

ORDINANCE NO. 06-25-2020-2

AN ORDINANCE ENACTING PROCEDURES FOR DECLARATION AND DISPOSAL OF SURPLUS PERSONAL AND REAL PROPERTY; ALSO PROVIDING AN EFFECTIVE DATE AND SAVINGS CLAUSE.

WHEREAS Utah Code § 10-8-84 authorizes the City Council to pass ordinances that are reasonably and appropriately related to the providing for the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and its residents; and

WHEREAS the City Council finds it is in the public's interest to enact policies and procedures for declaring and disposing of personal and real property owned by the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EUREKA CITY, THAT THE FOLLOWING "SURPLUS PROPERTY ORDINANCE" BE ENACTED AS FOLLOWS:

I. DEFINITION OF SURPLUS PROPERTY:

- A. Surplus property is real or personal property owned by the City that is no longer feasible for use; is unusable or obsolete; is in excess of required inventory; has exceeded its required life; or been deemed excess property not required for the needs and for the discharge of the responsibility of the City. Surplus property does not include items of property that are traded in for newer items. The City shall substantially comply with the following procedures to dispose of the surplus property, both real and personal, except that this procedure shall not apply to the vacation of streets, alleys, avenues, boulevards, sidewalks, parks, airports, parking lots or other facilities for the parking of vehicles off streets, public grounds or pedestrian malls and shall not apply to property acquired after July 1, 1983 by eminent domain.

II. DECLARATION OF SURPLUS PROPERTY:

- A. Upon the declaration of any City property as surplus property, the City Council may authorize the disposition of such surplus City property, including real or personal property, subject to the provisions of this chapter.
- B. Unless provided otherwise by this chapter, the disposition of City surplus property may be by public sale, private sale, exchange, option to purchase, lease, lease with an option to purchase, trade-in, public auction, private auction, sale upon public advertisement by sealed bid, or by any other lawful and reasonable means.
- C. No disposition of surplus City property shall be made for less than a fair market value and consideration unless the City Council determines that it is in the best public interest that disposition of City surplus property be made for less than fair market value.

Consideration and fair market value may be in forms other than cash payment and may include the exchange of property for services, as may be reasonably determined by the City Council.

- D. The City Council shall designate that the City Recorder shall maintain records of the manner and date of the disposal of all City surplus property as well as the amount and nature of consideration received for such property.
- E. No lease or lease with an option to purchase of surplus property shall be entered without the prior consent of the City Council.

III. DISPOSAL OF PUBLIC PERSONAL PROPERTY: The City shall have the authority to sell, lease, convey and dispose of personal public property for the benefit of the City as provided by Utah Code Annotated Section 10-8-2, as amended.

- A. Whenever City owned property is surplus, unused, obsolete, unsuitable, or otherwise no longer needed, the department head having control of such property shall notify the Mayor or a designee, who shall in turn notify all other department heads of the availability of such property. If any other area department head requests the designated surplus property for their respective department, the property may be transferred to the requesting department head. If no requests for surplus personal property are received, the Mayor or designee may then proceed to notify the City Council that such personal property may be deemed to be in the best interest of the City to be declared as surplus.
- B. If surplus personal property is not readily marketable or marketable for a fair market value because of its deterioration or condition or other circumstances, the City Council may determine that such property be sold as scrap and if not saleable as such may dispose of such personal property by destruction or other means of disposal.
- C. All surplus property is disposed of "as is" with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered.
- D. If City personal property having a value of one thousand dollars (\$1,000.00) or more becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed, the property shall be disposed of in accordance with this section.
 - 1. The Mayor or a designee shall prepare and present a listing to the City Council of all City owned personal property with an estimated value of equal to or more than one thousand dollars, which is deemed no longer needed by the City and may then be declared surplus by resolution of the City Council.
 - 2. The City shall hold a public hearing on the proposal to declare the property surplus property and to sell and/or exchange the property, which public hearing may coincide with a regularly scheduled City Council meeting.
 - 3. The City shall provide notice of the proposal to declare the property surplus property and to sell and/or exchange the property and notice of the time and place

of the public hearing, by publication of notice at least once in a newspaper of general circulation in the City, which publication shall be at least ten days prior to the date of the public meeting. After receiving public comment, the City shall, by resolution, declare the property surplus, with or without conditions regarding its disposal, and have the property sold and/or exchanged; or the City shall abandon the matter. If the City declares the property to be surplus property, the City Council shall select the best disposal option. Sale of the item, rather than donation, is preferred when significant value is determined. Appropriate methods of disposal are as follows:

- i. Auction. Surplus property may be sold at public auction. Auctions may be conducted by City staff, or the city may contract with a professional auctioneer or electronic auction site.
 - ii. Sealed bids. Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsible bidder.
 - iii. Selling for scrap. Surplus property may be sold as scrap if the City deems that the value of its parts exceeds the value of the surplus property as a whole.
 - iv. Negotiation with interested buyer. When the City is aware of an interested buyer and deems that it can obtain market value for the surplus property from that buyer, it may dispose of the property through a negotiated transaction.
 - v. Donation. Surplus property may be donated to any other public agency or charitable organization exempt under Section 501(c)(3) of the Internal Revenue Code.
 - vi. No value item. Where the City determines that property is surplus and of minimal value to the City due to spoilage, obsolescence or other cause or where the City determines that the cost of disposal of such property would exceed the recovery value, the City shall dispose of the same in such a manner as they deem appropriate and in the best interest of the City.
 - vii. For property valued one thousand dollars or more, reasonable notice shall be given to the public prior to disposal. Reasonable notice shall mean publishing a notice of the proposed disposition of personal public property on the City website after the items have been declared surplus and at least fourteen days prior to the disposition.
- E. All personal property with a value of less than one thousand dollars (\$1,000.00) that becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed may be disposed of at the discretion of the City Council. Disposal of personal property may include, but is not limited to, donating property to a bona fide charity, or transferring property to a salvage or junk yard, or landfill.

- F. Employees and City officials may bid on surplus property provided they do not take any action for their personal interest or gain that improperly gives them any advantage or benefit, or in aid of others doing the same.

IV. DISPOSAL OF SURPLUS REAL PUBLIC PROPERTY: The City shall substantially comply with the following procedure to dispose of surplus real property, except that this procedure shall not apply to the vacation of streets, alleys, avenues, boulevards, sidewalks, parks, airports, parking lots or other facilities for the parking of vehicles off streets, public grounds, or pedestrian malls, and shall not apply to property acquired after July 1, 1983, by eminent domain:

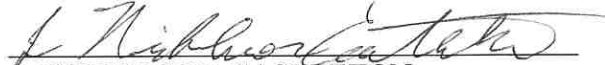
- A. No City owned real property having an estimated value in excess of five hundred dollars (\$500.00) shall be disposed of or released to anyone other than the City, unless such property has been declared surplus as set forth in this ordinance.
- B. The City Council may declare any City owned parcel of real property to be surplus. After City owned real property is declared to be surplus, the City may dispose of the real property pursuant to the following guidelines:
 - 1. Significant parcel of real property. A "significant parcel of real property" means a parcel of real property that is larger than five thousand square feet in size or that has a fair market value in excess of one thousand dollars (\$1,000.00). The following parcels of real property are excluded from the definition of "significant parcel of real property," even if they meet the size or valuation standards set forth above:
 - i. Parcels disposed of by the City as part of a boundary line agreement or adjustment.
 - ii. Parcels created by a right-of-way vacation or an easement vacation.
 - iii. Parcels that are undevelopable unless combined with an adjacent parcel. A parcel will be considered to be undevelopable if it cannot be developed as an independent parcel due to City ordinance requirements or due to the physical characteristics of the parcel.
 - 2. Nonsignificant parcel of real property. A "nonsignificant parcel of real property" shall mean any parcel of real property that is not included in the definition of "significant parcel of real property."
- C. Disposal of significant parcel of real property. Before disposing of a significant parcel of real property, the City shall:
 - 1. Provide reasonable notice of the proposed disposition at least fourteen days before the opportunity for public comment;
 - i. "Reasonable notice" shall mean a brief summary of the proposed disposition including (1) a general description of the parcel (including the approximate address of the parcel, the approximate size of the parcel, the zone designation of the parcel, and the current use of the parcel), and (2) the date, time and location where the public can comment on the proposed disposition. The notice shall be published at least once in a newspaper of general circulation in the city, and posted at the City building; and

2. Allow an opportunity for public comment on the proposed disposition. The opportunity for public comment shall take place at City Council meeting.
- D. Disposal of nonsignificant parcels of real property. The City Council may dispose of any nonsignificant parcel of real property in by noticing the proposed declaration of nonsignificant parcel of real property and offering the nonsignificant parcel for sale to a property owner adjacent to the nonsignificant parcel provided that the proposed transfer does not infringe upon the property rates of surrounding property owners. The City Council may then negotiate with adjacent property owner(s), and if no adjacent property owner(s) seek to own the nonsignificant parcel, the City may (1) negotiate with interested buyers of the nonsignificant parcel; (2) auction the property; or (3) solicit sealed bids for the sale of the nonsignificant parcel.
- E. Manner of disposal. The City may dispose of real property by sale, trade, lease, sub-lease, or other means deemed to be in the best interests of the City by the City Council.

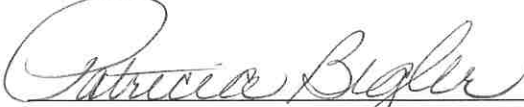
V. SEVERABILITY: If any provisions or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this chapter are declared to be severable.

VI. EFFECTIVE DATE. This ordinance shall become effective on the date passed by the City Council of Eureka.

PASSED AND ADOPTED BY THE EUREKA CITY COUNCIL THIS 25th DAY
OF June, 2020.


J. NICHOLSON CASTLETON
Mayor of Eureka City

ATTEST:


PATRICIA BIGLER, City Recorder