

Article 12.

Sale and Disposition of Property.

**§ 160A-265. Use and disposal of property.**

In the discretion of the council, a city may: (i) hold, use, change the use thereof to other uses, or (ii) sell or dispose of real and personal property, without regard to the method or purpose of its acquisition or to its intended or actual governmental or other prior use. (1981 (Reg. Sess., 1982), c. 1236.)

**§ 160A-266. Methods of sale; limitation.**

(a) Subject to the limitations prescribed in subsection (b) of this section, and according to the procedures prescribed in this Article, a city may dispose of real or personal property belonging to the city by:

- (1) Private negotiation and sale;
- (2) Advertisement for sealed bids;
- (3) Negotiated offer, advertisement, and upset bid;
- (4) Public auction; or
- (5) Exchange.

(b) Private negotiation and sale may be used only with respect to personal property valued at less than thirty thousand dollars (\$30,000) for any one item or group of similar items. Real property, of any value, and personal property valued at thirty thousand dollars (\$30,000) or more for any one item or group of similar items may be exchanged as permitted by G.S. 160A-271, or may be sold by any method permitted in this Article other than private negotiation and sale, except as permitted in G.S. 160A-277 and G.S. 160A-279.

Provided, however, a city may dispose of real property of any value and personal property valued at thirty thousand dollars (\$30,000) or more for any one item or group of similar items by private negotiation and sale where (i) said real or personal property is significant for its architectural, archaeological, artistic, cultural or historical associations, or significant for its relationship to other property significant for architectural, archaeological, artistic, cultural or historical associations, or significant for its natural, scenic or open condition; and (ii) said real or personal property is to be sold to a nonprofit corporation or trust whose purposes include the preservation or conservation of real or personal properties of architectural, archaeological, artistic, cultural, historical, natural or scenic significance; and (iii) where a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the city to the nonprofit corporation or trust. Said nonprofit corporation or trust shall only dispose of or use said real or personal property subject to covenants or other legally binding restrictions which will promote the preservation or conservation of the property, and, where appropriate, secure rights of public access.

(c) A city council may adopt regulations prescribing procedures for disposing of personal property valued at less than thirty thousand dollars (\$30,000) for any one item or group of items in substitution for the requirements of this Article. The regulations shall be designed to secure for the city fair market value for all property disposed of and to accomplish the disposal efficiently and economically. The regulations may, but need not, require published notice, and may provide for either public or private exchanges and sales. The council may authorize one or more city officials to declare surplus any personal property valued at less than thirty thousand dollars (\$30,000) for any one item or group of items, to set its fair market value, and to convey title to the property for the city in accord with the regulations. A city official authorized under this section to dispose of

property shall keep a record of all property sold under this section and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

(d) A city may discard any personal property that: (i) is determined to have no value; (ii) remains unsold or unclaimed after the city has exhausted efforts to sell the property using any applicable procedure under this Article; or (iii) poses a potential threat to the public health or safety. (1971, c. 698, s. 1; 1973, c. 426, s. 42.1; 1983, c. 130, s. 1; c. 456; 1987, c. 692, s. 2; 1987 (Reg. Sess., 1988), c. 1108, s. 9; 1997-174, s. 6; 2001-328, s. 4; 2005-227, s. 3.)

#### **§ 160A-267. Private sale.**

When the council proposes to dispose of property by private sale, it shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property by private sale at a negotiated price. The resolution or order shall identify the property to be sold and may, but need not, specify a minimum price. A notice summarizing the contents of the resolution or order shall be published once after its adoption, and no sale shall be consummated thereunder until 10 days after its publication. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 24.)

#### **§ 160A-268. Advertisement for sealed bids.**

The sale of property by advertisement for sealed bids shall be done in the manner prescribed by law for the purchase of property, except that in the case of real property the advertisement for bids shall be begun not less than 30 days before the date fixed for opening bids. (1971, c. 698, s. 1.)

