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Title: An ordinance relating to code provisions relating to the city's property recording program.

Sponsors: ALD. BAUMAN

Indexes: DEPARTMENT OF NEIGHBORHOOD SERVICES, HOUSING, NUISANCES

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Date	Ver.	Action By	Action	Result	Tally
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7/15/2008	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
7/22/2008	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
7/30/2008	0	COMMON COUNCIL	PASSED	Pass	14:0
8/6/2008	0	MAYOR	SIGNED		
8/15/2008	0	CITY CLERK	PUBLISHED		

080344
ORIGINAL

ALD. BAUMAN

An ordinance relating to code provisions relating to the city's property recording program.

200-33-44.2-0 am

200-33-44.3-0 am

200-33-49.5 rn

200-33-49.6 rn

200-51.5 rc

This ordinance:

1. Reorganizes and reformats code and provisions relating to the city's property recording program.
2. Adds a section of definitions for key terms used.
3. Adds 2 fee exceptions for one or 2-family properties conveyed to a trust or a life estate, where one of the involved parties lives at the property.
4. Removes the requirement for the operator to sign the code violation liability statement on the application.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-33-49.5 and 49.6 of the code is renumbered to 200-33-44.2 and 44.3.

Part 2. Section 200-33-44.2-0 and 44.3-0 of the code is amended to read:

200-33. Fees.

44.2 ~~[[RESIDENTIAL AND COMMERCIAL BUILDING, CONDOMINIUM UNIT AND CONDOMINIUM ASSOCIATION RECORDING CODE ENFORCEMENT FEE]]~~ >>PROPERTY RECORDING ENFORCEMENT FEE<<.

44.3 ~~[[RESIDENTIAL AND COMMERCIAL BUILDING, CONDOMINIUM UNIT AND CONDOMINIUM ASSOCIATION RECORDING FEE]]~~ >>PROPERTY RECORDING FEE<<.

Part 3. Section 200-51.5 of the code is repealed and recreated to read:

200-51.5. Property Recording.

- 1. PURPOSE.** Recording of residential and commercial buildings, and condominium units and associations is essential for the proper enforcement of the city's building and zoning code and to safeguard persons, property and general welfare.
- 2. DEFINITIONS.** In this section:
 - a. "Condominium association" means an association, as defined in s. 703.02 (1m), Wis. Stats.
 - b. "Condominium-resident agent" means a resident agent as defined in s. 703.23, Wis. Stats.
 - c. "Common elements" means common elements as defined in s. 703.02 (2), Wis. Stats.
 - d. "Domicile" means the building or unit at issue which is the owner's true, fixed and permanent home where the individual intends to remain permanently and indefinitely, and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. It is the one residence that controls for determining the owner's legal rights and privileges such as voting rights, vehicle registration, driver licensure.
 - e. "Local operator" means a person with charge, care, and control of the property, and in the case of a condominium association, a person with charge, care, and control of the condominium common elements.
 - f. "Owner" means each person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to present use and enjoyment of the premises. The term includes, but is not limited to, a mortgagee in possession, a trustee, a trust, a life-estate holder, a remainderman, a condominium association, a land-contract seller, a land-contract buyer, a general partnership, a limited partnership, a limited liability partnership, a corporation, a limited liability company, and a cooperative.
 - g. "Owner-occupied" means the owner is domiciled in the subject building or unit.
 - h. "Person" means an individual or entity.
 - i. "Physical address" means a unit-specific building or house number and street name, not a post-office box or commercial alternative to a post-office box.
 - j. "7-county area" means the area within Milwaukee, Ozaukee, Kenosha, Racine, Walworth, Washington and Waukesha counties.
- 3. APPLICATION AND RECORDING REQUIRED.**
 - a. Recording Required. Except as specified in sub. 4, the following shall file with the department on forms provided by the department, an application for recording in compliance with this section:
 - a-1. Owners of residential or commercial buildings. One application for each tax-key-numbered parcel containing a residential or commercial building.
 - a-2. Owners of commercial condominium units. One application for each tax-key-numbered unit.
 - a-3. Owners of non-owner-occupied residential condominium units. One application for each tax-key-numbered unit.

