

CITY OF ESCANABA STANDARD OPERATING PROCEDURE

POLICY ON SALE, LEASE, OR OPTION OF CITY-OWNED LAND

This Standard Operating Procedure prescribes the procedure for the disposition of City-owned real estate. Any changes made to this S.O.P. will be coordinated through the City Manager's Office and Community Preservation Department. If changes are made to the master copy (maintained by the City Manager's Office), ensure the changes are sent to all offices on distribution for this S.O.P.

Distribution: City Manager's Office, City Clerk's Office, City Attorney's Office, City Assessor's Office, City Engineer's Office, Community Preservation Department, Recreation Department, City Electric Department, Public Works Department, Wastewater Department, Water Department, City Council, and Planning Commission.

SECTION I. PURPOSE

It is the City's policy to manage its real estate assets so that municipal needs, which rely on these assets, may be properly implemented. The City Manager, City Council, along with the Planning Commission, will review all City-owned real estate not adequately used for municipal purposes and determine the appropriate use of the property. Those properties needed for municipal purposes may be so designated. If a property is not needed for public use within the foreseeable future, it may be made available for lease or sale; or if it will be needed at a future time, it may be suitable for lease in the interim. Those properties not required for municipal use or are designated for lease may be designated for sale or reserved to be exchanged for other land the City needs.

SECTION II. REAL ESTATE REVIEW

All unused and marginally used City-owned real estate will be reviewed on a continuing basis to determine public needs and to implement the Comprehensive Plan on a timely basis. The following procedure shall apply:

1. Review by appropriate City departments.
2. Review by the Planning Commission for consistency with the Comprehensive Plan.
3. Review by City Council.
4. The City Manager, thru his/her administration and the Planning Commission then determines the designation to be applied to the property, i.e., public facility, open space, surplus, sale, or lease through the Comprehensive Plan.

Comprehensive Plan and Rezoning. Prior to marketing a parcel, staff shall review the parcel for likely changes in density or intensity of use since the City acquired the property. If such changes are likely, then staff shall initiate a necessary rezoning and Comprehensive Plan amendment through the Planning Commission to market the property at its highest and best use. When projects are divided by different land use classifications, staff shall seek lot splits, lot mergers, or property-line adjustments to divide the property along use lines, to reserve right-of-way for streets and utilities, and to be able to disclose the terms of development of the property.

SECTION III. PRIORITY HANDLING

Since time is of essence in land transactions, all such actions shall be given the highest priority and special handling.

SECTION IV. GENERAL PROVISIONS

City Manager/Administration/Planning Commission

The City Manager, thru his/her administration and the Planning Commission, shall have the responsibility of marketing and identifying surplus properties. The action of the administration shall include, but not be limited to, the following:

1. Identify potential parcels.
2. Refer the property to other City departments.
3. Submit the property to the Planning Commission.
4. Obtain toxic or environmental studies.
5. Prepare the paperwork for City Council consideration.
6. Order “for sale” signs.
7. Order appraisals.
8. Place ads in the newspaper.
9. Notify real estate firms and adjoining property owners that a parcel is for sale or lease.
10. Obtain any necessary lot splits.
11. Prepare option agreements, sale agreements, use agreements, or leases for review and approval by the City Council, City Manager, and City Attorney’s Office.
12. Prepare bid or proposal packages as needed in conformance with this policy.
13. Conduct sealed-bid openings, if appropriate.
14. Maintain a mailing list of parties interested in surplus City property.

City Engineer’s Office

The City Engineer’s Office shall develop and maintain a map and list of City-owned lands other than street rights-of-way or easements. The City Engineer’s Office shall maintain an atlas depicting road and utility easements. The City Engineer’s Office shall be responsible for preparing legal descriptions.

City Clerk's Office

The City Clerk's Office shall maintain a copy of deeds of City-owned land, streets, and easements.

The City Clerk's Office shall be responsible for obtaining administration/elected official signature on all legal documents.

City Treasurer's Office

The City Treasurer's Office shall collect payments on all land sales, leases, and options.

City Controller's Office

The City Controller's Office shall review insurance certificates and leases.

City Attorney's Office

The City Attorney's Office will specify the type of deed to be granted and after City Council authorization, the City Attorney's Office will prepare the appropriate deed/lease/option document in accordance with this policy.

