bids to buy the subject real property. A notice shall be published of the proposed Disposition of City Real Property Interest. Such notice shall be published in one or more newspapers of general circulation in Linn County, and in any other publication which the City Administrator deems advisable, considering any unique circumstance surrounding the subject real property. The notice shall be published not less than once a week, for three successive weeks. The published notification shall include the following:

- A) A general description of the City Real Property Interest subject to disposition, including a legal description;

- B) The minimum asking price. The minimum asking price shall be determined after considering an appraisal of the real property or other information which the City Administrator deems appropriate, including a consideration of the costs of sale of the property;
- C) The name and address of the person to contact to obtain any additional information concerning the City real property interest;
- D) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which shall not be less than thirty (30) days from the date of the first notice;
- E) A requirement that a security deposit in the amount and form required by this chapter be submitted with the Proposal; and
- F) A reservation of the right of the City to accept or reject any Proposal;
- H) Any other information the City administrator deems desirable to include in the Notice.

In addition to the above notice requirements, the City Administrator shall also cause notices to be sent, containing the same information as required above, to the owners of real property directly adjoining the city owned real property proposed to be sold. Such notices shall be sent by regular mail, to the person, persons or entity listed in the records of Linn County, Oregon purporting to be the owner in fee title to the real property directly adjoining the city owned property to be sold. Failure of any person or entity with an ownership interest in said adjoining real property to receive the notice of the proposed sale of the subject city owned real property shall not invalidate or impede any subsequent sale of the city owned real property.

3.10.040

**Proposals for Purchase of Property.**

- A) All Proposals submitted in response to the published notice described in this Chapter above, shall be accompanied by a deposit, in the form of:
  - (1) A certified check; or (2) Sufficient bond furnished by a surety company authorized to do business in this State, in favor of the City of Lebanon, in a sum not less than ten percent (10%) of the total amount of the value of the Proposal.
- B) Deposits will be refunded to all unsuccessful Proposers after:
  - (1) The closing of the sale to a successful Proposer; or (2) Rejection of all Proposals.
- C) Each Proposal shall clearly set forth the amount offered for the purchase of the City owned Real Property, and shall include the following additional matters:
  - (1) Any conditions upon the Proposer's offer to acquire the City's Real Property Interest; and (2) Any other information the Proposer believes is relevant to its Proposal.
- D) If the City Administrator finds any Proposal to be ambiguous, the City Administrator may request that the Proposer submit further information in order to clarify the Proposer's Proposal. If the City Administrator does not request any such clarification, the ambiguous Proposal may be rejected.

3.10.050 **Opening of Proposals.** After the date and time for submitting Proposals has passed, the City Administrator shall open all Proposals that have been timely delivered and that have the required deposit. All responsive Proposals shall be evaluated by the City Administrator, or his designate, in order to determine the Proposal most advantageous to the City. The City Administrator may make recommendations to the city council concerning the transfer of the city's interest in the subject real property. The city council, as provided in this chapter after public notice and hearing may determine if the Proposal is most advantageous to the City. The determination of the most advantageous Proposal by the city council shall be final and conclusive and shall not be subject to review by any court.

3.10.060 **Negotiations.** The City Administrator shall notify the apparent successful Proposer and may negotiate to determine if the transfer can be consummated, subject to the final approval of the City council. If such negotiations are unsuccessful, the City Administrator shall notify the next highest ranking acceptable Proposal and may similarly attempt to negotiate the disposition of the City Real Property Interest.

3.10.070 **Public Hearing.** The city council shall hold a public hearing on the proposed disposition of the City Real Property Interest prior to the sale. Notice of the proposed sale shall be published in a newspaper of general circulation in the city.

- A) The notice shall be published at least once during the week prior to the public hearing required in this section. The notice shall comply with the provisions of ORS 221.725 and shall state the time and place of the public hearing, a description of the property or interest to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. Proof of publication of the notice may be made or provided by ORS 193.070.
- B) Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Nothing herein prevents the city council from holding the hearing at any regular or special meeting of the city council as part of its regular agenda.
- C) The nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the property, shall be fully disclosed by the city council at the public hearing. Any resident of the city shall be given an opportunity to present written or oral testimony at the hearing.
- D) Nothing in this section shall prevent the city council from adopting an alternative procedure for the sale of city real property, after public notice and hearing, as provided by ORS 221.727.

