

ORDINANCE NO. 037, 2018  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING ARTICLE XIII OF CHAPTER 23 OF THE CODE OF  
THE CITY OF FORT COLLINS REGARDING THE LAND BANK PROGRAM

WHEREAS, on April 17, 2001, the City Council adopted Ordinance No. 048, 2001, enacting Article XIII of Chapter 23 of the City Code regarding land banking; and

WHEREAS, the purpose of the land bank program is to enable the City to acquire, hold and sell real property to assist housing providers in providing affordable rental and homeownership housing for low-income residents; and

WHEREAS, on April 5, 2016, the City Council adopted Ordinance No. 034, 2016, which amended Section 23-354 of the City Code to provide some flexibility in income targets for the land bank program and facilitate the development of the land bank parcel on Horsetooth Road; and

WHEREAS, in 2016 the City Council also directed City staff to conduct a comprehensive review of the land bank program and recommend updates; and

WHEREAS, as a result of that review, staff is recommending amendments to the land banking Code provisions to:

- clarify the City's ability to dispose of land bank parcels that turn out to not be appropriate for development of affordable housing,
- allow mixed use development under certain conditions,
- modify the affordability restrictions on properties sold for affordable housing,
- create a notice requirement before property that has not been developed in accordance with the requirements of the land bank Code provisions reverts to the City, and
- clean up references to the affordable housing trust fund, as there is no such fund;

and

WHEREAS, City staff also plans to develop possible changes to the City's Land Use Code to create program-specific incentives and design standards to maximize the development potential of the land bank properties; and

WHEREAS, the City Council believes that the proposed amendments to the City Code are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 23-350 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-350. - Purpose.**

The purpose of this Article is to enable the City to acquire, hold and sell real property to assist housing providers (whether publicly affiliated, philanthropic or profit-motivated) in providing affordable rental and homeownership housing.

This Article will assist the City in providing land that developers can feasibly purchase for affordable housing; will help to ensure that appropriate sites are available in the future for the development of such housing; will assist in the early identification of sites for affordable housing development so that adjacent property owners will be aware of the plans for such sites; and will systematically secure affordable housing sites so that such developments can be dispersed throughout the community by strategically selecting sites for affordable housing projects in desirable locations.

Section 3. That Section 23-352 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-352. - Criteria.**

The City Manager shall acquire land under the authority granted in § 23-351 only if the acquisition complies with the following criteria:

- (1) The land is acquired from a willing seller (without the threat of condemnation).
- (2) The cost of acquiring the land does not, in the opinion of the City Manager, exceed the fair market value thereof.
- (3) Either at the time of acquisition the land is, or in the judgment of the City Manager, the land within ten (10) years likely will be, within one-half (1/2) mile of at least three (3) of the following five (5) existing or planned facilities:
  - a. City bus or other public transit route;
  - b. Public/charter school;
  - c. Park, as designated and posted by the City;
  - d. Employment, industrial, campus or downtown district as shown on the City's Structure Plan Map; and
  - e. Commercial center, such as a shopping center or other retail development.
- (4) The land is located within the Fort Collins Growth Management Area.

Section 4. That Section 23-353 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-353. - Funding.**

The acquisition of land pursuant to this Article shall be funded from the Affordable Housing Fund, the General Fund, or other available funding source.

Section 5. That Section 23-354 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-354. - Disposition of land bank property.**

In addition to the criteria established for the disposition of property in Article IV of this Chapter, no property or portion of a property acquired pursuant to this Article shall be sold by the City except in accordance with the following criteria:

- (1) Any disposition/sale of such property shall be to a housing provider legally bound to the City under the terms of such sale to provide, as the sole development purpose, "affordable housing", to be defined in accordance with stated objectives from the City's Affordable Housing Strategic Plan, and with the following restrictions:
  - a. Rental housing shall be restricted to households at or below sixty (60) percent of AMI.
  - b. Homeownership housing shall be restricted to households at or below eighty (80) percent of AMI.

Such sale shall not be made to any person for land speculation or appreciation, for the development of market rate housing, or for the development of nonresidential unless the City requests that the development include specific non-residential, secondary supportive uses.

- (2) Notwithstanding the requirements of subsection (1) above, the City may sell or trade property acquired pursuant to this Article for purposes other than affordable housing if the City Council, in its sole discretion, determines that the property is no longer appropriate for the land bank program because:
  - a. an affordable housing project on the property is not supported by a market study obtained by the City;
  - b. at least three (3) of the facilities described in Section 23-352(3) do not exist within ten (10) years of acquisition of the property;
  - c. the City has not received a satisfactory response to a request for proposals to develop the property; or
  - d. the property is too difficult or costly to develop as affordable housing due to the size, location, physical condition or other limitations on the property.

(3) Upon acquisition of the property from the City, the housing provider shall commence development of all housing within twenty-four (24) months of having acquired the land and shall obtain building permits for the construction of all such housing units within forty-eight (48) months of acquisition of the property. If all such building permits have not been obtained by the housing provider within the aforesaid periods of time, then title to that portion of the property for which building permits have not been issued shall revert to the City, provided that the City shall first give notice to the housing provider and any lenders of record of any violation of this requirement and allow a period of not less than sixty (60) days to cure the violation. Said possibility of reverter shall be contained in any deeds conveying said land to such housing provider. Any extension of the aforesaid periods of time shall be valid only if approved by the City Manager upon finding that the housing provider has exerted a good faith and diligent effort in pursuing the development but has suffered delays caused by unforeseen circumstances not reasonably within the control of the housing provider.

(4) If any property sold by the City for affordable housing under the authority of this Section is subsequently resold by the original housing provider, the purchaser and any subsequent owners of such property must continue to use such property for affordable housing. If said property is ever not so used, then the City may re-enter and recover title to all such property, provided that the City shall first give notice to the record owner of the property and any lenders of record of any violation of this requirement and allow a period of not less than sixty (60) days to cure the violation. The deed conveying the property from the City to such housing provider shall contain such right of entry for condition broken, which provision shall run with the title to the property.

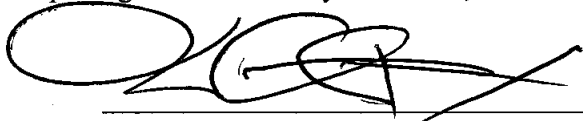
(5) All land conveyed to a housing provider by the City pursuant to this Article shall be sold to such housing provider at no more than ninety (90) percent of its fair market value as determined by the City. Land sold out of the land bank program pursuant to subsection (2) above shall not be subject to this requirement.

Section 6. That Section 23-355 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-355. - Proceeds of sale.**

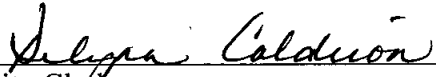
All proceeds of any sale of land in accordance with § 23-354 shall be used for additional land acquisitions in accordance with this Article.

Introduced, considered favorably on first reading, and ordered published this 20th day of February, A.D. 2018, and to be presented for final passage on the 6th day of March, A.D. 2018.



Mayor

ATTEST:

  
City Clerk

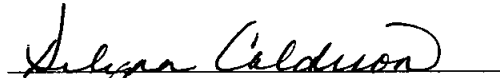


Passed and adopted on final reading on the 6th day of March, A.D. 2018.



Mayor

ATTEST:

  
City Clerk

