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250406
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PROPOSED SUBSTITUTE D
..Reference

..Sponsor
ALD. BAUMAN
..Title
A substitute ordinance relating to the sale of city real estate.
..Section
304-49 rc
304-50 rp
..Analysis
This ordinance revises code provisions relating to the sale of city-owned real estate to reflect recent changes in state law.
..Body
The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 304-49 of the code is repealed and recreated to read:

304-49. Sale of City Real Estate. 1. DEFINITIONS. In this section:

a. “Bid” means any offer to purchase property however received by the city.

b. “Commissioner” means the commissioner of city development.

c. “Department” means the department of city development.

d. “Development property” means any tax deeded property, acquired prior to March 24, 2024, that is either a commercial property or a residential property with greater than 4 units.

e. “Neighborhood property” means any tax deeded property, acquired prior to March 24, 2024, that is either an improved residential lot containing 4 units or less, a vacant residential lot suitable for one or 2 housing units, or a vacant lot not suitable for improvement because of the size, shape, dimensions, surface or subsurface conditions or other conditions on the lot.

f. “Owner-occupant” means the person who both owned the property and utilized it as a primary residential homestead as of the date of the tax foreclosure judgment, as determined by the department. This definition shall not include a tenancy where a tenant holds a minority interest in the property.

g. “Primary residential homestead” means a “domicile” as defined in s. Tax 2.49(2)(f), Wis. Adm. Code.

h. “Single-family residential property” means a standalone residential structure or residential condominium unit, designed to be occupied by one household.

i. “School-purpose property” means any city-owned property used for school purposes that has been deemed underutilized as defined in s. 119.61(1)(c), Wis. Stats.

j. “Surplus property” means any city-owned property that has been determined to be surplus to municipal needs by the city plan commission and declared surplus to municipal needs by the common council, not including any tax-deeded property.

k. “Tax-deeded property” means real property acquired by the city through judicial in rem tax foreclosure under ch. 75, Wis. Stats.

2. DEPARTMENT DESIGNATED BY COMMON COUNCIL. The common council, through the authority granted in s. 75.35(2)(d), Wis. Stats., has designated the department as the committee authorized to complete the tasks outlined in s. 75.69, Wis. Stats.

3. SALE OF TAX-DEEDED PROPERTY. a. Applicability. Except as provided in subs. 4 and 5, this subsection shall apply to disposition of tax-deeded property.

b. Sales of Property Acquired Prior to March 24, 2024. The department may attempt to sell each property acquired prior to March 24, 2024 pursuant to the following sale process:

b-1. Development Property. For development property, the department may only sell, convey or lease, for a term greater than one year, pursuant to council approval. To facilitate common council approval, the department shall provide a due diligence checklist on the proposed sale, conveyance or lease including:

b-1-a. The department’s assessment of the market value of the development property.

b-1-b. Full description of the development project.

b-1-c. Complete site, operations and landscaping plans, and architect renderings for new construction or redevelopment.

b-1-d. Developer’s development project history.

b-1-e. Capital structure of the project, including sources, terms and rights for all project funding.

b-1-f. Projected cash flows for the lease term for leased development property.

b-1-g. List and description of project risk factors.

b-1-h. Tax consequences of the project for the city.

b-2. Short-term Lease of Development Property. Notwithstanding subd. 1, the department may, without common council approval, lease development property for a term not to exceed one year.

b-3. Common Council Direction Received; Neighborhood Property. For any neighborhood property which the department received direction from the local council member as to such property's disposition, the department may only sell, convey or lease pursuant to council approval.

b-4. Other Tax-deeded Property. For all remaining tax-deeded property acquired prior to March 24, 2024, the department may list for sale at its discretion and selected offers shall be submitted for council review as provided in par. c-5.

b-5. Buyer Policy Violation. The commissioner or the commissioner's designee shall not accept a bid where the prospective buyer is in violation of the buyer policies in sub. 6 unless acceptance of the bid is approved by a majority of the members of the common council.

b-6. Relationship to Other Ordinances and Statutes. Nothing in this paragraph shall be interpreted to conflict with other relevant ordinances or statutes regarding, among others, financing, zoning, and licensing.

b-7. Properties Not Sold. Any property that is not sold by March 24, 2034, shall be advertised for sale by September 20, 2034, pursuant to s. 75.69(1m)(an), Wis. Stats.