SECTION V. CRITERIA

City-owned real property not required for municipal uses may be designated for lease or sale using criteria listed below. At the time staff recommends whether the property should be sold, leased, or reserved for exchange purposes, City Council shall be provided with an appropriate analysis of the alternatives.

Sale. Surplus property may be sold when:

1. The property is unleaseable because of location, access, topography, or other considerations.
2. The sale would maximize the total economic return to the City.

Lease. Surplus property may be leased when:

1. The land can only be leased because of legal restraints such as grant restrictions.
2. The property is not currently needed for public facilities or public use.
3. The property is in an area of uncertain future developments and can be leased as an interim measure until future public needs or land use designations can be determined.

4. The City requires substantial control over development, use, and reuse of the property.

SECTION VI. SALE OF CITY-OWNED REAL ESTATE

A. Requests

1. Any request to purchase City-owned real estate must be made in writing to the City Manager. All requests to purchase City-owned real estate must contain the following information:
 - a. The requesting party will specify the intended use of the property. ⁽¹⁾
 - b. The description of the subject property must be delineated.
 - c. The amount of property requested must be clearly justified.
 - d. Any other salient facts, such as projected employment figures or valuation, should be mentioned.
 - e. All requests must clearly state what type of development will be built and that said development shall be constructed on the property within eighteen (18) months of date of purchase.

⁽¹⁾ A development plan showing the intended land use and proposed development integrates well with adjacent developments, minimizes nuisance impacts on adjoining parcels and insure safe and functional traffic access and parking and minimizes impacts on environmental resources may be requested at the discretion of the City Manager.

B. General Requirements

City Manager

1. The City Manager shall optimize the sale price of City-owned real estate based on relevant factors including: (1) An appraisal of the property by the City Assessor's Office which is no more than six months old at the time the sales agreement is presented to the City Council, (2) An appraisal of the property by at least one outside professional appraiser licensed in the State of Michigan; so that the minimum price can be established based upon the appraised value combined with costs of appraisal and other expenses, (3) Prevailing economic conditions and recent applicable trends, and (4) Any special benefits to accrue from the sale or lease of the property. Surplus real property of the City may be sold, leased, donated, or otherwise disposed of.

2. The City Manager, in his or her discretion, shall determine what type of disposition is in the best interest of the City. The City Manager and/or the City Council will establish a minimum price for the sale of any City-owned real property, and the City reserves the right to reject any and all bids or offers for the property.
3. After the City Manager reviews the request for the purchase of City-owned property and verifies that the request contains sufficient information, he or she shall refer the request with a written recommendation to the Planning Commission for consideration and action at a scheduled meeting. ⁽¹⁾

⁽¹⁾ Request to purchase City-owned residential lots need not go before the Planning Commission for their consideration and action.

Planning Commission

The Planning Commission shall review all requests to purchase City-owned real estate property and City Manager written recommendations at a scheduled meeting. At this meeting plans shall be reviewed and zoning/land use issues shall be addressed. Unless tabled for cause, the matter shall be voted upon as soon as reasonably possible. A majority vote of the Planning Commission consisting of at least five (5) members shall be required to approve a recommendation of sale to the City Council.

City Council

The City Council shall review all requests to purchase City-owned real property at a scheduled meeting. If the request for sale meets the criteria as established in Section V. Criteria., it shall be acted upon. The City Council may require, at their option and for the protection of the City, any other covenant that they deemed advisable.

City Attorney's Office

The City Attorney's Office will prepare a deed within thirty (30) days of the City Council authorization. The City Attorney's Office will specify the type of deed to be granted and will prepare the deed. The deed will contain standard covenants as follows:

1. The agreed upon building/structure must be constructed within eighteen (18) months of closing date. ⁽¹⁾
2. Failure to comply with this, or other covenants as may be added, will result in the property reverting to the City.

3. The City Attorney's Office will notify the purchaser of the availability of the deed. The purchaser must pay for the property and execute the deed within thirty (30) days of the notification. Failure to follow this procedure within the time limits specified will render the City Council authorization null and void. Requests for reconsideration must be initiated as for a new purchase.

(1) Any requests to extend the construction period must be processed as if it were a new request. The request, with all appropriate information, must begin with the City Manager.

City Engineer's Office

The City Engineer's Office shall be responsible for preparing legal descriptions.

