



MEMORANDUM
REGULAR CITY COUNCIL MEETING
December 2, 2024, at 7:00 PM

TO: City Council

FROM: Lisa Nocerini, City Manager

SUBJECT: 9-2024 Surplus Property Ordinance Amendment #2 – First Reading

As you may recall, City Council directed the City Administration to work with the city attorney to suggest amendments to the existing Surplus Property Ordinance. While well-intentioned with the initial amendment, it has still proven to be restrictive and unclear. The process is laden with red tape that hinders the efficient and effective management of city-owned surplus properties.

Amending the surplus property ordinance is essential to cut unnecessary red tape, broaden the scope of property utilization, and safeguard the integrity of the city's assets. These changes will enable more efficient management, enhance more potential for community development, and uphold public trust. Your support in advancing these amendments will be instrumental in achieving these objectives.

First reading – No action required

CITY OF DOUGLAS
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 09-2024

**AMENDMENT #2 TO AN ORDINANCE TO
ESTABLISH PROCEDURES FOR TRANSFER OF
SURPLUS REAL PROPERTY FOR THE CITY OF
THE VILLAGE OF DOUGLAS**

**THE CITY OF THE VILLAGE OF DOUGLAS DOES HEREBY ORDAIN AS
FOLLOWS:**

Section 1: PURPOSE AND SCOPE

The purpose of the Surplus Real Property Transfer Ordinance is to provide a framework for the transfer of City real property deemed to be surplus. This Ordinance is intended to create a process to transfer Real Property that is transparent to the community, fair, equitable, and consistent with the best interests of the City.

Section 2: DEFINITIONS Transfer:

Disposal shall mean the transfer of control or ownership of real property considered by the City to be surplus, by means of a sale or lease, to include preparing, negotiating, and executing a written contract, where necessary. This ordinance shall not apply to intragovernmental property transfers pursuant to Act 425 of 1984, as amended.

Notice of Intent– Request for Bid: The notice prepared by the City announcing that the City will receive bids for the sale or lease of Surplus Real Property. The notice shall also provide prospective purchasers with direction on where or how they may obtain specific information concerning the Surplus Real Property and the sealed bid process.

Practical Use: The use of something for a reasonable purpose.

Proprietary Fund: Fund that charges a fee to cover the cost of operations.

Real Property: Any fixed property (i.e., buildings, land, etc.) controlled or owned by the City, from which the City expects to derive economic benefit for service delivery to the general public.

This Ordinance is not intended to apply to Personal Property (i.e., Automobiles/vehicles, electronics, furniture, machinery and tools, miscellaneous equipment, or office machines.) except as incidental to the sale of Real Property pursuant to a purchase agreement.

Surplus Real Property: Real property that is no longer needed in the foreseeable future or has no practical benefit to the City.

Section 3: APPLICABILITY

This Ordinance applies to all City Officials, employees and users including, but not limited to, full time, part time, and intermittent / seasonal / contracted employees.

This Ordinance applies to all City owned real property except:

- Real property purchased with grant funds which shall be disposed of in accordance with applicable grant requirements, if any.
- Seized or unclaimed property within the Police Department which shall be handled and disposed of in accordance with applicable Federal, State, and Local requirements.

~~This Ordinance applies to all City owned real property except:—Real property purchased with grant funds which shall be disposed of in accordance with applicable grant requirements, if any.—Seized or unclaimed property within the Police Department which shall be handled and disposed of in accordance with applicable Federal, State, and Local requirements. This Ordinance applies to all City Officials, employees and users including, but not limited to, full time, part time, and intermittent / seasonal / contracted employees.~~

Section 4: REAL PROPERTY GUIDELINES

1. The City Manager or designee will review City owned real property and recommend to Council if any City owned real property is surplus.
2. Disposing of real property by City Officials or employees for personal gain or to benefit the interest of any person or party other than the City is strictly prohibited.
3. Sale of land or other real property requires City Council authorization and may require a vote of the majority of electors as provided in Chapter 13 of the City Charter.
4. Sale of Surplus Real Property shall be done by passing an ordinance.
 - a. The City shall retain an easement on all properties where public utilities exist or where future development may conceivably require public utilities.
 - b. The City may retain an easement for ingress/egress over properties to access and/or maintain other City Properties, facilities, or services.
5. Real property may be conveyed by quit claim deed.
6. The City shall not sell, transfer or convey real property or any other parcel of City owned real property to any individual or entity who is in default of any contract or obligation with the City, including but not limited to a prospective purchaser who is shown in the City records to have delinquent City real or personal property taxes or

special assessments, outstanding invoices for City services, or has received a notice or citation for violation of any City ordinance, rule or regulation, unless the default, delinquency or violation is corrected prior to City Council's consideration of the sale or other disposition of the real property.

7. The purchaser of real property shall agree to pay and be responsible to pay for any mortgage or title insurance policy, all costs in applying for and securing financing or assuming existing financing, all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, costs in connection with matters relating to purchaser's use or intended use of the real property, including but not limited to, re-zoning, special use permits, variances, soil borings, surveying, rights-of-way, site plan preparation, sanitary sewer lines, water lines and other matters related to development of the real property, and purchaser's broker and attorney fees, and any other conditions that may apply.