c. Sales of Property Acquired On or After March 24, 2024. c-1. Council Member Notice. Within 60 days of the tax foreclosure judgment, the department shall provide each common council member with a list of the properties within that member's district acquired by the city via tax deed in the tax foreclosure judgment.

c-2. Definitions. In this paragraph:

c-2-a. "Appraised value" means the value of a property as of the date of the tax foreclosure judgment as determined by the department as authorized by sub. 2, or by a certified appraiser, and included in the listing for sale as required by s. 75.69(1), Wis. Stats

c-2-b. "Listing" means the department advertises the sale of a city-owned, tax-deeded property pursuant to s. 75.69(1) or s.75.69(1m)(am), Wis. Stats., as applicable.

c-3. Listing Procedures. c-3-a. The department shall list properties by the deadlines outlined in ss. 75.69(1) and 75.69(1m)(am), Wis. Stats.

c-3-b. The listing shall include the property's appraised value.

c-3-c. The listing shall indicate the property's zoning and whether the property is part of a neighborhood plan.

c-3-d. The listing may include a scope of work developed by the city or its agent, indicating work necessary to bring any improvements into compliance with the building code.

c-3-e. The listing may include a notice that conditions of sale may include a requirement that the buyer demonstrate the skills and financial resources to successfully bring the property into compliance with the building code, at minimum, or make other updates or modifications to the building, if applicable.

c-3-f. The listing shall require that each bid include an indication of whether the prospective buyer intends to be an owner-occupant, and shall include the prospective buyer's proposed use.

c-4. Bid Acceptance. c-4-a. First Listing. The property shall be listed for up to 30 days. When reviewing bids obtained in response to this first listing, the department shall reject every bid less than the appraised value of the property. Where there are multiple bids, the department may, in consultation with, and with the agreement of, the local common council member, accept any bid which is at or above the appraised value. In the event there is no response to a request for such consultation with the local common council member for a period of 15 days, the department may proceed with acceptance of the bid and the notice required in c-5. Where the department accepts a bid less than the highest bid, the department shall prepare a written statement, available for public inspection, that explains the reasons for accepting a bid that is less than the highest bid. Adequate reasons for accepting a bid that is less than the highest bid include, but are not limited to, compliance with the buyer policies in sub. 6 and preference for a bid from someone who, subject to a deed restriction, agrees to be an owner-occupant of the property or to rehabilitate or develop the property for sale to an owner-occupant. The department shall not accept a bid if the prospective buyer is in violation of the buyer policies in sub. 6 unless the sale is approved by resolution by a majority of the members of the common council.

c-4-b. Subsequent Listings. If the property does not sell after the first listing, the department may list the property a subsequent time or times until an acceptable offer is received. After a subsequent listing, the department may, in consultation with, and with the agreement of, the local common council member, accept a bid for an amount that is less than the appraised value. In the event there is no response to a request for such consultation with the local common council member for a period of 15 days, the department may proceed with acceptance of the bid and the notice required in c-5. To accept a bid that is less than the highest bid received in response to a listing, the department shall prepare a written statement, available for public inspection, that explains the reasons for accepting a bid that is less than the highest bid. Adequate reasons for accepting a bid that is less than the highest bid include compliance with the buyer policies in sub. 6 and preference for a bid from someone who, subject to a deed restriction, agrees to be an owner-occupant of the property or to rehabilitate or develop the property for sale to an owner-occupant.

c-5. Notice to Common Council. Within 10 business days of acceptance of a bid under this paragraph, the department shall notify the common council of the accepted bid. Members of the common council shall have 5 business days to object to the sale or disposition in writing to the department and city clerk. In the absence of a timely objection, the sale in accordance with the terms of the bid accepted by the department shall be deemed approved. If a timely objection is issued, the city clerk shall open a resolution file for the next available common council cycle. The bid shall be reviewed by the zoning, neighborhoods and development committee for recommendation to the common council. The bid shall be rejected unless approved by resolution by a majority of the members of the common council.