City Clerk's Office

The City Clerk's Office shall be responsible for obtaining administration/elected official signatures on all legal documents.

Purchaser

The Purchaser must pay for the property and execute the deed within thirty (30) days of the City Clerk's notification. The City may extend a Purchaser's request to pay pending retrieval of all permits or unusual circumstances. The Purchaser will be responsible for all appraisal costs and any other costs associated with deed preparation.

Failure to comply with construction time requirements, or other covenants, as may be added will result in the property being reverted to the City.

SECTION VII. LEASE OF CITY-OWNED REAL ESTATE

A. Requests

1. The request for lease of City-owned real estate property must be made in writing, to the City Manager. All requests to lease City-owned real estate must contain the following information:
 - a. The requesting party will specify the intended use of the property.⁽¹⁾
 - b. The description of the property and the amount of property must be clearly delineated.
 - c. The amount of property requested must be justified.
 - d. Any other salient facts should be mentioned.

⁽¹⁾ A development plan showing the intended land use and proposed development integrates well with adjacent developments, minimizes nuisance impacts on adjoining parcels and insure safe and functional traffic access and parking and minimizes impacts on environmental resources may be requested at the discretion of the City Manager.

B. General Requirements

City Manager

The City Manager shall review the request for lease of City-owned real estate property to insure and verify that the request contains sufficient information. Upon verification that the request contains sufficient information, the City Manager shall refer the request with a written recommendation to the Planning Commission for consideration and action at a scheduled meeting.

Planning Commission

The Planning Commission shall review all requests to lease City-owned real estate property and City Manager written recommendations at a scheduled meeting. At this meeting plans shall be reviewed and zoning/land use issues shall be addressed. Unless tabled for cause, the matter shall be voted upon as soon as reasonably possible. A majority vote of the Planning Commission consisting of at least five (5) members shall be required to approve a recommendation to lease property to the City Council.

City Council

The City Council shall review all requests to lease City-owned real estate property at a scheduled meeting. If the request for lease meets the criteria as established in Section V. Criteria., it shall be acted upon.

City Attorney's Office

Upon City Council approval, the City Attorney's Office will draft a lease document within thirty (30) days of City Council authorization.

Each lease document prepared by the City Attorney's Office y will contain covenants as follows:

1. Affixing responsibility upon the lessee for, upon termination of the lease, returning the property to the City in reasonable condition.
2. Any costs resulting in irreparable damage, removal of property, necessary repairs to property, or any other action necessary to return the property to a condition approximating the original status of the property will be a direct responsibility of the lessee.

3. In order to insure that the property is returned in acceptable condition, the City Council may demand a bond or cash deposit as security.
4. Insuring that the intended use of the leased property is not modified in such a way as to become incompatible with the character of the surrounding area, or to become a health or safety hazard, or to violate any local, State and/or federal laws. Any change in use must be approved by the City in a written amendment to the lease document.
5. That insurance exists to protect the City's interests as will be determined in each individual case by the City Attorney's Office. Proof of insurance must be furnished to the City at all times during the duration of the lease.
6. Any other covenant deemed essential by the City administration, City Council or City Attorney's Office to protect the City's interests will be added after analysis of each individual lease.
7. Upon completion of the lease document, the City Attorney's Office will notify the lessee, who will be required to execute the lease document within two (2) weeks of notification. Failure to execute the document within the specified time will result in the lease document being null and void. Subsequent requests for lease of the property by the requesting party must be reinitiated through the City Manager.

City Engineer's Office

The City Engineer's Office will be required to inspect the property to insure lease compliance is met and property condition is returned to a satisfactory condition.

The City Engineer's Office will be responsible for authorizing the release of bonds and deposits at the termination of the lease and satisfaction of the lease covenants.

The City Engineer's Office will verify the lease to insure the validity and accuracy of the legal description.

City Clerk's Office

The City Clerk's Office shall be responsible for obtaining administration/elected official signatures on all legal documents.

City Controller's Office

Upon authorization from the City Engineer's Office, any bond or deposit at the termination of the lease and satisfaction of the lease covenants will be released.

Lessor

The Lessor will be responsible for either vacating the premises on the termination date, or requesting a renewal at least sixty (60) days prior to the expiration of the lease. Failure to comply with this requirement may result in a complete loss of lease rights by the Lessor and continued occupancy of the leased premises beyond the termination of the lease may constitute illegal or criminal trespass.

The Lessor will be responsible, upon termination of the lease, to return the property to a reasonable condition. Any costs resulting from irreparable damage, removal of property, necessary repairs to property, or any other action necessary to return the property to a condition approximating the original status of the property will be a direct responsibility of the Lessor.

C. Lease Terms

The term of the lease will be negotiable pending review by the City Manager with final approval of the City Council.

SECTION VIII. OPTION TO PURCHASE CITY OWNED REAL ESTATE PROPERTY

1. Requests

1. Any request to option City-owned real estate property must be made in writing to the City Manager. All requests to option City-owned real estate property must contain the following information:
 1. The requesting party must specify the intended use of the property. ⁽¹⁾
 2. The description of the subject option property must be clearly delineated.
 3. The amount of property requested must be clearly justified.
 4. Any other salient facts, such as projected employment figures, property investment or after improvement valuations should be addressed.
 5. Length of time to be covered by the option. (The duration of an option to purchase City Owned real estate property will be one (1) year or less unless otherwise determined by the City Manager with City Council approval).
 6. All requests must clearly state what type of development will be built on the property and that said development shall be constructed on the property within eighteen (18) months from date of purchase.

⁽¹⁾ A development plan showing that the intended land use and proposed development integrates

well with adjacent developments, minimizes nuisance impacts on adjoining parcels and insure safe and functional traffic access and parking and minimizes impacts on environmental resources may be requested at the discretion of the City Manager.

B. Cost of Property/Option

The City Manager shall optimize the sale/option price of City-owned real estate based on relevant factors including: (1) An appraisal of the property by the City Assessor's Office which is no more than six months old at the time the sales agreement is presented to the City Council, (2) An appraisal of the property by at least one outside professional appraiser licensed in the State of Michigan; so that the minimum price can be established based upon the appraised value combined with costs of appraisal and other expenses, (3) Prevailing economic conditions and recent applicable trends, and (4) Any special benefits to accrue from the sale or lease of the property. Surplus real property of the City may be sold, leased, donated, or otherwise disposed of.

C. Costs/Benefits

The cost of the option will be determined as follows:

The City Assessor's Office will arrive at a preliminary estimate of value.

The option price of City-owned real estate property shall be 1% of the estimated price, per month of option time with a maximum of 10% for the maximum duration of one year.

In no event shall the option price be returned, but upon exercising the option, the fee will be credited to the purchase price. All appraisal fees are non-refundable.

Final Rights of Refusal, or similar agreements will not be granted unless there is a clear and immediate benefit to the City of Escanaba.

D. General Requirements

City Manager

The City Manager shall review the request for option of City-owned real estate property to insure and verify that the request contains sufficient information. Upon verification that the request contains sufficient information, the City Manager shall refer the request with written recommendation to the Planning Commission for consideration and action at a scheduled meeting.

Planning Commission

The Planning Commission shall review all requests to option City-owned real estate property and City Manager recommendations at a scheduled meeting. At this meeting plans shall be reviewed and zoning/land use issues shall be addressed. Unless tabled for cause, the matter shall be voted upon as soon as reasonably possible. The Planning Commission shall make a recommendation to the City Council.

City Council

The City Council shall publically review all requests to option City-owned real estate property at a scheduled meeting. Unless tabled for cause, the matter shall be voted on as soon as reasonably possible. ⁽¹⁾

⁽¹⁾ The final purchase price will be determined as specified in the policy on the sale of City-Owned Real Estate Property.

City Attorney's Office

Upon direction of the City Council, the City Attorney's Office shall draft an option. Upon receipt of the option the City Attorney's Office shall prepare the option for execution by the requesting party within ten (10) days of the City Council authorization.

Upon completion of the option document, the requesting party will be notified by the City Attorney's Office and must sign the document within seven (7) days and make the option payment or the option will be null and void. Subsequent requests for option of the property must be through the City Manager, Planning Commission, and City Council as for a new option.

City Engineer's Office

The City Engineer's Office shall be responsible for preparing legal descriptions.

City Clerk's Office

The City Clerk's Office shall be responsible for obtaining administration/elected official signatures on all legal documents.

D. Option Extensions

All requests to extend existing options must be processed as if it were a new request. The request, with all appropriate information, must begin with the City Manager.

Effective Date: 04/03/03