

## CHAPTER 4

### Disposal of Surplus Property

#### 3-4-1 Disposal of Surplus Town Property

#### SEC. 3-4-1 DISPOSAL OF SURPLUS TOWN PROPERTY.

(a) **Definitions.**

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

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

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

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

- (1) Whenever the Town Board determines that an item of property is surplus Town property, it shall dispose of such property as it determines.
- (2) Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Town Board has determined, pursuant to the previous Subsection, that the item is surplus Town property, the department head responsible for the items shall dispose of the property by:
  - a. Donation to a nonprofit organization within the Town or to a governmental agency; or
  - b. Public auction; or
  - c. Sale by sealed bid; or
  - d. Negotiated sale.
- (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 Town Board. The Town Board or its designee 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 Town and the amount of the bid shall be forfeited to the Town. In the event no bids are received, the item shall be disposed of as directed by the Town 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 Town newspaper.
  - (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Town Board has determined, pursuant to the previous Section, that it is surplus Town 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 Town Board or its designee, whose decision shall be final.
- (e) **Authority to Dispose of Property.**
- (1) Only the Town Board may dispose of Town property which is not surplus Town property.
  - (2) Whenever this Section provides for an auction or other disposition of any property, the Town Board 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 Town labor and the use of Town property, do not exceed the payment received by the Town from the auction or sale of the property.