3.10.080 **Rejection of All Proposals.** The city council, in its sole discretion, may reject any or all Proposals.

3.10.090 **Continued Marketing of Real Property Interest after Rejection of All Proposals.** If all Proposals are rejected, the city may market and sell the Real Property Interest in any manner the city council deems appropriate, subject to the public hearing provisions of section 10.10.070, including by and through a real estate licensee provided that:

- A) Any resulting agreement of sale must be approved by the city council as required by state law.
- B) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in section 10.10.030 above, no agreement of sale may be accepted without again first publishing a public notice of sale and complying with the provisions of this chapter.

3.10.100 **Application of this Chapter.** This chapter shall apply to sales and leases of city owned real property, only, after the effective date of this ordinance.

Passed by a vote of 6 for and 0 against by the Lebanon City Council on the 27 day of July, 2005.

\_\_\_\_\_  
Kenneth I. Toombs, Mayor

ATTEST:

\_\_\_\_\_  
John E. Hitt, City Recorder

A BILL FOR AN ORDINANCE CREATING )  
PROCEDURES FOR SELLING CITY OWNED )  
REAL ESTATE AND CREATING A NEW )  
CHAPTER ~~10.10~~ OF THE LEBANON MUNICIPAL )  
CODE 3.16 )

Ordinance Bill 13  
for 2005

Ordinance Number 2382

WHEREAS, the State of Oregon, by the provisions of ORS 221.725 and ORS 221.727, has created methods by which City owned real property may be sold; and

WHEREAS, the City desires to create a procedure, consistent with the requirements of state law, to sell real property which is owned by the City, but is not needed for public use by the City;

NOW, THEREFORE, the City of Lebanon does ordain as follows:

Section 1. There is hereby created a new chapter of the Lebanon Municipal Code, Chapter ~~10.10~~, Sale of City Owned Real Property, as follows:

3.16.010  
~~10.10.010~~

3.16  
**Purpose.** This ordinance is created to provide a procedure by which the City sells real property owned by the City which has been determined to no longer have public need. This ordinance may be known as "Procedures to Sell City Owned Real Property." It is intended that the provisions of this chapter shall supplement the requirements of Oregon law in the sale of city owned real property. In the event that any provision of this chapter shall conflict with state law, state law shall control.

3.16.020  
~~10.10.020~~

**Decision to Sell Real Property.** In the event that the City council should decide that a parcel or parcels of real property owned by the City is not longer needed for a public use, the Council may order that the property be sold pursuant to the procedures of this chapter. The decision of the Council to order the property sold shall be made at a regular or special meeting of the City council, and shall be based upon evidence and recommendations gathered by City staff. Unless otherwise required by the Council, no public hearing shall be required for the Council to make a determination that the real property is not needed for public use or to decide to sell the real property, subject to the public hearing procedures required by Oregon law and this Chapter.

3.16.030  
~~10.10.030~~

**Procedure to Sell Real Property.** If the City council decides to sell real property pursuant to this Chapter, the City Administrator, or the City Administrator's designee, shall prepare a request for bids to buy the subject real property. A notice shall be published of the proposed Disposition of City Real Property Interest. Such notice shall be published in one or more newspapers of general circulation in Linn County, and in any other publication which the City Administrator deems advisable, considering any unique circumstance surrounding the subject real property. The notice shall be published not less than once a week, for three successive weeks. The published notification shall include the following:

- A) A general description of the City Real Property Interest subject to disposition, including a legal description;

- B) The minimum asking price. The minimum asking price shall be determined after considering an appraisal of the real property or other information which the City Administrator deems appropriate, including a consideration of the costs of sale of the property;
- C) The name and address of the person to contact to obtain any additional information concerning the City real property interest;
- D) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which shall not be less than thirty (30) days from the date of the first notice;
- E) A requirement that a security deposit in the amount and form required by this chapter be submitted with the Proposal; and
- F) A reservation of the right of the City to accept or reject any Proposal;
- H) Any other information the City administrator deems desirable to include in the Notice.

In addition to the above notice requirements, the City Administrator shall also cause notices to be sent, containing the same information as required above, to the owners of real property directly adjoining the city owned real property proposed to be sold. Such notices shall be sent by regular mail, to the person, persons or entity listed in the records of Linn County, Oregon purporting to be the owner in fee title to the real property directly adjoining the city owned property to be sold. Failure of any person or entity with an ownership interest in said adjoining real property to receive the notice of the proposed sale of the subject city owned real property shall not invalidate or impede any subsequent sale of the city owned real property.

