

ORDINANCE NO. 2007-03

An Ordinance Adding the Use of Internet Sales for Disposal of Lost, Abandoned and Surplus Property

The Common Council of the City of Cedarburg, Wisconsin, does hereby ordain as follows:

SECTION 1. Sections 3-4-1 and 3-4-2 of the Code of Ordinances of the City of Cedarburg are hereby amended as follows:

“SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.

(a) **Definitions.**

- (1) "Surplus City Property" is that property which is owned by the City of Cedarburg and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:
 - a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or
 - b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
 - c. The item is no longer able to reliably or economically perform the work required of it.
- (2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus City Property.**

- (1) Whenever an item of City property is determined to be surplus City property on the basis that the City no longer performs the service for which the item was purchased, the disposal procedures of Subsection (c) shall be followed.
- (2) The appropriate department head shall determine whether or not the item is surplus City property.

(c) **Disposition of Surplus City Property.**

- (1) Whenever the Common Council determines that an item of property is surplus City property, it shall dispose of such property as it determines. The method of disposal chosen shall be one which is most appropriate, given: the condition, location and physical characteristics of the item(s); the amount of time, effort, administration and expense required for the method relative to the potential value received; and the public benefits and/or liabilities associated with the method.
- (2) ~~Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, the department head responsible for the items shall dispose of the property by:~~
 - a. ~~Donation to a nonprofit organization within the City or to a governmental~~

agency; or

b. ~~Public auction; or~~

e. ~~Sale by sealed bid.~~

Whenever the fair market value of an item is less than Five Hundred Dollars (\$500.00) and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the department head shall use one of the approved methods listed below to dispose of the property. Disposing of items or groups of items with an estimated value of \$500 or more using methods other than those listed below shall require the approval of the Common Council.

a. An auction conducted by the City or other governmental agency

b. Internet-based auctions or selling tools

c. Sale to the general public via advertised, sealed bidding

d. Trade-in on new supplies or equipment

e. Transfer to another City department

f. Donation to approved non-profit organizations to be used for a public purpose

g. Sale, trade, transfer or donation to an outside, publicly funded organization also to be used for a public purpose

h. Recycling and/or sale as scrap

i. Discarding as trash

j. Other methods, which may be approved on a case-by-case basis by the Common Council.

(3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, ~~that~~ a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited to the City. In the event no bids are received, the item shall be disposed of as directed by the Common Council. In the event of an Internet auction, a third party shall assist in the sale and shipment of the item(s) provided that a list shall be preserved of the articles sold, the price for each item sold and the name and address to whom the property is sold. Three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. In the case of Internet auction, the auction company shall pick up the property and relocate the property to their facility from which the property will be shipped upon sale. Cost of shipping shall be netted from auction proceeds. The City shall also endeavor to include a notice on its official City Website, although failure to do so shall not void any sale.

(4) No public auction or awarding of bids for surplus property shall occur under this Chapter unless a description of the item to be sold and an advance notice of the

time and place for such auction or bid submission are first published.

- (5) ~~Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Common council has determined, pursuant to the previous Section, that it is surplus City property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.~~
- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final or in the case of Internet auctions, by the auction company.
- (e) **Authority to Dispose of Property.**
- (1) Except for library materials used by the public library for lending purposes, only the Common Council may dispose of City property which is not surplus City property.
 - (2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

SEC. 3-4-2 LOST AND ABANDONED PROPERTY.

- (a) **City Custody of Lost or Abandoned Property.**
- (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.
 - (2) Lost and abandoned property will be examined by the Chief of Police or his designee for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
 - (3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
 - (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
 - (5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk.
- (b) **Disposal Procedures.**
- (1) Classes of Property. All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.
 - a. Vehicles: Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 4, of this Code of Ordinances.
 - b. Intoxicating Liquor and Fermented Malt Beverages: Intoxicating liquor

and fermented malt beverages shall be destroyed.

- c. Firearms, Ammunition and Explosives: Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
 - d. Other Property with Fair Market Value of One Hundred Dollars (\$100.00) or Less: An item of Property with a fair market value of One Hundred Dollars (\$100.00) or less shall be destroyed or sold at public auction, Internet auction or sealed bid. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
 - e. Other Property with Fair Market Value of Over One Hundred Dollars (\$100.00): An item of property with a fair market value of more than One Hundred Dollars (\$100.00) shall be sold at public auction, Internet auction, or by sealed bid.
 - f. Illegal property: Property which cannot be legally possessed shall be destroyed
- (2) Disposal by Auction, Internet Auction or Sealed Bid.
- a. Whenever any property under this Section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 1 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official City newspaper three weeks in advance of sale. For property that is sold by Internet auction, three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. The City shall also endeavor to include a copy of the notice on its official City Website, although failure to do so shall not void any sale.
 - b. The property auctioned or sold by Internet auction and sealed bid shall be sold in "as-is" condition to the highest bidder. No sale, Internet auction or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. In the case of public auction or sale, the department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the City and the amount of the bid be

forfeited to the City

- c. Any City official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by auction, Internet auction, or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.
- (3) Lost Property. Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he may claim ownership of said property. The Chief of Police shall determine what Disposal of Lost, Abandoned and Surplus Property portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any City employee finding property in the regular course of his employment.
- (4) Payment to City Treasury. All sums received from the sale of property under this Section shall be paid to the City Treasury with proceeds going into the General Fund with the exception of motorized equipment, where proceeds will go back to that department to be used as a down payment on the replacement vehicle or equipment. If the vehicle or piece of equipment is not being replaced, the proceeds shall go into the General Fund.”

State Law Reference: Sec. 66.0139 and Sec. 177.22, Wis. Stats.

SECTION 2. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted by the Common Council of the City of Cedarburg this 12th day of February 2007.

Gregory P. Myers, Mayor

Attest:

Sandra M. Ingram, City Clerk

Approved as to form:

Kaye K. Vance, City Attorney