Section 5: METHODS OF TRANSFER

Following are the four (4) allowable methods of transfer of Surplus Real Property:

1. **Sale or Lease through sealed bids/offers** after Notice of Intent – Request for Bid
 - a. The City ~~shall~~may publish ~~at least one time~~aa Notice of Intent – Request for Bid in customary locations. An appraisal ~~shall~~may be done prior to a Notice of Intent – Request for Bid for all real property.
 - i. The notice of intent shall at a minimum:
 1. Describe the Surplus Real Property and minimum bid price.
 2. The notice may allow a minimum of 30 days for the submission of responses proposals, leases, offers, and/or bids.
 - b. All offers shall be presented in a sealed envelope in writing and signed by the prospective buyer/ lessor and contain the following information:
 - i. Name, address, telephone number
 - ii. Total purchase price/ lease price (annual)
 - iii. Terms of sale or lease
 - iv. Any contingencies
 - c. The offer shall contain the following additional information
 - i. Parcel number and street address

- ii. Proposed use and development of the property
 - iii. Anticipated method of financing
 - iv. Number of jobs to be created/retained and average job wage (if commercial or industrial)
 - v. Hours of operation (if downtown or commercial)
- d. The City may apply the following preferences for real property:
- i. For residential real property: preference will be given to purchasers that will construct a home on a vacant property. Adjoining property owners will be given preference if the real property is unbuildable because of zoning, other codes or laws, environmental or economic factors.
 - ii. For commercial real property: preference will be given based on the number of jobs created and dollar amount of total investment.
- e. The City may reject all offers and decline to enter into a sale or lease up until the time of execution of the deed or lease when it is in the best interests of the City.
- f. City Employees shall not participate in this method of transfer.

2. Sale through Real Estate Broker In lieu of or in addition to obtaining sealed bids/offers pursuant to the above procedure, the City may list the Surplus Real Property through the engagement of a licensed real estate broker. The broker's fee will be subject to negotiation between the broker and the City, with the listing agreement requiring approval from the City. The broker shall disclose any relationships with any City official or any party to the transaction. The selected broker will be expected to utilize all available marketing avenues to facilitate the sale. Exclusive brokerage agreements may be entertained. Payment of the broker's fee is anticipated to be from the sale proceeds at closing, with a maximum payment period of forty-five (45) days following a successful transaction closure. Employees may participate in sale of City Surplus Real Property through this process.

23. Sale through Auction In the event the Surplus Real Property cannot be sold after following the above procedures, the Surplus Real Property shall be sold through auction

- a. Any expense incurred in conducting the auction may be deducted from the auction receipts.
- b. Employees may participate in public auction or sale of City Surplus Real Property.

~~c. **Sale through Real Estate Broker** In lieu of auction, the City may list the Surplus Real Property through the engagement of a licensed real estate broker. The broker's fee will be subject to negotiation between the broker and the City, with the listing agreement requiring approval from the City. The broker shall disclose any relationships with any City official or any party to the transaction. The selected broker will be expected to utilize all available marketing avenues to facilitate the sale. Exclusive brokerage agreements may be entertained. Payment of the broker's fee is anticipated to be from the sale proceeds at closing, with a maximum payment period of forty five (45) days following a successful transaction closure.) Employees may participate in sale of City Surplus Real Property through this process.~~

d4. Unsolicited Offers The City reserves the right to evaluate and potentially accept unsolicited offers for any parcel of Surplus Real Property or any other City-owned real estate at its discretion. These offers may be submitted directly if there is not an exclusive real-estate brokerage contract or through a licensed real estate broker with or without a contract, including their real estate salespersons, or from individuals or other legal entities. It is imperative that City officials maintain no financial ties to any interested parties. Public employees may make unsolicited offers for property.

Section 6: Property Transfer Request Form

The City Manager or designee shall notify the Treasurer's Department, Planning and Zoning, Assessor, and City Clerk's Office of the sale or lease of any real property. This shall be coordinated to update City records (i.e., capital improvement documents, insurance records, audit lists and grant requirement documentation). This shall be done by filling out the Property Disposition Request form kept with the City Treasurer.

Section 7: Sale Proceeds

All proceeds, after expense of sale, shall be allocated by the methods outlined below:
Proprietary Funded Surplus Real Property – If Surplus Real Property was purchased with proprietary funds, all proceeds from the sale of the Surplus Real Property shall be deposited into the proprietary fund in which the original purchase was sourced.

Non-Proprietary Funded Surplus Real Property- If the intent of the disposal was to offset the acquisition of a newer real property, those funds shall be used to reduce the purchase price of the new acquisition. If the proceeds were greater than anticipated, the remaining proceeds shall be deposited into the General Fund.

Section 8: Public Records

All City owned property is public record, therefore records of sales or leases of Surplus Real Property must be maintained by the City Clerk's Office. Public records will be managed in compliance with applicable local, State and Federal laws, regulations, and

policies including the Freedom of Information Act, Open Meetings Act, and Public Records retention schedules, Copyright Law and other applicable City policies.

Ordinance Offered by:

Ordinance Supported by:

Ayes:

Nays:

Abstain:

Absent:

ORDINANCE DECLARED ADOPTED THIS _____ DAY OF _____

Cathy North, Mayor

Laura Kasper, City Clerk

Ordinance Effective Date: _____, _____ (20 days after publication)