

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 4, SERIES 2014**

AN ORDINANCE AMENDING THE TOWN OF RED CLIFF MUNICIPAL CODE TO INCLUDE PROVISIONS GOVERNING THE SALE OF REAL ESTATE OWNED BY THE TOWN OF RED CLIFF BUT NOT USED FOR ANY MUNICIPAL PURPOSE.

WHEREAS, the Town of Red Cliff (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, pursuant to C.R.S. § 31-15-713(1)(b), the Town’s Board of Trustees (“Board”) has the power to sell and dispose of, by ordinance, any real estate it owns that is not used or held for a governmental purpose upon such terms and conditions as it may determine at a regular or special meeting;

WHEREAS, the Town owns or is believed to own several parcels of real estate in the Town that are not used or held for a governmental purpose;

WHEREAS, the Board has determined that it would be in the best interests of the Town and its inhabitants to establish a procedure governing the manner by which the Town will sell or dispose of any real estate it owns that is not used or held for a governmental purposes if it decides to entertain offers to purchase or consider selling or disposing of any such real estate;

WHEREAS, by enacting this ordinance, the Board does not intend to commit or oblige the Town to sell or dispose of any particular parcel of real estate it might own or guarantee that it will sell or dispose of any real estate it might own on any particular terms and conditions; and,

WHEREAS, this ordinance will not apply to and will have no bearing upon the Town’s sale or disposition of any real estate it owns that is used for a governmental purpose, any such sales to be conducted in accordance with C.R.S. § 31-15-713(1)(a).

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: A new Article 4 is added to Chapter 11 of the Town of Red Cliff Municipal Code to provide in its entirety:

ARTICLE 4

Sale of Municipal Real Estate

Sec. 11-4-10. Purpose and Intent.

The purpose of this Article 4 is to set forth the procedure by which the Town of Red Cliff may sell or dispose of any real estate it owns that is not used or held for a governmental purpose. This Article 4 will not apply to the sale or disposition of any Town-owned real estate that is used or held for a governmental purpose or used or held as a right-of-way or alley. This Article 4 is not intended and will not be construed to require the Town to sell any Town-owned real estate on any terms and conditions.

Sec. 11-4-20. Who May Purchase Town-Owned Real Estate.

Any person or entity that owns real property in the Town may offer to purchase from the Town any parcel of Town-owned real estate that is neither held or used for a governmental purpose nor held or used as a right-of-way or alley so long as the parcel of real estate subject to the offer is immediately adjacent to real property owned by the person or entity seeking to purchase Town-owned real estate.

Sec. 11-4-30. Expression of Interest in Purchasing Town-Owned Real Estate.

(a) A person or entity eligible to purchase Town-owned real estate pursuant to § 11-4-20 will notify the Administrator in writing of its interest in purchasing a parcel of Town-owned real-estate. The written notice must set forth the interested party's name, address, telephone number and email address, describe the parcel of Town-owned real estate the interested party seeks to purchase with sufficient particularity to allow Town staff to readily identify the parcel and provide satisfactory proof of the interested party's ownership of immediately adjacent real property.

(b) Upon receipt of a written expression of interest pursuant to (a), the Administrator will cause an executive session to discuss the sale of Town-owned real estate pursuant to C.R.S. § 24-6-402(4)(a) to be added to the agenda for the next regular meeting of the Board of Trustees. The Board will consider the interested party's expression of interest at the executive session and, after the executive session is concluded, announce whether is is interested in selling the parcel of Town-owned real estate subject and explain the basis for its decision.

(c) (1) If the Board decides that it is not interested in selling the parcel, it will direct the Administrator to notify the interested party in writing of its decision, whereupon the procedure specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party and the Town will take no further action with respect to sale of the parcel subject to the expression of interest.

(2) If the Board decides that it is interested in selling the parcel, it will direct the Administrator to notify the interested party in writing of its decision and advise the interested party that it has 60 days to submit a survey of and a title report concerning the parcel to the Administrator. The survey and title report submitted pursuant to this paragraph must be dated no more than 180 days prior to the date of their submission. The interested party will bear all costs incurred to obtain the survey and title report at is sole expense. If the interested party fails to submit a survey and/or title report in accordance with this paragraph, the interested party's expression of interest will be considered abandoned for all purposes, the Town will have no further obligation to the interested party and the Town will take no further action with respect to sale of the parcel subject to the expression of interest.