- a-4. Condominium associations. One application for the common elements that are part of the condominium.
- b. Multiple Buildings on Same Tax-Key Number. Multiple buildings on a parcel with a single tax key number shall be recorded on one application.
- c. Local Operator Required If Owner or Condominium-Resident Agent is Outside 7-County Area. If the owner's principal place of business, in case of an entity, or owner's domicile, in the case of non-entity ownership, or the condominium-resident agent's domicile, in the case of a condominium association, is outside of the 7-county area, the owner, or, as the case may be, the condominium association, shall have a local operator with a physical address and domicile within the 7-county area with authority to accept notice of violations or enforcement of this section.
- d. Recording After Death. In the event of death of the owner of a building or condominium unit required to be recorded under this section, the subsequent owner shall file an application within 15 days after conveyance from the estate or other acquisition of interest. In the event of death of the condominium-resident agent of a condominium association required to be recorded under this section, the association shall have 60 days after that death to file an application naming a new condominium-resident agent. In the event of death of a local operator required under this section, the owner or condominium association, as the case may be, shall have 60 days after that death to file an application naming a new local operator.
- e. Recording After Conveyance or Change in Ownership. In the event of any conveyance of any building or condominium unit required to be recorded under this section, the new owner shall file a new application for recording and pay the fee required within 15 days of the date of conveyance, or if the conveyance is by sale after foreclosure, then within 15 days of the date of court-confirmation of the sale. New applications are required in the event of change in ownership, including, but not limited to, conveyances between an individual and a business entity, and conveyances between business entities.
- f. Satisfaction of Land Contracts. Upon satisfaction of a land contract recorded hereunder, the land-contract seller shall file a seller notification hereunder, and the land-contract buyer who has acquired the fee interest in the building or condominium unit shall file a new application.

4. EXCEPTIONS. The following are exempt from having to file applications for recording required under this section:

- a. Owners of owner-occupied one and 2-family buildings where the ownership is recorded with the Milwaukee county register of deeds.
- b. Owners of owner-occupied residential-condominium units where the ownership is recorded with the Milwaukee county register of deeds.
- c. Owners of jails, convents, monasteries, parish rectories, parsonages and similar facilities where the ownership is recorded with the Milwaukee county register of deeds.
- d. Owners of hospitals and residential facilities licensed by the city of Milwaukee or the state of Wisconsin where the ownership is recorded with the Milwaukee county register of deeds.
- e. Government-owned buildings where the ownership is recorded with the Milwaukee county register of deeds.
- f. Owners of newly-constructed residential and commercial buildings where the ownership is recorded with the Milwaukee county register of deeds until actual occupancy of any such building or any unit in any such building commences.
- g. Owners of residential and commercial buildings and owners of condominium units, owned for less than 15 days prior to sale or other transfer of the buildings or units to new owners. However, anyone acquiring from such owner shall file an application unless otherwise exempt under this subsection.
- h. Condominium associations responsible for 2-unit residential buildings.

5. APPLICATION.

a. Signing.

a-1. Completed applications shall be signed by at least one of the owners, or, in the case of a condominium association, by the association's current condominium-resident agent, and in any case involving a local operator, also by the local operator.

a-2. Signatures on the application shall be notarized under penalty of s. 946.32, Wis. Stats.

a-3. In the case of an application involving a land contract, at least one land-contract seller and one land-contract buyer shall sign and file the same application for the subject property and provide the respective names, addresses and telephone numbers of both parties on the same application form.

b. Required Contents. Application forms shall be provided by the department and shall at least contain the following:

b-1. The tax-key number of the parcel containing the residential or commercial building or condominium unit.

b-2. The legal name and date of birth of the property owner or in the case of an application filed by a condominium association, the legal name and date of birth of the condominium-resident agent.

b-3. A business or personal physical address and a business or personal telephone number of the owner, or in the case of a condominium association, of the condominium-resident agent, where that person can be contacted readily by the department.

