

## ORDINANCE NO. 432

AN ORDINANCE AMENDING AND RE-ENACTING ORDINANCE NO. 311 AS AMENDED IN ORDINANCE NO. 398 OF THE CITY ORDINANCES OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, RELATING TO THE CONVEYANCE, SALE, LEASE OR DISPOSAL OF PERSONAL OR REAL PROPERTY BELONGING TO THE CITY OF BEULAH, AND THE SALE OR DISPOSAL OF ABANDONED OR UNCLAIMED PROPERTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

That Ordinance No. 311, as amended in Ordinance No. 398 of the City Ordinances of the City of Beulah, North Dakota, is hereby amended and re-enacted as follows:

1. (a) Conveyance, Sale, Lease, or Disposal of Personal Property:

Personal property to be disposed of which is estimated by the City Auditor of the City of Beulah to be a value of less than Two Thousand Five Hundred Dollars (\$2,500.00) will be listed on the official city website with a listed price set by the City Auditor and sold to the first person to tender the listed price to the City Auditor. Personal property estimated by the City Auditor to be a value of Two Thousand Five Hundred Dollars (\$2,500.00) or more may be sold by posting the property with a listed price approved by a majority of the governing body of the city of Beulah on the official city website and transferring the property to the first person to tender the listed price to the City Auditor; or at public sale upon resolution passed by a majority of the members of the city council; and for such sale of property a notice containing a

description of the property to be sold and designating the place where and the day and hour when the sale will be held, shall be posted on the official city website. Such notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the governing body, and the property advertised shall be sold to the highest bidder if such bid is deemed sufficient by a majority of the members of the city council. The city, shall from time to time, publish in the official city newspaper of record, that property for sale by the city can be found on the official city website.

(b) Sale of Abandoned or Unclaimed Personal Property.

Any personal property, left unclaimed upon the streets, alleys, or other public ways or property of the city, for a period exceeding ten (10) days, other than vehicles in violation of Ordinance No. 381 which may be taken in and stored by the city after forty-eight (48) hours, shall be taken in and stored by the city for a period of not less than thirty (30) days. Following said thirty (30) day holding period, and if said left and unclaimed property is estimated by the City Auditor of the City of Beulah to be less than Two Thousand Five Hundred Dollars (\$2,500.00) in value, said left and unclaimed property shall be deemed abandoned and forfeited to the City of Beulah which may dispose of the same at its discretion.

If the estimated value of the abandoned and unclaimed property is estimated by the City Auditor to be valued greater than Two Thousand Five Hundred Dollars (\$2,500.00), the city shall advertise the sale of such property on the official city website prior to selling such property. Such notice shall specify whether the property is to be sold to the first person to tender the listed price as approved by a majority of the governing body of the City of Beulah, or whether bids are to be received at auction or as sealed bids as determined by the governing body, and the property advertised shall be sold to the highest bidder if such bid is deemed sufficient by a majority of the members of the city council. The city shall, from time to time, publish in the official city newspaper of record, that property for sale by the city can be found on the official city website. Upon the sale of any abandoned or unclaimed property, the city shall convey to the purchaser a merchantable title by a bill of sale. At any time within six (6) months after the sale, the owner of the property, upon written application that reasonably identifies the property, is entitled to receive the proceeds of the sale from the city, less the necessary expense of taking, storing, and selling the property. The owner of the abandoned or unclaimed property may reclaim it at any time prior to the sale or disposal of the property upon submitting an application that reasonably identifies the property, and

payment of the necessary expense of taking and storing the property.

2. Conveyance, Sale, Lease or Disposal of Real Property.

Real property to be disposed of which is estimated by the city council of the City of Beulah to be of a value of less than Two Thousand Five Hundred Dollars (\$2,500.00) may, at the discretion of the city council, be sold at private sale upon resolution passed by a majority of the members of the governing body voting thereon. Real property to be disposed of which is estimated by the city council of the City of Beulah to be of a value of Two Thousand Five Hundred Dollars (\$2,500.00) or more may, at the discretion of the city council, be sold at private sale upon resolution passed by a majority of the of the members of the governing body voting thereon, unless said transfer is made by listing said property with a licensed real estate broker pursuant to Section 3 of this Ordinance. Offers for the purchase or lease of real property belonging to the municipality, whether or not an advertisement thereof has been made, shall be directed to the city council and submitted to the City Auditor, who shall present any and all such offers to the city council at its next regularly scheduled meeting. This alternative method of disposition of real property as adopted by the city council by and through its home rule authority allows for

disposition of real property without the public notice and bidding requirements of Sections 40-11-04 NDCC and 40-11-04.1 NDCC.

This Ordinance shall not apply insofar as it is in conflict with the below described Chapters and Sections of the North Dakota Century Code:

- A. Lease of airports or landing fields, or portions thereof shall be under authority granted in Section 2-02-06 NDCC. Said lease shall further be in compliance with regulations and directives of appropriate federal agencies.
- B. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46 NDCC.
- C. Leasing of oil and gas lands shall be as provided in Sections 38-09-02 through 38-09-04 and Sections 38-09-14 through 38-09-20 NDCC.
- D. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05 NDCC.
- E. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08 NDCC.
- F. Granting of concessions for cafes, restaurants, and confectionaries on public buildings and grounds shall be as provided in Chapter 48-09 NDCC.
- G. Granting or right of way for a railway, telephone line, electric light system, or a gas or oil pipeline

system shall be as provided in Section 49-09-16  
NDCC.

3. Transfer of real property by nonexclusive listing agreements.

As an alternative to the procedure established under Section 2, of this Ordinance, the city council of the City of Beulah may by resolution describe the real property of the city which is to be sold; provide a maximum rate of fee, compensation, or commission; and provide that the city reserves the right to reject any and all offers determined to be insufficient. After adoption of the resolution, the governing body of the city may engage licensed real estate brokers to attempt to sell the described property by way of nonexclusive listing agreements.

4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

5. In the event that any section of this Ordinance is held invalid by a Court of competent jurisdiction, the invalidity shall extend only to the section affected, and any and all other sections of this Ordinance shall continue in full force and effect.

6. All past sales of property, of any kind whatsoever, by the city are hereby ratified and affirmed.

This Ordinance shall be in full force and effect from and after its final passage and approval.

DATED this 4<sup>th</sup> day of May, 2020.

  
Travis Frey, Mayor

ATTEST:

  
Heather Ferebee  
City Auditor

Introduction and First Reading: April 20, 2020

Second Reading: May 4, 2020

Final Passage: May 4, 2020