

Ordinance No. 2022-13

AN ORDINANCE TO CREATE TITLE 5 CHAPTER 11 CONTAINING SECTIONS 5-11-1 THROUGH 5-11-4 ENTITLED DISPOSAL OF ABANDONED AND SEIZED PROPERTY, TO RENUMBER AND AMEND TITLE 5 CHAPTER 7 SECTIONS 5-7-1 TO 5-7-6 TO BE TITLE 3 CHAPTER 6 SECTIONS 3-6-1 TO 3-6-6 ENTITLED DISPOSAL OF SURPLUS PROPERTY OF THE CODE OF ORDINANCES OF THE VILLAGE OF CALEDONIA, RACINE COUNTY, WISCONSIN, RELATING TO THE DISPOSAL OF ABANDONED AND SEIZED PROPERTY

The Village Board of the Village of Caledonia, Racine County, Wisconsin, do ordain as follows:

1. That Title 5 Chapter 11 Sections 5-11-1 through 5-11-4 of the Code of Ordinances for the Village of Caledonia be, and hereby is, created to read as follows:

**“CHAPTER 11
ABANDONED AND SEIZED PROPERTY**

SEC. 5-11-1 ABANDONED PROPERTY

- (a) **Authority.** This section is enacted pursuant to the authority of Wis. Stat. § 66.0139.
- (b) **Findings; Intent.** It is necessary and in the public interest, welfare and safety to enact a process that must be followed as to the disposition of abandoned property that is found within the boundaries of the Village and comes to be in possession of a Village department.
- (c) **Disposal of Personal Property.**
 - (1) The Village of Caledonia by any department head may dispose of personal property, other than cash, that has been abandoned, not needed for evidence or court proceedings, or remained unclaimed for a period of 30 days after taking possession of such property. The property may be retained or disposed of by any means that is determined to be in the best interest of the Village by the department head (i.e. donation, public or internet auction, converted to department use, etc).
 - (2) The department head, or designee, shall attempt to return to the rightful owner, if the owner can reasonably be determined, such items of personal property which have substantial value.
- (d) **Disposal of Abandoned Cash.**
 - (1) Personal property consisting of cash that has been abandoned and is not needed for evidence or court proceedings, or that has remained unclaimed for a period of

5 years after taking possession of such property, shall be disposed of according to the Revised Uniform Unclaimed Property Act under Chapter 177, Wis. Stats.

- (2) The department head, or designee shall attempt to return to the rightful owner, if the owner can reasonably be determined, such cash prior to disposal per subsection (1) above.

(e) **Disposal of Seized Cash.**

- (1) For the purpose of this section, “controlled substance,” “controlled substance analog,” and “marijuana” shall have the meaning defined in Wis. Stat 961.01.
- (2) Abandoned or unclaimed personal property consisting of cash which has been seized as part of controlled substance, controlled substance analog, or marijuana arrest or investigation shall be held by the Police Department until such time that the municipality or the rightful owner of the abandoned or unclaimed seized cash brings a forfeiture proceeding for its disposal or recovery per Wis. Stat. § 968.20 or § 961.555.
- (3) If the funds were seized pursuant to state or federal asset forfeiture proceedings, the funds will be maintained pursuant to the requirements associated with the forfeiture laws. Federal Asset forfeiture funding may only be used for items deemed a “permissible use” as outlined in the current Federal Equitable Sharing guidelines. Any funds received as a result of this section shall not be used in any manner to reduce the budget appropriation for the Police Department in any year.