4. REPURCHASE OF A TAX-DEEDED PROPERTY BY FORMER OWNER. a. General Provisions. a-1. The rights of former owners, beneficiaries, and heirs, as defined in s. 75.35(3), Wis. Stats., under this subsection to a tax-deeded property are extinguished upon the city's written acceptance of a bid from a buyer that is not the former owner. If that bid does not successfully close, the former owner's, or their beneficiary's and heir's, right to repurchase is revived.

a-2. In this subsection, the property's purchase price is not based on the appraised value or by bid, but shall be equal to the costs and expenses incurred as provided under s. 75.36(3)(a), Wis. Stats., plus other amounts specified in s. 75.35(3), Wis. Stats. Additionally, the department is authorized to require the purchaser to show proof of financial ability to pay the purchase price as a condition of sale.

b. Right to Repurchase. b-1. A former owner, beneficiary, or heir, as defined in s. 75.35(3), Wis. Stats., shall have the right to purchase a single-family residential property, where the property was most recently owner-occupied, as determined by the department.

b-2. Where a former owner is deceased and there is no final decision of a probate court, the department may sell to the estate of the decedent, but may not sell directly to a person claiming to be an heir of the decedent.

b-3. Where there is a decision of a probate court awarding property to an heir or beneficiary, the heir or beneficiary may be the named buyer. In other situations, the titled owner of the property shall be the estate of the former owner.

b-4. Beyond the purchase price requirements of par. a-2, no other requirements shall be imposed on former owner-occupants of single-family residential property, or their beneficiaries or heirs, seeking to repurchase property under this subsection.

b-5. No sale under this subsection shall require common council approval.

5. OPTION OF CITY TO SELL OTHER TAX-DEEDED PROPERTIES BACK TO FORMER OWNERS. The city exercises its option under s. 75.35(3), Wis. Stats., to sell back to a former owner who does not meet the criteria in sub. 4-b-1 any tax-deeded property. Such sales are at the city's discretion, and this subsection does not confer any right to former owners to repurchase. A former owner who does not meet the criteria in sub. 4-b-1 may repurchase property if all of the following conditions are met:

a. The sale to former owner is approved by resolution by a majority of the members of the common council.

b. The former owner does not violate any of the buyer policies found in sub. 6, except where waived by a majority vote of the common council.

c. The former owner pays the amount indicated in sub. 4-a-2.

d. The former owner pays any delinquent taxes on other property the former owner owns in the city.

6. BUYER POLICIES. a. The policies in this subsection apply to a prospective buyer as well as to any organization or entity in which the prospective buyer has a full or part ownership interest, including membership or ownership in a business or corporate entity. To facilitate review, the prospective buyer shall notify the department of any organizations or entities with which they are associated as an owner or member.

b. The department shall not accept a bid if the prospective buyer violates any of the following policies, unless one or more of these policies is waived by resolution approved by a majority of the members of the common council:

b-1. The prospective buyer is not delinquent in the payment of any property tax, special assessment, special charge or special tax owed to the city.

b-2. The city has no outstanding judgments against the prospective buyer.

b-3. The prospective buyer has not previously purchased other property from the city or from the redevelopment authority for which the prospective buyer failed to complete development obligations to the city or redevelopment authority.

b-4. The prospective buyer has no outstanding health or building code violations or orders from the health department or department of neighborhood services that are not actively being abated.

b-5. The prospective buyer has not been convicted of violating an order of the health department or department of neighborhood services within the past year.

b-6. The prospective buyer has not lost other property to property-tax foreclosure in the city within the past 5 years.

c. This subsection does not apply to the repurchase of a single-family residential property under sub. 4-b by a former owner-occupant, or a former owner-occupant’s beneficiaries or heirs.

7. DEED SIGNATURES. The commissioner and special deputy commissioners are authorized to sign deeds and instruments of conveyance and related documents such as, without limitation, a release of deed restriction on behalf of the city with respect to conveyances. Authority to sign does not negate approval of common council where required.

8. DEED RESTRICTIONS. Except with regard to the repurchase of a single-family residential tax-deed property under sub. 4-b by a former owner-occupant, or a former owner-occupant's beneficiaries or heirs, the department shall be authorized to include, as conditions of sale, certain deed restrictions or performance deposits to ensure the property is utilized and maintained in a manner that does not impede the city's activities promoting health, safety, welfare, and good government and as stated in s. 62.11(5), Wis. Stats., including, but not limited to:

a. No Tax Exemption. Every deed of conveyance for property shall contain a permanent restriction prohibiting the buyer and all subsequent owners from applying for an exemption from real estate taxation for such property pursuant to s. 70.11, Wis. Stats., unless otherwise approved by a two-thirds vote of the common council. This restriction shall not apply if the buyer of the property is a church or religious association and the proposed use is the same tax-exempt use that existed immediately prior to the city's acquisition.

b. Owner-Occupancy. A deed may include an owner-occupancy requirement for a set period of time.