(d) If the interested party submits a survey and title report in accordance with (c)(2), the Administrator will cause an executive session to discuss the sale of Town-owned real estate pursuant to C.R.S. § 24-6-402(4)(a) to be added to the agenda for the next regular meeting of the Board. The Board will consider the

interested party's expression of interest and the survey and title report pursuant to (c)(2) at the executive session and, after the executive session is concluded, announce whether it remains interested in selling the parcel of Town-owned real estate and explain the basis for its decision.

(e) (1) If the Board decides that it is not interested in selling the parcel, it will direct the Administrator to notify the interested party in writing of its decision, whereupon the procedure specified in this Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the interested party and the Town will take no further action with respect to sale of the parcel subject to the expression of interest.

(2) If the Board decides that it is interested in selling the parcel, it will decide whether the parcel is "encumbered" or "unencumbered." For purpose of this Article 4, a parcel of Town-owned real estate is "encumbered" if there is some permanent structure or other material improvement located on the parcel and "unencumbered" if there is no such permanent structure or other material improvement located on the parcel. The Board will have unfettered discretion to decide whether a parcel is "encumbered" or "unencumbered."

Sec. 11-4-40. Bid Process - Encumbered Property.

(a) If the Board decides that it is interested in selling a parcel of Town-owned real estate subject and that the parcel is "encumbered" pursuant to § 11-4-30(e)(2), it will direct the Administrator to notify the interested party in writing of its decision and advise the interested party that it has 30 days to submit a written, sealed offer to purchase the parcel of Town-owned real estate to the Administrator. Any offer submitted pursuant to this paragraph must (1) set forth the legal description of the parcel; (2) be accompanied by a written appraisal of the parcel dated no more than 180 days prior to the date the offer is submitted; (3) specify the proposed purchase price, which proposed purchase price must be for at least the amount of the appraisal submitted as part of the offer; (4) describe the proposed terms of payment; (5) include all other material terms and conditions to which the offer is subject; and (6) be accompanied by a \$1,000.00 deposit. The interested party will bear all costs incurred in relation to submission of an offer pursuant to this paragraph at its sole expense. If the interested party fails to submit an offer in accordance with this paragraph, the interested party's expression of interest will be considered abandoned for all purposes, the Town will have no further obligation to the interested party and the Town will take no further action with respect to sale of the parcel of Town-owned real estate subject to the expression of interest.

(b) If the interested party submits an offer in accordance with (a), the Administrator will cause an executive session to discuss the sale of Town-owned real estate pursuant to C.R.S. § 24-6-402(4)(a) to be added to the agenda for the next regular meeting of the Board. The Board will consider the offer submitted pursuant to (a) at the executive session and, after the executive session has concluded, announce whether it intends to accept the offer and explain the basis for its decision.

(c) If the Board decides not to accept the offer, it will direct the Administrator to notify the offeror in writing of its decision and return the \$1000 deposit submitted pursuant to (a), whereupon the procedure specified in this

Article 4 will be considered concluded for all purposes, the Town will have no further obligation to the offeror and the Town will take no further action with respect to sale of the parcel of Town-owned real estate subject to the offer. If the Board decides to accept the offer, it will direct the Administrator to notify the offeror in writing of its decision and otherwise proceed in accordance with § 11-4-60 with respect to the accepted offer.

Sec. 11-4-50. Bid Process - Unencumbered Property.

(a) If the Board decides that it is interested in selling a parcel of Town-owned real estate and that the parcel is "unencumbered" pursuant to § 11-4-30(e)(2), it will direct the Administrator to notify the interested party in writing of its decision and advise the interested party that it has 30 days to submit a written, sealed offer to purchase the parcel to the Administrator. Any offer submitted pursuant to this paragraph must (1) set forth the legal description of the parcel; (2) be accompanied by a written appraisal of the parcel dated no more than 180 days prior to the date the offer is submitted; (3) specify the proposed purchase price, which proposed purchase price must be for at least the amount of the appraisal submitted as part of the offer; (4) describe the proposed terms of payment; (5) include all other material terms and conditions to which the offer is subject; and (6) be accompanied by a \$1,000.00 deposit. The interested party will bear all costs incurred in relation to submission of an offer pursuant to this paragraph at its sole expense. If the interested party fails to submit an offer in accordance with this paragraph, the interested party's expression of interest will be considered abandoned for all purposes, the Town will have no further obligation to the interested party and the Town will take no further action with respect to sale of the parcel of Town-owned real estate subject to the expression of interest.