3,16.040  
10.10.040

**Proposals for Purchase of Property.**

- A) All Proposals submitted in response to the published notice described in this Chapter above, shall be accompanied by a deposit, in the form of:
  - (1) A certified check; or (2) Sufficient bond furnished by a surety company authorized to do business in this State, in favor of the City of Lebanon, in a sum not less than ten percent (10%) of the total amount of the value of the Proposal.
- B) Deposits will be refunded to all unsuccessful Proposers after:
  - (1) The closing of the sale to a successful Proposer; or (2) Rejection of all Proposals.
- C) Each Proposal shall clearly set forth the amount offered for the purchase of the City owned Real Property, and shall include the following additional matters:
  - (1) Any conditions upon the Proposer's offer to acquire the City's Real Property Interest; and (2) Any other information the Proposer believes is relevant to its Proposal.
- D) If the City Administrator finds any Proposal to be ambiguous, the City Administrator may request that the Proposer submit further information in order to clarify the Proposer's Proposal. If the City Administrator does not request any such clarification, the ambiguous Proposal may be rejected.

<sup>3</sup>  
10.10.050

**Opening of Proposals.** After the date and time for submitting Proposals has passed, the City Administrator shall open all Proposals that have been timely delivered and that have the required deposit. All responsive Proposals shall be evaluated by the City Administrator, or his designate, in order to determine the Proposal most advantageous to the City. The City Administrator may make recommendations to the city council concerning the transfer of the city's interest in the subject real property. The city council, as provided in this chapter after public notice and hearing may determine if the Proposal is most advantageous to the City. The determination of the most advantageous Proposal by the city council shall be final and conclusive and shall not be subject to review by any court.

<sup>3</sup>  
10.10.060

**Negotiations.** The City Administrator shall notify the apparent successful Proposer and may negotiate to determine if the transfer can be consummated, subject to the final approval of the City council. If such negotiations are unsuccessful, the City Administrator shall notify the next highest ranking acceptable Proposal and may similarly attempt to negotiate the disposition of the City Real Property Interest.

<sup>3</sup>  
10.10.070

**Public Hearing.** The city council shall hold a public hearing on the proposed disposition of the City Real Property Interest prior to the sale. Notice of the proposed sale shall be published in a newspaper of general circulation in the city.

- A) The notice shall be published at least once during the week prior to the public hearing required in this section. The notice shall comply with the provisions of ORS 221.725 and shall state the time and place of the public hearing, a description of the property or interest to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. Proof of publication of the notice may be made or provided by ORS 193.070.
- B) Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Nothing herein prevents the city council from holding the hearing at any regular or special meeting of the city council as part of its regular agenda.
- C) The nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the property, shall be fully disclosed by the city council at the public hearing. Any resident of the city shall be given an opportunity to present written or oral testimony at the hearing.
- D) Nothing in this section shall prevent the city council from adopting an alternative procedure for the sale of city real property, after public notice and hearing, as provided by ORS 221.727.

3 ~~10~~.40.080 **Rejection of All Proposals.** The city council, in its sole discretion, may reject any or all Proposals.

3 ~~10~~.10.090 **Continued Marketing of Real Property Interest After Rejection of All Proposals.** If all Proposals are rejected, the city may market and sell the Real Property Interest in any manner the city council deems appropriate, subject to the public hearing provisions of section 10.40.070, including by and through a real estate licensee provided that:

- A) Any resulting agreement of sale must be approved by the city council as required by state law.
- B) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in section 10.10.030 above, no agreement of sale may be accepted without again first publishing a public notice of sale and complying with the provisions of this chapter.

3 ~~10~~.10.100 **Application of this Chapter.** This chapter shall apply to sales and leases of city owned real property, only, after the effective date of this ordinance.

Passed by a vote of 6 for and 0 against by the City Council on the 27 day of July, 2005.

Kenneth I. Tomb  
Mayor

ATTEST:

John E. Holt  
City Recorder



**Linda Kaser**

**From:** Thomas McHill [tmchill\_mtmp@hotmail.com]  
**Sent:** Monday, October 31, 2005 10:32 AM  
**To:** Linda Kaser; John Hitt  
**Cc:** Kindra Oliver  
**Subject:** RE: FW: Query about Ordinance 2382

I'm sure that we must have meant to put this chapter in Title 3, John?