#### **§ 160A-269. Negotiated offer, advertisement, and upset bids.**

A city may receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids. When an offer is made and the council proposes to accept it, the council shall require the offeror to deposit five percent (5%) of his bid with the city clerk, and shall publish a notice of the offer. The notice shall contain a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. When a bid is raised, the bidder shall deposit with the city clerk five percent (5%) of the increased bid, and the clerk shall readvertise the offer at the increased bid. This procedure shall be repeated until no further qualifying upset bids are received, at which time the council may accept the offer and sell the property to the highest bidder. The council may at any time reject any and all offers. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 25.)

#### **§ 160A-270. Public auction.**

(a) Real Property. – When it is proposed to sell real property at public auction, the council shall first adopt a resolution authorizing the sale, describing the property to be sold, specifying the date, time, place, and terms of sale, and stating that any offer or bid must be accepted and confirmed by the council before the sale will be effective. The resolution may, but need not, require the highest bidder at the sale to make a bid deposit in a specified amount. The council shall then publish a notice of the sale at least once and not less than 30 days before the sale. The notice shall contain a general description of the land sufficient to identify it, the terms of the sale, and a reference to the authorizing resolution. After bids have been received, the highest bid shall be reported to the council, and the council shall accept or reject it within 30 days thereafter. If the bid is rejected, the council may readvertise the property for sale.

(b) Personal Property. – When it is proposed to sell personal property at public auction, the council shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property at public auction. The resolution or order shall identify the property to be sold and set out the date, time, place, and terms of the sale. The resolution or order (or a notice summarizing its contents) shall be published at least once and not less than 10 days before the date of the auction.

(c) The council may conduct auctions of real or personal property electronically by authorizing the establishment of an electronic auction procedure or by authorizing the use of existing private or public electronic auction services. Notice of an electronic auction of property shall identify, in addition to the information required in subsections (a) and (b) of this section, the electronic address where information about the property to be sold can be found and the electronic address where electronic bids may be posted. Notice may be published in a newspaper having general circulation in the political subdivision or by electronic means, or both. A decision to publish notice solely by electronic means for a particular auction or for all auctions under this subsection shall be approved by the governing board of the political subdivision. Except as provided in this subsection, all requirements of subsections (a) and (b) of this section apply to electronic auctions. (1971, c. 698, s. 1; 1973, c. 426, s. 43; 2001-328, s. 5; 2005-227, s. 4; 2006-264, s. 74.)

#### **§ 160A-271. Exchange of property.**

A city may exchange any real or personal property belonging to the city for other real or personal property by private negotiation if the city receives a full and fair consideration in exchange for its property. A city may also exchange facilities of a city-owned enterprise for like facilities located within or outside the corporate limits. Property shall be exchanged only pursuant to a resolution authorizing the exchange adopted at a regular meeting of the council upon 10 days' public notice. Notice shall be given by publication describing the properties to be exchanged, stating the value of the properties and other consideration changing hands, and announcing the council's intent to authorize the exchange at its next regular meeting. (1971, c. 698, s. 1; 1973, c. 426, s. 42.1.)

#### **§ 160A-272. Lease or rental of property.**

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) Notwithstanding subsection (b1) of this section, the council may approve a lease without treating that lease as a sale of property for any of the following reasons:

- (1) For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.
- (2) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.
- (3) For the operation and use of components of a wired or wireless network, for a term up to 25 years; provided, however, that the lease is entered into with a private broadband provider or a cooperative in connection with a grant agreement pursuant to G.S. 143B-1373 and is for a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served.

(d) Notwithstanding subsection (a) of this section, any lease by a city of any duration for components of a wired or wireless network shall be entered into on a competitively neutral and nondiscriminatory basis and made available to similarly situated providers on comparable terms and conditions and shall not be used to subsidize the provision of competitive service. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 26; 2009-149, ss. 2, 3; 2010-57, s. 2; 2010-63, s. 2(b); 2011-150, s. 1; 2014-120, s. 34; 2015-246, s. 9; 2018-5, s. 37.1(c).)