(f) **Abandoned, Unclaimed or Seized Dangerous Weapons or Ammunition.**

- (1) Abandoned or Unclaimed or Seized Dangerous Weapon(s) or Ammunition may be disposed of in accordance with the procedure set forth in Wis. Stat. § 968.20.
 - a. If the dangerous weapons or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding, the village shall make reasonable efforts to notify all persons who have or may have an authorized rightful interest in the dangerous weapon or ammunition of the application requirements set forth in Wis. Stat. § 968.20(1).
 - b. If, within 30 days after the notice, an application is not made and the seized dangerous weapon(s) or ammunition is not returned by the officer, the village may retain the dangerous weapon(s) or ammunition and authorize its use by a law enforcement agency, provided the dangerous weapon was not used in the commission of a homicide, or is a handgun as defined in Wis. Stat. § 175.35(1)(b).
 - c. If a dangerous weapon other than a firearm is not retained by the village, the village or custodian shall safely dispose of the dangerous weapon or sell the weapon if that weapon is a motor vehicle.
 - d. If a firearm or ammunition is not retained by the village, the village or custodian shall ship the firearm or ammunition to the state crime laboratories and it is then property of the laboratories.

(g) **Disposal of Abandoned or Unclaimed Flammable, Explosive or Incendiary Substance Materials or Devices.**

- (1) Any Village employee, at the direction of the Chief of Police or his designee, may safely dispose of abandoned or unclaimed flammable explosive or incendiary substance, materials or devices that pose a danger to life or property in their storage, transportation, or use immediately after taking possession of the substance, materials or device without a public auction.
- (2) If the substance, materials or device appears to be or is reported stolen, an attempt to return the substance, materials or device to its rightful owner shall be made.
- (3) If the substance, materials or device appears to have a commercial value and does not pose an immediate threat to life or property, an attempt to return the substance, materials or device to its rightful owner shall be made.

(h) **Records to be kept.**

- (1) If the disposal of the property is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the Village Treasury.
- (2) If the property is not disposed of in a sale open to the public, the department head shall maintain an inventory of the property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. The inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property.

SECTION 5-11-2. PENALTY.

Violation of any provision of this Chapter can and will result in the imposition of penalties according to Section 1-1-6 of this Code of Ordinances.

SECTION 5-11-3. SEVERABILITY.

The provisions of this Ordinance are severable. If any provision of this Ordinance is found to be void or unconstitutional by a court of competent jurisdiction, such finding shall not affect the remaining portions of this ordinance which will be deemed in full force effect.”

2. That Title 5 Chapter 7 Sections 5-7-1 to 5-7-6 relating to the Disposal of Surplus Property, be, and hereby are, renumbered for placement in Title 3 Chapter 6 and amended to read as follows:

“SEC. 3-6-1 DEFINITIONS.

- (a) “Arm’s Length Transaction” means a sale in an open and unrestricted market between a willing buyer and a willing seller who are knowledgeable and informed and who are acting independent of each other.
- (b) “Book Value” means the recorded value of a piece property at the time of purchase less the accumulated depreciation of the property on the date of the proposed disposal of the property. The valuation of property shall be supported by generally accepted accounting principles.
- (c) “Fair Market Value” means the value of a piece of property if it were sold on the open market in an Arm’s Length Transaction.
- (d) "Surplus Village Property" means property that has no further usefulness to the Village as determined by the Department Head that oversees the property. No further usefulness means a piece of property that is no longer used, relied on, or needed.

SEC. 3-6-2 DETERMINATION AND DISPOSITION OF SURPLUS VILLAGE PROPERTY.

- (a) Property with a Book Value of Less than Five-Hundred Dollars. Property with a Book Value of less than five hundred dollars (\$500.00) shall be determined to be Village Surplus Property by the Department Head of the property. The Department Head shall notify the Village Administrator and the Finance Department of his or her determination that a piece of property is Surplus Village Property. The Department Head’s notice to the Village Administrator and Finance Department shall include a property description, asset number, Book Value, reasons for disposal, and recommended means of disposal. Upon receipt of the notice of the Department Head’s determination, the Village Administrator or designee shall dispose of the Surplus Village Property by one of the methods listed in Section 3-6-3. Once the Village Administrator or designee has disposed of the Surplus Village Property, proof of such disposal shall be provided to the Finance Department and be reflected on the Village assets list if necessary, within seven (7) days of receipt of the sale.
- (b) Property with a Book Value of Five-Hundred Dollars or More.
 - (1) If the Department Head of a piece of property determines that a piece of property has no further usefulness, and the property has a Book Value of five hundred dollars (\$500.00) or more as determined by the Finance Department, the Department Head shall notify the Village Administrator and Finance Department in writing of the property’s disposal request. The Department Head’s notice to the Village Administrator and Finance Department shall include a property description, asset number, Book Value, and reasons for disposal.
 - (2) The Village Administrator shall advise all other departments in the Village of the available property and transfer it to any Department that has requested the property. The Village Administrator shall provide proof of any transfer of Surplus Village Property between Village Departments to the Finance Department.

