

## Title 3 ► Chapter 4

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# Disposal of Lost, Abandoned and Surplus Property

**3-4-1** Disposal of Surplus Village Property

**3-4-2** Lost and Abandoned Property

### **Sec. 3-4-1 Disposal of Surplus Village Property.**

(a) **Definitions.**

- (1) "Surplus Village Property" is that property which is owned by the Village of Elk Mound and which has no further usefulness to the Village. 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 Village property and no probable future function exists for it; or
  - b. The Village 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 Village property shall not include property which is obtained by the Village as a result of abandonment or loss by the property's original owner. Surplus Village property shall not include items of property which are traded in for newer items.

(b) **Determination of Surplus Village Property (Major Items).**

- (1) Whenever an item of Village property is determined to be surplus Village property on the basis that the Village no longer performs the service for which the item was purchased, the Village Board shall determine whether or not the item is surplus Village property.
- (2) Whenever the fair market value of the item is more than Five Thousand Dollars (\$5,000.00), the Village Board shall determine whether or not the item is surplus

Village property. If the Village Board determines the item is a surplus item, disposal may occur as prescribed in Subsection (c).

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

- (1) Whenever the Village Board determines under Subsection (b) that an item of property is surplus Village property, it shall dispose of such property as it determines, generally as prescribed below.
- (2) Whenever the fair market value of an item is more than Five Thousand Dollars (\$5,000.00) and the Village Board has determined, pursuant to the previous Subsection, that the item is surplus Village property, or the Village Clerk-Treasurer has made such a determination for items with a value of less than Five Thousand Dollars (\$5,000.00), the Village Clerk-Treasurer or supervisor responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization within the Village or Dunn County, or to a governmental agency; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale; or
  - e. As a trade-in.
- (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 Village Board, upon the recommendation of the Village Clerk-Treasurer. 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 Village and the amount of the bid shall be forfeited to the Village. In the event no bids are received, the item shall be disposed of as directed by the Village Board.
- (4) No public auction or awarding of bids 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 is first published as a Class 2 notice in the official Village newspaper.

(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.

(e) **Authority to Dispose of Property.**

- (1) Except for library materials used by the public library for lending purposes, only the Village Board or Village Clerk-Treasurer, as authorized above, may dispose of Village property which is not surplus Village property.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Village Clerk-Treasurer 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 Village labor and the use of Village property, do not exceed the payment received by the Village from the auction or sale of the property.

## **Sec. 3-4-2 Lost and Abandoned Property.**

### **(a) Village Custody of Lost or Abandoned Property.**

- (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Village or law enforcement authorities by citizens shall be disposed of according to this Section.
- (2) Lost and abandoned property will be examined by Village or law enforcement authorities for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Village or law enforcement authorities to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by Village or law enforcement authorities.
- (3) No Village 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 Village or law enforcement authorities shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
- (5) No Village employee shall receive any lost, stolen, abandoned or other unclaimed property from the Village or law enforcement authorities, unless that person receives a written receipt signed by the law enforcement officer, a copy of which shall remain with the law enforcement officer.

### **(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 Village shall be disposed of as follows, except that if the property is usable for Village operations, the property need not be sold at auction, but may become the property of the Village.
  - a. ***Vehicles.*** Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 5, 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 Village Board, 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 a 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. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars (\$100.00) shall be destroyed.
  - e. ***Other Property with a 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 or by sealed bid.
  - f. ***Illegal property.*** Property which cannot be legally possessed shall be destroyed.
- (2) ***Disposal by 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 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official Village newspaper. The property auctioned or sold by sealed bid shall be sold in as-is condition to the highest bidder. No sale or auction shall occur until the Village Board has determined that the property has no value to any probable investigation or legal proceeding. 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 Village and the amount of the bid be forfeited to the Village.
  - b. Any Village official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by 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 Village Board 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/she may claim ownership of said property. The Village Board shall determine what portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any Village employee finding property in the regular course of his/her employment.
- (4) ***Payment to Village Treasury.*** All sums received from the sale of property under this Section shall be paid to the Village Treasury.

***State Law Reference:*** Sec. 66.0139, Wis. Stats.