#### **§ 160A-272.1. Lease of utility or enterprise property.**

Subject to this Article and G.S. 160A-321, a city-owned utility or public service enterprise, or part thereof, may be leased. (1979, 2nd Sess., c. 1247, s. 27; 2018-5, s. 37.1(d).)

#### **§ 160A-273. Grant of easements.**

A city shall have authority to grant easements over, through, under, or across any city property or the right-of-way of any public street or alley that is not a part of the State highway system. Easements in a street or alley right-of-way shall not be granted if the easement would substantially impair or hinder the use of the street or alley as a way of passage. A grant of air rights over a street right-of-way or other property owned by the city for the purpose of erecting a building or other permanent structure (other than utility wires or pipes) shall be treated as a sale of real property, except that a grant of air rights over a street right-of-way for the purpose of constructing a bridge or passageway between existing buildings on opposite sides of the street shall be treated as a grant of an easement. (1971, c. 698, s. 1.)

#### **§ 160A-274. Sale, lease, exchange and joint use of governmental property.**

(a) For the purposes of this section, "governmental unit" means a city, county, school administrative unit, sanitary district, fire district, the State, or any other public district, authority, department, agency, board, commission, or institution.

(b) Any governmental unit may, upon such terms and conditions as it deems wise, with or without consideration, exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property.

(c) Action under this section shall be taken by the governing body of the governmental unit. Action hereunder by any State agency, except the Department of Transportation, shall be

taken only after approval by the Department of Administration. Action with regard to State property under the control of the Department of Transportation shall be taken by the Department of Transportation or its duly authorized delegate. Provided, any county board of education or board of education for any city administrative unit may, upon such terms and conditions as it deems wise, lease to another governmental unit for one dollar (\$1.00) per year any real property owned or held by the board which has been determined by the board to be unnecessary or undesirable for public school purposes. (1969, c. 806; 1971, c. 698, s. 1; 1973, c. 507, s. 5; 1975, c. 455; c. 664, s. 9; c. 879, s. 46; 1977, c. 464, s. 34; 2001-328, s. 6.)

**§ 160A-275. Warranty deeds.**

Any city, county, or other municipal corporation is authorized to execute and deliver deeds to any real property with full covenants of warranty, without regard to how the property was acquired, when, in the opinion of the governing body, it is in the best interest of the city, county, or other municipal corporation to convey by warranty deed. Members of the governing boards of counties, cities, and other municipal corporations are hereby relieved of any personal or individual liability by reason of the execution of warranty deeds to governmentally owned property unless they act in fraud, malice, or bad faith. (1945, c. 962; 1955, c. 935; 1969, cc. 48, 223, 332; c. 1003, s. 5; 1971, c. 698, s. 1.)

**§ 160A-276. Sale of stocks, bonds, and other securities.**

A city may sell through a broker without complying with the preceding sections of this Article shares of common and preferred stock, bonds, options, and warrants or other rights with respect to stocks and bonds, and other securities, when the stock, bond, or other right or security has an established market and is traded in the usual course of business on a national stock exchange or over-the-counter by reputable brokers and securities dealers. The city may pay the usual fees and taxes incident to such transactions. Nothing in this section authorizes a city to deal in its own bonds in any manner inconsistent with Chapter 159 of the General Statutes, nor to invest in any securities not authorized by G.S. 159-30. (1973, c. 426, s. 44.)

**§ 160A-277. Sale of land to volunteer fire departments and rescue squads; procedure.**

(a) A city, upon such terms and conditions as it deems wise, with or without monetary consideration may lease, sell or convey to a volunteer fire department or to a volunteer rescue squad any land or interest in land, for the purpose of constructing or expanding fire department or rescue squad facilities, if the volunteer fire department or volunteer rescue squad provides fire protection or rescue services to the city.