T.

From: "Linda Kaser" <lkaser@ci.lebanon.or.us>  
To: "John Hitt" <jhitt@ci.lebanon.or.us>, "Tom McHill" <tmchill\_mtmp@hotmail.com>  
CC: "Kindra Oliver" <koliver@ci.lebanon.or.us>  
Subject: FW: Query about Ordinance 2382  
Date: Mon, 31 Oct 2005 08:44:02 -0800

John/Tom, what is your preference?

Linda G. Kaser  
City of Lebanon  
925 Main Street  
Lebanon OR 97355  
(541)258-4264

Title 4  
Title 7  
Title 11  
Title 14

-----Original Message-----

**From:** Meem, John (LNG-CHO) [mailto:John.Meem@lexisnexis.com]  
**Sent:** Monday, October 31, 2005 8:37 AM  
**To:** Kindra Oliver  
**Cc:** Linda Kaser  
**Subject:** Query about Ordinance 2382

Hi Kindra,

I found the paper copy of Ordinance 2382 waiting on my desk this morning, thanks for getting it here so quickly. Unfortunately, the drafters of this ordinance seem to have made a mistake when they decided to codify it as Chapter 10-10. Here's the problem:

Ordinance 2382 creates a new chapter called "Sale of City Owned Real Property." That is all it concerns and nothing else. However, if it were codified to be Chapter 10-10, that would put it in Title 10, which is "Vehicles and Traffic".

By any stretch of my imagination, I cannot see how the sale of city-owned lots and parcels of land could possibly have anything to do with Vehicles and Traffic. This new chapter surely belongs in another Title, somewhere else.

I would suggest codifying this new chapter in Title 3, "Revenue and Finance". It could be codified as Chapter 3-10 if you'd like. Alternatively, we could put it in Title 11, which is currently reserved and available for new subject matter that doesn't seem to fit anywhere else. This may have been the original intent of the drafters, perhaps they were off by one digit and said Title 10 when they meant Title 11.

Please discuss this with your city officials and let me know what they think about it.

Thank you for your assistance in this matter.

JOHN G. MEEM  
COORDINATING EDITOR  
LEXISNEXIS MUNICIPAL CODES  
701 EAST WATER STREET  
CHARLOTTESVILLE, VA 22902  
(434) 972-7600 Ext. 7409

e-mail john.meem@lexisnexis.com

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**From:** Linda Kaser [mailto:lkaser@ci.lebanon.or.us]  
**Sent:** Thursday, October 27, 2005 1:53 PM  
**To:** Kindra Oliver; Meem, John (LNG-CHO)  
**Subject:** RE: City of Lebanon Ordinance Update

I mailed the 2<sup>nd</sup> copy for Kindra to John's attention at the address listed below! Maybe the 3<sup>rd</sup> time is the charm.

*Linda G. Kaser  
City of Lebanon  
925 Main Street  
Lebanon OR 97355  
(541)258-4264*

-----Original Message-----

**From:** Kindra Oliver  
**Sent:** Wednesday, October 26, 2005 1:53 PM  
**To:** 'Meem, John (LNG-CHO)'  
**Cc:** Linda Kaser  
**Subject:** RE: City of Lebanon Ordinance Update

Hi John,

Wow, that is crazy that you haven't received the hard copy because, again, I sent it out that day. I could have used a different address other than the one you have below but I've been sending them to the same address for the last two years. I'm now at a different city facility and I don't have my old rolodex or files at hand to double check the address. I will email Linda Kaser and have her mail you another copy at the address you have listed below first thing tomorrow morning.

Thank you!

Kindra Oliver  
Senior Services Program Manager, AIC  
65 "B" Academy  
Lebanon, OR 97355  
541.258.4222  
541.258.4956 (fax)

-----Original Message-----

**From:** Meem, John (LNG-CHO) [mailto:John.Meem@lexisnexis.com]  
**Sent:** Wednesday, October 26, 2005 1:12 PM  
**To:** Kindra Oliver  
**Subject:** RE: City of Lebanon Ordinance Update

Dear Kindra,

As of today, October 26th, we still have not received any hard copy of Ordinance 2382. I'm assuming you have mailed it by now, and I remember you said in your e-mail last week that you had mailed one copy of it back on September 15th. Neither one has ever showed up here. Just to make sure, I would like you to double-check the address you mailed these copies to, as I'm beginning to wonder if your mailing address for LexisNexis is up to date. Our address is:

10/31/2005

**LexisNexis Municipal Codes  
701 East Water Street  
Charlottesville, VA 22902**

If the above address matches your records, then I'm sorry I wasted your time. I suppose it's just a case of the U.S. Postal Service being slow again.