9. RECORDING OF DEEDS. Every deed for a conveyance authorized under this section shall be recorded by the department or its agent with the Milwaukee county register of deeds office within 7 business days of closing. The buyer shall pay the cost of recording.

10. SALE PROCEEDS. Upon the sale of a tax-deeded property, the city shall follow s. 75.36(3), Wis. Stats., regarding payment of any surplus, as defined therein, to the former owner. The applicable city departments are authorized to make arrangements with Milwaukee county for recovery of unclaimed funds after the statutory holding period.

11. ADOPTION OF STATE STATUTES FOR SALES OF PROPERTY. The city Milwaukee adopts ss. 62.22(1) and 62.23(17), Wis. Stats., pursuant to the council's authority under s. 62.03(2) Wis. Stats. Pursuant to those provisions, and to s. 62.11(5), Wis. Stats., and s. 4-10 of the city charter, a sale or conveyance authorized under this section may be to a person or entity for adequate fair market consideration, which consideration may recognize monetary as well as non-monetary consideration, including, but not limited to, those buyer policies and other considerations referred to in sub. 8, so long as the sale or conveyance is conducted in accordance with this section and applicable state statutes.

12. LEASING CITY-OWNED REAL ESTATE. a. Garden Permits. Annual leases, for no longer than the growing season, may be issued to individuals by the department to permit those individuals to plant and cultivate gardens on a city-owned property. These leases shall only be offered after the initial listing of the property.

b. Residential Units. The department is authorized to lease residential units, on a month-to-month basis, to existing occupants of residential real property at its discretion.

c. Commercial Units. The department is authorized to lease commercial units to existing occupants of commercial real property at its discretion.

d. Lease-to-Purchase Preference. If all of the following conditions are met, the department in its discretion may offer a tenant first priority to purchase a city-owned, tax-deeded one- to 3-unit residential property:

d-1. The property is subject to the listing deadlines provided in s. 75.69(1) and (1m), Wis. Stats.

d-2. The occupant is a tenant of the city-owned property at the time of the bid.

d-3. The tenant has successfully completed U.S. department of housing and urban development-certified homebuyer counseling or similar counseling approved by the commissioner and can provide proof of completion.

d-4. The tenant does not own any other residential property in the city of Milwaukee.

d-5. The tenant meets the buyer policies of sub. 6.

d-6. The tenant submits a timely bid at or above the appraised value to the department.

d-7. The tenant swears by affidavit to use the property as a primary residential homestead for 5 years from the date of purchase, which shall be recorded as a restriction on the deed with a reverter of title to the city in the event the restriction is not met.

13. SALE OR LEASE OF SURPLUS PROPERTY. a. The department shall be responsible for generating a list of city surplus properties and developing a plan for the use or sale of said properties, as required under s. 62.90(7), Wis. Stats., subject to review and approval by the common council prior to submission to the state.

b. The department may list surplus property at a time and manner of the department's choosing or as directed by the common council. The sale, conveyance or leasing of a surplus property for a term greater than one year is subject to the approval of the common council. To facilitate common council approval, the department shall provide a due diligence checklist on the proposed sale, conveyance or lease, including:

b-1. The commissioner's assessment of the market value of the property.

b-2. A full description of the development project, if any, or intended use for the property.

b-3. Complete site, operations and landscaping plans, and architect renderings for any new construction or redevelopment of the property.

b-4. The prospective buyer's development project history.

b-5. The capital structure of the development project, if any, for the property, including sources, terms and rights for all project funding.

b-6. Projected cash flows for the lease term for leased property.

b-7. A list and description of risk factors of the sale or redevelopment project for the property, if any.

b-8. The tax consequences of the sale and redevelopment project, if any, for the city.

c. The department shall not convey surplus property to a prospective buyer that is in violation of the buyer policies found in sub. 6, except where waived by a majority vote of the common council.

14. SALE OF SCHOOL PURPOSE PROPERTY. The department shall list and sell eligible school-purpose property in compliance with the requirements of s. 119.61, Wis. Stats.

Part 2. Section 304-50 of the code is repealed.

..LRB
APPROVED AS TO FORM

Jeffrey D. Osterman
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Legislative Reference Bureau
Date: ________09/22/2025________
..Attorney
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

____
Office of the City Attorney
Date: ________________________
..Requestor

..Drafter
LRB180786-4
Jeff Osterman
09/22/2025