

**CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1309-19**

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**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
AMENDING SMC 3.62 REGARDING THE SURPLUS AND SALE OF  
CITY OWNED REAL PROPERTY; PROVIDING FOR SEVERABILITY;  
AND ESTABLISHING AN EFFECTIVE DATE**

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WHEREAS, it is in the best interest of the city to have a defined process for the disposition of city owned real property and;

WHEREAS, the code needs to be updated to comply with the requirements of RCW 39.33;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sultan Municipal Code 3.62 is hereby amended to read as follows:

**3.62 Disposition of City Owned Real Property**

- 3.62.010 Declaration of policy with respect to disposition of city-owned real property.**
- 3.62.020 Initiation of surplus property to sale or lease.**
- 3.62.030 Circulation of surplus request.**
- 3.62.040 Declaration of surplus property.**
- 3.62.050 Sale of real property below market value.**
- 3.62.060 Intergovernmental exchange of city-owned property.**
- 3.62.065 Sale or disposition of real or personal property or equipment originally acquired for public utility purposes.**
- 3.62.070 Special requirements to sale.**
- 3.62.080 Sale and lease requirements.**
- 3.62.090 City council authority to waive any provision within policy.**

**3.62.010 Declaration of policy with respect to disposition of city-owned real property.**

The Sultan city council declares that it is not in the public interest for real property owned by the city to remain economically nonproductive if it can be leased or sold for reasonable value and is not needed for some present or future municipal use. It is therefore declared to be the policy to reasonably dispose of real property that the city holds a fee interest to, by sale or lease where

such property is declared to be surplus to its current or future needs and where such disposition would be expected to provide the city a reasonable return from the transaction.

**3.62.020 Initiation of surplus property to sale or lease.**

A. Sale. Surplus action may be initiated by the city of Sultan, municipal corporations, governmental agencies, private corporations or individuals. If action is initiated by other than the city of Sultan, a cash deposit in an amount so determined by the council shall be posted to cover all city costs of surplus property action. If successful bid exceeds appraised value, and after title to property has transferred, the applicant may request recovery of the deposit, except the city shall retain 50 percent of the actual cost of the surplus property transaction, including but not limited to appraisal, title insurance, recording costs, real estate commission and escrow fees, and except that no recovery shall exceed the difference between appraised value and successful bid amount. If there are no successful bids, the entire cash deposit shall be retained by the city of Sultan.

B. Lease. Surplus action may be initiated by the city of Sultan, other municipal corporations, governmental agencies, private corporations, private businesses or individuals. If action is initiated by other than the city of Sultan, a cash deposit in an amount so determined by the council shall be posted to cover all city costs of surplus property action. If the property, as a result of this action, is declared surplus, and there is an acceptable lease proposal, the applicant may request recovery of the deposit, except the city shall retain 50 percent of the actual cost of the surplus property transaction, including but not limited to appraisal, title insurance, recording costs, real estate conversions and escrow fees, except if there are no successful lease proposals, the entire cash deposit shall be retained by the city of Sultan.

**3.62.030 Circulation of surplus request.**

Upon the initiation of surplus city-owned property, the council will promptly notify all city departments and/or governmental agencies, to determine their interests or concerns about the surplus of city property. City departments shall respond within 30 days.

**3.62.040 Declaration of surplus property.**

A. The city shall provide 14 days' notice of its decision to determine whether property is or is not surplus to the City of Sultan. The city council shall make its declaration of whether the property is

or is not surplus to the city of Sultan after receiving a report from the City Administrator or their designee, which will include the following information:

1. A description of the property size and its general location;
2. A description of the circumstances under which the property was obtained and to which fund the proceeds from its sale would be credited;
3. A description of what municipal use such property has been put to in the past, if any, and what use, if any, it might be held for;
4. A statement as to whether the property is only usable by abutting owners or of general marketability;
5. Response for other city departments and/or governmental agencies;
6. An estimate of its current market value and a recommendation as to whether any special covenants or restrictions should be imposed in conjunction with its sale;
7. Whether further appraisal before sale or exchange is necessary and the type of appraisal required (opinion, short form or full narrative);
8. Whether special consideration ought to be given to some other public agency that has a use for the property, if applicable;
9. An administration recommendation as to whether such property should be retained or disposed of;
10. Whether the property should be sold at auction, or by sealed bid; and
11. Proposed property exchange.

B. Following council's review of such report, including review of any such additional information as the council may request, the council shall determine if the property described shall be declared surplus and disposed of by sale or lease pursuant to the procedures described in this chapter. Upon making such declaration of surplus, the council shall also make the following determinations:

1. Whether real property should be leased or sold;
2. Whether special consideration should be given to preferential purchasers (other municipal corporations or political subdivisions);
3. Whether special covenants, easements or restrictions should be imposed as a condition of the sale or lease;
4. Whether the property should be sold at auction or by sealed bid.

C. The city council shall then authorize the mayor to undertake disposal of the property in accordance with the city council directives.