Just wanted to make sure, and thanks!

JOHN G. MEEM  
COORDINATING EDITOR  
LEXISNEXIS MUNICIPAL CODES  
701 EAST WATER STREET  
CHARLOTTESVILLE, VA 22902  
(434) 972-7600 Ext. 7409

e-mail john.meem@lexisnexis.com

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**From:** Kindra Oliver [mailto:koliver@ci.lebanon.or.us]  
**Sent:** Monday, October 17, 2005 6:43 PM  
**To:** Meem, John (LNG-CHO)  
**Subject:** RE: City of Lebanon Ordinance Update

Hi John,

We do not have the revised, electronic copy so we are sending another hard copy.

Please let me know if you have any questions.

Thank you!

Kindra Oliver  
Senior Services Program Manager, AIC  
65 "B" Academy  
Lebanon, OR 97355  
541.258.4222  
541.258.4956 (fax)

-----Original Message-----

**From:** Meem, John (LNG-CHO) [mailto:John.Meem@lexisnexis.com]  
**Sent:** Monday, October 17, 2005 1:17 PM  
**To:** Kindra Oliver  
**Subject:** RE: City of Lebanon Ordinance Update

Kindra,

Well, that's really strange since we never got the hard copies. They must have gotten lost.

Actually, it's really not necessary to send us hard copies of anything as we have to convert them electronically to Word documents anyway. All we really need is an electronic copy of Ordinance 2382 in either Word or PDF, and we can start production of your Supplement immediately. -- John

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**From:** Kindra Oliver [mailto:koliver@ci.lebanon.or.us]  
**Sent:** Monday, October 17, 2005 4:08 PM  
**To:** Meem, John (LNG-CHO)  
**Cc:** Linda Kaser

**Subject:** RE: City of Lebanon Ordinance Update

Hi John,

I mailed the hard copy Ordinance 2382 in September, the same day I sent the email. I will send another hard copy of Ordinance 2382 this afternoon or tomorrow morning. Attached is a list of Ordinances 2381-2385.

Please let me know if you have any other questions.

Thanks!

Kindra Oliver  
Senior Services Program Manager, AIC  
65 "B" Academy  
Lebanon, OR 97355  
541.258.4222  
541.258.4956 (fax)

-----Original Message-----

**From:** Meem, John (LNG-CHO) [mailto:John.Meem@lexisnexis.com]  
**Sent:** Monday, October 17, 2005 1:00 PM  
**To:** Kindra Oliver  
**Subject:** RE: City of Lebanon Ordinance Update

Dear Ms. Oliver,

The e-mail you sent to us a month ago only contained a list of ordinances, it did not contain the full text of Ordinance 2382. We have never received either a hard copy or an electronic version of Ordinance 2382.

Since it is now mid-October I thought I'd better ask you about these hard copies you referred to in your original message; will they be in the mail soon?

Thanks,

JOHN G. MEEM  
COORDINATING EDITOR  
LEXISNEXIS MUNICIPAL CODES  
701 EAST WATER STREET  
CHARLOTTESVILLE, VA 22902  
(434) 972-7600 Ext. 7409

e-mail john.meem@lexisnexis.com

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**From:** Kindra Oliver [mailto:koliver@ci.lebanon.or.us]  
**Sent:** Thursday, September 15, 2005 4:49 PM  
**To:** LNG-CHO-Ordinances  
**Subject:** City of Lebanon Ordinance Update

Attached is a copy of Ordinances 2381-2385 for the City of Lebanon. Ordinance 2382 is the only one that will need to be incorporated in the LMC. I will mail a hard copy of the attached list, as well as Ordinance 2382.

Please contact me if you have any questions.

Kindra Oliver  
Support Services Coordinator

925 Main Street  
Lebanon, OR 97355  
541.258.4203  
541.258.4950 (fax)