b-4. An entity-owner shall provide the name and address of its registered agent on file with the Wisconsin department of financial institutions, the name and address of its registered agent on file in the state or jurisdiction of entity origin, and also a natural person's name, physical address and telephone number for department contact.

b-5. The legal name, physical address within the 7-county area, date of birth, and telephone number of the local operator.

b-6. The number of residential dwelling units in residential buildings, or in the case of filings for condominium units or condominium associations, the number of units in the condominium.

b-7. For an application filed by a condominium association, the name and address of the association, the type of entity that the association is, whether the association is self-managed or has hired or retained management, and the identity of any hired or retained management.

6. APPLICATION FEES; FEE EXCEPTIONS; CHANGES IN INFORMATION.

a. If any information listed on a previously filed application changes, within 15 days of the change in information a new application shall be filed with, and the requisite fee shall be paid to, the department. Any application filed later than that 15-day period shall result in doubling of the fee and subject the required filer to sanctions.

b. Except as provided in par. a, there shall be no fee for the filing of an amendment to an existing application where the change in information does not involve a change of ownership interest in the property; where the change in information is associated with a land-contract buyer paying off the land contract and becoming the fee-title holder or with the land-contract relationship otherwise being extinguished; or where the change in information results from the sale or transfer of ownership between husband, wife, father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson or granddaughter.

c. There shall be no fee for the filing of an application, but an application is required, for a one or 2-family residential building or a residential condominium unit where that building or unit has been conveyed to a grantee with a life estate, or an estate for years, or where the grantor has made a conveyance but reserved a life estate, or an estate for years, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one of the grantors or one of the grantees is domiciled in the building or unit after the conveyance.

d. There shall be no fee for the filing of an application, but an application is required, for a one or 2-

family residential building or a residential condominium unit where that building or unit has been conveyed to a trust, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one trust settler or one trust beneficiary is domiciled in the building or unit after the conveyance.

e. The commissioner may refund fees paid in error to the department.

f. See s. 200-33-44.2 and 44.3 for fees associated with this section.

7. SELLER NOTIFICATION FORMS.

a. The department shall provide seller notification forms.

b. An owner who conveys any ownership interest in any building or condominium unit required to be recorded under this section shall file a seller notification form with the department within 15 days of the conveyance, providing the name and address of the buyer and date of conveyance. There shall be no fee for the filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying owner was also required, but failed to, file an application under this section.

c. Upon satisfaction of a land contract recorded under this section, the land-contract seller shall file a seller notification form with the department within 15 days after the satisfaction, providing the name and address of the land-contract buyer and date of conveyance in satisfaction of the land contract. There shall be no fee for the timely filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying land-contract seller was also required, but failed to, file an application under this section.

8. SERVICE OF ORDER.

a. Any order issued under this section shall identify the section of the code to which the order applies in accordance with s. 200-12-2-b.

b. Service of orders shall be in accordance with s. 200-12-3.

c. The order may also be posted on the premises.

d. The commissioner may issue an order to the owner, the condominium association, the condominium-resident agent, or the local operator, requiring the owner or condominium association to comply with this section.

9. ENFORCEMENT; SANCTIONS.

a. **Enforcement Fee.** If there is a failure to comply within the time set forth in any order issued under this section, or a failure to file an application as required under this section within the time set forth in this section, the commissioner may assess the owner or association a monthly recording enforcement fee under s. 200-33-44.3 until compliance is obtained. The fee may be assessed and collected as a special tax on the property or otherwise be collected as allowed by law.

b. **Penalties.** Any owner, former owner, or condominium association failing to comply with this section or providing false, misleading or fraudulent information on any application required under this section shall be subject to the penalties provided in s. 200-19. Any local operator or condominium-resident agent providing false, misleading or fraudulent information on any application required under this section shall also be subject to the penalties provided in s. 200-19.

10. APPEALS.

Appeals of orders and notices under this section shall be made pursuant to s. 200-17.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

MET

6/17/08

LRB08257-1