CHAPTER 4

Disposal of Lost, Abandoned, and Surplus Property

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 Menasha 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.

d. The item has been used up such that it does not perform the function for which it was designed.

e. The item was acquired by the City as a result of a business transaction and the item does not have any use for any City service.

(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 library materials used by the public library for lending purposes, nor to any other library property acquired pursuant to s.43.58(1) Wis. Stats.

(b) **DETERMINATION OF SURPLUS CITY PROPERTY.**

(1) The determination as to whether an item constitutes surplus City property shall be made by the user of the property if the item has been used up such that it does not perform the function for which it was designed and the original purchase price of the property was less than $50.

(2) The determination as to whether an item constitutes surplus City property shall be made by the Department Head if the original purchase price was less than $1,000.

(3) Whenever the fair market value of the item is less than $5,000, the appropriate Department Head shall determine whether or not the item is surplus City property.

(4) Whenever the fair market value of the item is more than $5,000, the Department Head shall bring a request to the Common Council for determination that the item is surplus City property.

(5) 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.

(6) Value shall include the reasonable cost of the time spent by any city employee in the marketing of 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.

(2) Whenever the fair market value of an item is less than Five thousand Dollars

($5000.00) and the appropriate entity 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
c. Sale by sealed bid; or
d. Sale on ebay or another similar auction website; or
e. Trade in; or
f. A commercial resale service for City motor vehicles; or
g. Destruction.

(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. 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 determined by the Department Head if the value is less than $5,000. or by the Common Council if the value is greater than $5,000.

(4) The department head shall notify the City Comptroller when fixed assets are disposed of. 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 is first published. The posting of the item of surplus property on the City website and the City Hall posting bulletin board shall be sufficient publication.

(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 Department Head may dispose of City property which is not Surplus City Property. Notice of such disposal shall be given to the Common Council before disposal.

(2) Whenever this Section provides for an auction or other disposition of any property, the Common Council or Department Head 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, including 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.

(f) **EMPLOYEE PURCHASE OF SURPLUS CITY PROPERTY**

(1) No employee or elected official or any member of their immediate family may purchase or acquire any item of surplus City property unless such purchase or acquisition is made pursuant to public auction, sealed bid, or ebay or other similar auction site and such bid is the highest bid.

(2) In the event that an employee or elected official is the highest bidder for an item of surplus property, that employee or elected official shall provide notice to the Common Council of such acquisition.

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 received 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 a Fair Market Value of One Hundred Dollars ($100.00) of 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.

g. Bicycles determined to be abandoned or unclaimed may be sold at public auction or donated to a not for profit organization. The Chief of Police or his

designee shall determine any specific not for profit organization to whom the bicycles may be donated.

(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 City 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 Chief of Police 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 City and the amount of the bid be forfeited to the City.

b. Any City 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 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 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, including a list of items sold.

State Law Reference: Section 66.28, Wis. Stats.