(b) If the interested party submits an offer in accordance with (a), the Administrator will notify all person or entities who own real property adjacent to the parcel of Town-owned real estate subject to the offer in writing that an offer to purchase the parcel has been received and advise the adjacent property owners that they may submit a written, sealed offer to purchase the parcel to the Administrator within 30 days. The written notice will advise the adjacent property owners that the offer must satisfy the requirements of an offer submitted pursuant to (a). The adjacent property owner(s) will bear all costs incurred in relation to submission of an offer pursuant to this paragraph at its sole expense. The Town will not consider and will take no action concerning an offer submitted by an adjacent property owner that does not satisfy the requirements of an offer submitted pursuant to (a).

(c) If an adjacent property owner submits an offer pursuant to (b), the Administrator will notify the original offeror in writing that an offer to purchase the parcel has been received pursuant to (b), describe the material terms and conditions of any offer submitted pursuant to (b) and advise the original offeror that it may submit a final, written sealed offer to purchase the parcel to the Administrator within 30 days. The written notice will advise the original offeror that the offer must satisfy the requirements of an offer submitted pursuant to (a). The original offeror will bear all costs incurred in relation to submission of an offer pursuant to this paragraph at its sole expense.

(d) Upon receipt of any offer authorized by (a), (b) and (c), the Administrator will cause an executive session to discuss the sale of Town-owned real estate pursuant to C.R.S. § 24-6-402(4)(a) to be added to the agenda for the next regular meeting of the Board. The Board will consider the offer(s) submitted pursuant to (a), (b) and (c) at the executive session and, after the executive session has concluded, announce whether it intends to accept an offer and explain the basis for its decision.

(e) If the Board decides not to accept any offer submitted pursuant to (a), (b) or (c), it will direct the Administrator to notify the offeror(s) in writing of its decision and return the \$1,000 deposit submitted pursuant to (a), (b) or (c), whereupon the procedure specified in Article 4 will be considered concluded for all purposes, the Town will have no further obligations to the offeror(s) and the Town will take no further action with respect to sale of the parcel of Town-owned real estate subject to the offer(s).

(f) If the Board decides to accept an offer submitted pursuant to (a), (b) or (c), it will:

(1) direct the Administrator to notify any offeror whose offer was not accepted of its decision and return the \$1,000 deposit submitted pursuant to (a), (b) or (c), whereupon the Town will have no further obligation to any offeror whose offer was not accepted;

(2) direct the Administrator to notify the offeror whose offer was accepted in writing of the Board's decisions; and,

(3) otherwise proceed in accordance with § 11-4-60 with respect to the accepted offer.

(g) If the Town accepts an offer submitted pursuant to (b), the Administrator will notify the person or entity who submitted an offer pursuant to (a) in writing that it may submit invoices to the Administrator verifying the costs incurred to survey and obtain a title report concerning the parcel of Town-owned real estate subject to the offer within 15 days. If the Administrator receives such verification, an amount equal to the invoices will be added to the purchase price of the parcel of Town-owned real estate established by the ordinance to be enacted pursuant to § 11-4-60 and an amount equal to the invoices will be returned to the person or entity who submitted an offer pursuant to (a) in accordance with § 11-4-70(c).

Sec. 11-4-60. Ordinance Authorizing Sale of Town-Owned Real Estate.

(a) If the Board decides to accept an offer to purchase a parcel of Town-owned real estate pursuant to §11-4-40 or § 11-4-50, it will direct the Town Attorney to prepare an ordinance authorizing the sale of the parcel of Town-owned real estate to the successful offeror.

(b) The ordinance to be prepared by the Town Attorney will:

(1) Describe the parcel of Town-owned real estate to be sold;

(2) Identify the person or entity to whom the parcel of Town-owned real estate will be sold;

(3) Set forth the purchase price pursuant to which the parcel of Town-owned real property will be sold, which purchase price will include, in addition to the amount of the offer accepted by the Board, an amount necessary to reimburse the Town for all attorney and other administrative fees incurred or to be incurred in relation to the sale and an amount equal to any invoices submitted in accordance with § 11-4-50(g);

(4) Set forth such other terms and conditions regarding the sale and consummation of the same as contained in the offer accepted by the Town pursuant to § 11-4-40 or § 11-4-50;

(5) Specify that the Town will convey the parcel of Town-owned real estate by means of a quit claim deed;

(6) Specify that closing of the transaction by which the Town will sell the parcel of Town-owned real estate will occur no later than 30 days after the effective date of the ordinance; and,

(7) Include such other terms and provisions as deemed necessary and appropriate by the Town.