(b) Any lease, sale or conveyance under this section must be approved by the city council by resolution adopted at a regular meeting of the council upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or sold, stating the value of the properties, the proposed monetary consideration or lack thereof, and the council's intent to authorize the lease, sale or conveyance. (1979, c. 583.)

**§ 160A-278. Lease of land for housing.**

A city may lease land upon such terms and conditions as it deems wise to any person, firm or corporation who will use the land to construct housing for the benefit of persons of low income, or moderate income, or low and moderate income. Such a housing project may also provide housing

to persons of other than low or moderate income, as long as at least twenty percent (20%) of the units in the project are set aside for the exclusive use of persons of low income. Despite the provisions of G.S. 160A-272, a lease authorized pursuant to this section may be made by private negotiation and may extend for longer than 10 years. Property may be leased under this section only pursuant to a resolution of the council authorizing the execution of the lease adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased, stating the value of the property, stating the proposed consideration for the lease, and stating the council's intention to authorize the lease. (1987, c. 464, s. 9.)

**§ 160A-279. Sale of property to entities carrying out a public purpose; procedure.**

(a) Whenever a city or county is authorized to appropriate funds to any public or private entity which carries out a public purpose, the city or county may, in lieu of or in addition to the appropriation of funds, convey by private sale to such an entity any real or personal property which it owns; provided no property acquired by the exercise of eminent domain may be conveyed under this section; provided that no such conveyance may be made to a for-profit corporation. The city or county shall attach to any such conveyance covenants or conditions which assure that the property will be put to a public use by the recipient entity. The procedural provisions of G.S. 160A-267 shall apply. Provided, however, that a city or county may convey to any public or private entity, which is authorized to receive appropriations from a city or county, surplus automobiles without compensation or without the requirement that the automobiles be used for a public purpose. Provided, however, this conveyance is conditioned upon conveyance by the public or private entity to Work First participants selected by the county department of social services under the rules adopted by the local department of social services. In the discretion of the public or private entity to which the city or county conveys the surplus automobile, when that entity conveys the vehicle to a Work First participant it may arrange for an appropriate security interest in the vehicle, including a lien or lease, until such time as the Work First participant satisfactorily completes the requirements of the Work First program. This subsequent conveyance by the public or private entity to the Work First participant may be without compensation. The participant may be required to pay for license, tag, and/or title.

(b) Notwithstanding any other provision of law, this section applies only to cities and counties and not to any other entity which this Article otherwise applies to.

(c) Repealed by Session Laws 1993, c. 491, s. 1.

(d) This section does not limit the right of any entity to convey property by private sale when that right is conferred by another law, public, or local. (1987, c. 692, s. 1; 1993, c. 491, s. 1; 1998-195, s. 1.)

**§ 160A-280. Donations of personal property to other governmental units.**

(a) A city may donate to another governmental unit within the United States, a sister city, or a nonprofit organization incorporated by (i) the United States, (ii) the District of Columbia, or (iii) one of the United States, any personal property, including supplies, materials, and equipment, that the governing board deems to be surplus, obsolete, or unused. The governing board of the city shall post a public notice at least five days prior to the adoption of a resolution approving the donation. The resolution shall be adopted prior to making any donation of surplus, obsolete, or unused personal property. For purposes of this section a sister city is a city in a nation other than the United States that has entered into a formal, written agreement or memorandum of understanding

with the donor city for the purposes of establishing a long term partnership to promote communication, understanding, and goodwill between peoples and to develop mutually beneficial activities, programs, and ideas. The agreement or memorandum of understanding establishing the sister city relationship shall be signed by the mayors or chief elective officer of both the donor and recipient cities.

(b) For the purposes of this section, the term "governmental unit" shall have the same meaning as defined by G.S. 160A-274(a) and shall include North Carolina charter schools.

(c) The authority granted to a city under this section is in addition to any authority granted under any other provision of law. (2007-430, s. 1; 2009-141, ss. 1, 2, 3.)