- (3) If no other Department requests the property, the Village Administrator shall forward the property information (description, asset number, date of purchase, original purchase cost, accumulated depreciation, net Book Value to be written off) to the Finance Committee. The Finance Committee shall review and recommend to the Village Board a determination on whether property is Surplus Village Property and how the property should be disposed of under Section 3-6-3. The Village Board shall make the final determination of whether property is Surplus Village Property and, if the property is determined to be Surplus Village Property, direct the Village Administrator or designee to dispose of the property by one of the methods set forth in Section 3-6-3.
- (4) Once the Surplus Village Property disposal occurs, proof of such disposal shall be provided to the Finance Department and be reflected on the Village assets list if necessary within seven (7) days of receipt of the sale.
- (c) Fair Market Value. All disposals of Surplus Village Property shall be based on Fair Market Value, which may match the Book Value.
- (d) Discounts for Other Services. Surplus Village Property shall not be disposed of by taking a discount on other services invoiced.

SEC. 3-6-3 DISPOSAL PROCESS FOR SURPLUS VILLAGE PROPERTY

- (a) Whenever property is determined to be Surplus Village Property, the property shall be disposed by one of the following methods:
 - (1) Negotiated sale (support documentation required)
 - (2) Sale by sealed bid (publicly advertised)
 - (3) Public auction (approved online or local auction)
 - (4) Scrap (support documentation required)
 - (5) Donation to a nonprofit organization within the Village, a nonprofit organization that provides services to the Village, or to a governmental agency.
 - (6) Trading property for another piece of property or a discount on the purchase price of another piece of property.
- (b) Department Heads responsible for Surplus Village Property shall not donate or sell property under Sec. 3-6-3(a)(1), (2), (4), and (5) to a member of their own family without approval of donation or sale by the Finance Committee.

SEC. 3-6-4 PUBLIC AUCTIONS OR SALES BY SEALED BIDS.

- (a) In the event of a public auction or sale by sealed bid, the property shall be sold in "as-is" condition to the person or entity submitting the highest bid. The Village Board may accept a lower bid submitted by a nonprofit organization or governmental agency. The Department Head responsible for the property shall determine a time frame that the successful bidder shall remove the property. In the event that the property is not removed within that time frame, the property shall revert to the Village and the paid amount of the bid shall be forfeited to the Village. The Village Board shall dispose of property if the Village receives no bids.
- (b) The Village Board shall authorize the Department Head to hire an auctioneer or auction or bid company to assist in the public auction or sale by sealed bid. The fees and costs of an

auctioneer or auction or bid company shall not exceed the payment received by the Village from the auction or sale of the property.

SEC. 3-6-5 ITEMS NOT SURPLUS VILLAGE PROPERTY.

The following shall not be Surplus Village property:

- (a) Land or buildings
- (b) Property that is obtained by the Village as a result of abandonment or loss by the property's original owner
- (c) Library materials used by the public library for lending purposes

SEC. 3-6-6 DISPOSAL OF NON-SURPLUS VILLAGE PROPERTY.

Only the Village Board may dispose of Village property that is not Surplus Village Property as defined in this Chapter. Abandoned and seized personal property shall be disposed of in accordance with Title 5 Chapter 11.”

- 3. That the sections of Title 5 Chapter 7 shall be marked as reserved for future use.
- 4. This ordinance shall take effect upon adoption and publication as required by law.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 11 day of July, 2022.

VILLAGE OF CALEDONIA

By: James R. Dobbs
James R. Dobbs, President

Attest: Joslyn Hoeffert
Joslyn Hoeffert, Clerk