(c) Any ordinance authorizing the sale of a parcel of Town-owned real estate in accordance with this Article 4 will be considered and adopted pursuant to Article 3 of Chapter 2 of the Town of Red Cliff Municipal Code.

(d) Notwithstanding its decision to accept an offer to purchase a parcel of Town-owned real estate in accordance with § 11-4-40 or § 11-4-50, the Board will not be obligated or required to enact an ordinance authorizing such sale and the Town will not be obligated to sell any parcel of Town-owned real estate to any person on any terms until enactment of a valid ordinance authorizing such sale.

Sec. 11-4-70. Consummation of Sale of Town-Owned Real Estate.

(a) The sale of any parcel of Town-owned real estate pursuant to this Article 4 will be consummated in accordance with the terms of the ordinance enacted pursuant to § 11-4-60.

(b) If the person or entity authorized to purchase a parcel of Town-owned real estate by an ordinance enacted pursuant to § 11-4-60 fails to consummate the transaction in strict compliance with the terms of the ordinance, the Town will repeal the ordinance, will have no further obligation, responsibility or liability to the party authorized by ordinance to purchase the parcel of Town-owned real estate and will not be required or obligated to sell the parcel of Town-owned real estate subject to the ordinance to any person or entity on any terms and conditions.

(c) If the sale of a parcel of Town-owned real estate is consummated in accordance with the terms of an ordinance adopted pursuant to § 11-4-60, the Administrator will cause that portion of the purchase price, if any, attributable to the costs and expenses incurred by a person or entity who submitted an offer pursuant to § 11-4-50(a), as verified pursuant to § 11-4-50(g), to be returned to that person or entity.

Sec. 11-4-80. Board Discretion.

In exercising the discretion conferred on it and in making all decisions called for by this Article 4, the Board will be guided by consideration of the historical use and ownership of the parcel of Town-owned real property subject to an expression of interest or offer to purchase, adjacent and neighborhood property ownership and uses, the value to the Town of the parcel of Town-owned real estate, the consideration offered to purchase the parcel of Town-owned real estate and the effect of the sale of a parcel of Town-owned real estate on future planning. No one of these criteria will be dispositive and the Board will not be required to consider or afford them all equal weight, it being the intent of the Town that the sale of any parcel of Town-owned real estate will be subject to the Board's unfettered discretion to be exercised on a case-by-case basis.

Sec. 11-4-90. No Rights Acquired By Participation in Process.

No person or entity will be considered to have acquired any legal or equitable right, title or interest in any parcel of Town-owned real estate, any substantive or procedural due process rights or any sort of vested rights by virtue of any of the procedures established by this Article 4 or that person or entity's participation in the same. Except as otherwise set forth in this Article 4, any person or entity who expends time or funds in conjunction with the procedures enunciated in this Article 4 does so at its own risk. The Town will have no liability or responsibility for any person or entity's reliance on any act taken by the Town or its representatives pursuant to this Article 4. The Town will have no obligation, responsibility or liability to any person who participates in the procedures established by this Article 4 except as required by a validly enacted ordinance concerning the sale of a parcel of Town-owned real estate.


Section 2: Declaration. The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to protect the public health, safety and welfare of the Town and its inhabitants.

Section 3: Severability. If any section, paragraph, clause, provision or part of this Ordinance is for any reason held to be invalid or unenforceable, the remainder of this Ordinance will continue in full force and effect, it being the intent of the Board of Trustees that this Ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance and the application thereof to other persons will not be affected thereby.

Section 4: Effective Date. This Ordinance will become effective thirty (30) days after publication following final passage.

INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED POSTED IN FULL THIS 6th DAY OF MAY 2014. A public hearing on the SECOND READING of this Ordinance will be held at the regular meeting of the Board of Trustees of the Town of Red Cliff, Colorado, on the 20th day of MAY 2014 at 7:00 p.m. in the Town Hall of the Town of Red Cliff, Colorado.

TOWN OF RED CLIFF, COLORADO



M. Scott Burgess, Mayor


ATTEST:



Barb Smith, Town Administrator/Clerk


ADOPTED AND ORDERED PUBLISHED on this 20th day of May 2014.

TOWN OF RED CLIFF, COLORADO



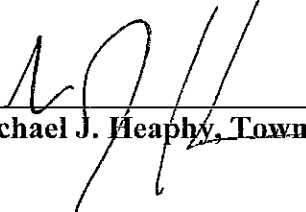
M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Administrator/Clerk

APPROVED AS TO FORM:



Michael J. Heaphy, Town Attorney