

## General Law Village—Sale of Real Property

### Introduction

General law villages in Michigan incorporated under 1895 PA 3, as amended, (the General Law Village Act) may sell village-owned real property. The 1998 amendments to 1895 PA 3, however, modify the method by which a village council may sell the property.

### Section 4 of Chapter VII provides:

A village may acquire, purchase, and erect public buildings required for the use of the village, and may purchase, appropriate, and own real estate necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and for the exercise of the powers conferred in this act. Such buildings and grounds, or any part thereof, may be sold at a public or private sale, if authorized by an ordinance, or may be leased. A public park shall not be sold without the consent of a majority of the electors of the village voting on the question at an election. (MCL 67.4)

### Section 5(2) of Chapter V provides:

...[R]eal estate or an interest in real estate [shall not] be purchased, leased, sold, or disposed of; or a public improvement ordered, except by a majority vote of the members of council. The vote shall be taken by yeas and nays, and entered in the journal. (MCL 65.5 (2))

Prior to the amendment of 1998, a 2/3 vote of the members of the council was required to sell real property.

The term “public sale” is not defined by the Act. However, the Michigan Supreme Court has held that a “public sale” is synonymous with “public auction.” The Attorney General has approved language appearing in a federal court decision defining a public sale of village property as that which meets the criteria: “[t]hat all persons shall have the right to come in and bid, that the bids shall not be held open, except with the bidder’s consent, and that notice shall be given publicly at which all bids are invited.” OAG No. 275, 1947-1948. Presumably, a public sale by sealed bids would meet such definition.

The Attorney General opined that notice of a sale made in the manner as required for the sale of real property on execution (MCL 600.6052; MSA 27A.6052) would meet all of the terms required by MCL 67.4. The statute requires that notice of sale be posted for six weeks prior to the sale in three public places in the township or city where the real property is to be sold and in the township or city where the real estate is located if the place of sale and the location of the real estate are not the same.

In 1974, it became possible to sell village-owned real estate at private sale “if pursuant to an ordinance.” The recent modification to the section provides “if authorized by an ordinance.”

See attached Sample Ordinance.

Sample Ordinance for Sale of General Law Village Real Property

Ordinance No. \_\_\_\_\_

An Ordinance to Authorize the Sale Of Certain Village-Owned Real Property

The Village of \_\_\_\_\_ ordains:

1. Pursuant to the provisions of Chapter VII, Section 4 of 1895 P.A. 3, as amended by 1974 PA 67 and 1998 PA 254 and 1998 PA 255 (M.C.L. 67.4, M.S.A.A. 5.1288), the council of the village of \_\_\_\_\_ determines to make a private sale of the real property described on the terms and conditions herein set forth to \_\_\_\_\_, as purchaser.
  
2. *Acceptance of Preliminary Agreement.* The written offer to purchase dated \_\_\_\_\_ and signed by the purchaser is accepted and the village president and village clerk are authorized and directed to sign the preliminary agreement on behalf of the village and to take the necessary steps to perform the obligations of the village. The officers and their successors in office are further authorized to sign contracts and deeds of conveyance as may be required pursuant to the preliminary agreement upon fulfillment of the preliminary agreement. The earnest money paid by the purchaser shall be deposited by the village treasurer for the account of the village pending closing of this sale.
  
3. *Description of Land.* The land hereby authorized to be sold is described as follows:

(insert legal description)

4. This ordinance shall be immediately effective upon publication in accordance with the law.