**3.62.050 Sale of real property below market value.**

As declared in SMC 3.62.010, property deemed surplus shall only be disposed of if reasonable return to the city can be achieved. For the purposes of this section, "reasonable return" shall be construed to mean payment to the city of a sum equal to no less than current market value of the property; provided, however, where the city council finds that the best interests of the city would be served by the sale of such property for less than current market value, then the city council resolution may declare the particular city interest to be served thereby. Such resolution shall require a majority plus one of the full city council for adoption. In no event shall the sale price be less than 85 percent of the current market value.

**3.62.060 Intergovernmental exchange of city-owned property.**

A. The city of Sultan may, at its option, exchange properties with other municipal corporations, government agencies, private corporations, or individuals conditioned upon:

1. The area exchanged to the city is equal to or greater than the area conveyed by the city;  
or
2. The value of the property exchanged to the city is equal to or greater than the value of the property conveyed by the city. If the value of the property exchanged to the city is not equal to or greater than the value conveyed by the city, then the city may accept a cash deposit which will offset the difference in value.

B. In accordance with the provisions of Chapter 39.33 RCW, the Intergovernmental Disposition of Property Act, any sale, lease or exchange of city-owned property to the state or any political subdivision thereof shall be accomplished in accordance with such statute.

**3.62.065 Sale or disposition of real or personal property or equipment originally acquired for public utility purposes.**

Whenever the city shall determine, by council resolution, that any lands, property or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then the council, by resolution and after a public hearing, may cause such lands, property or equipment to be sold, leased, or conveyed. Such resolution

shall state the fair market value and such other terms and conditions for such disposition as the council deems to be in the best public interest (RCW 35.94.040).

**3.62.070 Special requirements to sale.**

Whether property is sold at auction or by sealed bid, the following deposit requirements shall apply. Unless specifically recommended by the City Administrator or their designee and authorized by the city council as provided in SMC 3.62.020, bidding at auction shall begin at the appraised value of the property or if the property is to be disposed of by the sealed bid process, only sealed bids equal to or greater than the appraised value of the property shall be considered.

A. Sealed Bid Process. In the case of sealed bids, any bid that is submitted of \$1,000 or less must be accompanied by a bid deposit in the form of a cashier check payable to the city equal to 50 percent of the bid amount. Where the bid amount exceeds \$1,000, the bid deposit shall be 10 percent of the bid amount. The successful bidder shall pay the full purchase price within 30 days from the date the bids are opened or in the alternative, deposit an additional 20 percent within the initial 30 days, in which case the purchaser shall have an additional 30 days to make full payment. In the event the purchaser fails to make full payment within the first 30-day period or post the additional 20-percent deposit, within the same period of time, the 10-percent deposit shall be automatically forfeited to the city as liquidated damages. In the event full payment is not made within 30 days from deposit of the additional 20-percent deposit, the full 30-percent deposit shall be automatically forfeited to the city as liquidated damages. This shall not apply in the event the city council authorizes the sale of surplus property by real estate contract. The city council also reserves the right to waive any irregularities in the bid process.

B. Disposition at Auction. Unless otherwise authorized, the bidding where property is disposed of at auction shall begin at the appraised value fixed for property in question. Where property is sold at auction, the prevailing bidder must immediately tender a cash deposit or certified check equal to 50 percent of the purchase price if such price is (less than) \$1,000. When the bid amount exceeds \$1,000, a bid deposit shall be 10 percent of the bid amount. Payment of the remaining amount due shall be made within 30 days. In the event the purchaser is unable to pay the remaining amount within the required time, the initial deposit shall be forfeited to the city; provided however, the purchaser may deposit an additional 20 percent within the requested time, in which case the time to make full payment shall be extended an additional 30 days. Such additionally

deposited sum shall also be automatically forfeited to the city in the event full payment is not made by the conclusion of the 30-day period.

**3.62.080 Sale and lease requirements.**

**A. Sale Requirements.**

1. Surplus property shall be transferred by quit claim deed unless the city council finds special circumstances so require. Any proposed conveyance to a private party by real estate contract shall be authorized only by the city council, including the maximum interest rate allowed by statute as established at the time the city council authorizes the mayor to execute the contract.
2. An LID covenant for local improvement district on street and alley improvements shall be retained on all properties within the city located on a street or alley with improvements less than standard and in all cases it shall be the responsibility of the grantee or the vendee, as the case may be, to pay any and all assessment costs.
3. Purchasers shall be obligated to pay their fair share of outstanding LID assessments.

**B. Lease Requirements.**

1. Final approval of lease shall remain with the city council.
2. Lessees shall be obligated to pay their fair share of outstanding or newly established local improvement district assessments.

**3.62.090 City council authority to waive any provision within policy.**

The city council may waive any provision of this policy; provided, however, that prior to the time any such waiver shall become effective, the city council shall consider:

- A. The specific provision of this policy which is proposed to be waived;
- B. The detrimental effect to the city that adherence to the provision would create;
- C. The benefit to the city that would accrue as a result of the waiver;
- D. The financial impact which will result from the waiver;
- E. The development impact that will result from the waiver;
- F. The alternatives to the waiver, including the reasoning upon which such alternatives were rejected; and
- G. Other such consideration that a council member desires to raise.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 25<sup>th</sup> DAY OF July, 2019.**

CITY OF SULTAN

  
\_\_\_\_\_  
John Seehuus, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Tami Pevey, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Hillary Evans-Graber, City Attorney

Date of Publication:

Effective Date: