

ORDINANCE NO. 2018-07-31

AN ORDINANCE AMENDING CHAPTER 3.32 OF THE AMERICAN FORK CITY CODE GOVERNING THE DISPOSAL OF SURPLUS PROPERTY; ALSO PROVIDING AN EFFECTIVE DATE AND SAVINGS CLAUSE.

WHEREAS, Title 10 Chapter 3 and §10-8-84 of the Utah Code authorizes the City Council to pass ordinances which 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 desires to amend Chapter 3.32 of the American Fork City Code to better administer the surplus and disposing of personal public property;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF AMERICAN FORK CITY, THAT CHAPTER 3.32 OF THE AMERICAN FORK MUNICIPAL CODE BE AMENDED AS FOLLOWS:

Sec. 3.32.010. - Disposal of surplus personal public property.

- A. 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.
- B. Whenever City owned property is surplus, unused, obsolete, unsuitable, or otherwise no longer needed, the department head having control of such property shall promptly notify the City Administrator or a designee. The City Administrator or a designee shall then notify other City departments of the availability of such property. The City Administrator or designee shall supervise the transfer of such property to the department requesting the property and adjust the City inventory control to document the transfer. If no use can be made of the property or is expected to be made within the reasonably foreseeable future, the property shall be disposed of as provided in this Section.
- 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 \$1,000 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.
 - a. The City Administrator 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 (\$1,000.00), as determined by the City Administrator, which is deemed no longer needed by the City and which can be declared surplus by resolution of the City Council.

- b. 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.
- c. 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 Administrator shall select the best disposal option, unless otherwise directed by the City Council. 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.

- d. For property valued one thousand dollars (\$1,000.00) 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), as estimated by the City Administrator or designee, that becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed may be disposed of at the discretion of the City Administrator or designee, with the consent of the mayor after compliance with subsection B of this Section. 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 surplused 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.

Sec. 3.32.020. - 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 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 significant parcel of real property to be surplus. The City Administrator may declare any City-owned nonsignificant parcel of real property to be surplus if he or she finds that the parcel is no longer needed by the City. After City-owned real property is declared to be surplus, the City may dispose of the real property pursuant to the following guidelines:
 - a. Significant Parcel of Real Property. A “significant parcel of real property” means a parcel of real property that is larger than 5,000 square feet in size or that has a fair market value in excess of \$10,000. 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.
 - b. 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:
 - a. Provide reasonable notice of the proposed disposition at least 14 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 administration building; and
 - b. Allow an opportunity for public comment on the proposed disposition. The opportunity for public comment shall take place at an American Fork City Council meeting.
- D. Disposal of Nonsignificant Parcels of Real Property. The City Administrator may dispose of any nonsignificant parcel of real property in compliance with Subsection A and pursuant to a policy adopted by the City Administrator, which shall include consent of the Mayor.
- 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 (for significant parcels of real property) or the City Administrator (for nonsignificant parcels of real property).

II. SEVERABILITY

If any provision 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.

III. EFFECTIVE DATE

This amendment to the ordinance shall become effective on the date passed by the City Council of American Fork City.

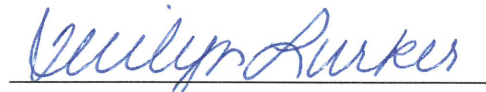
**PASSED AND ADOPTED BY THE CITY COUNCIL OF AMERICAN FORK CITY,
STATE OF UTAH, ON THIS THE 31 DAY OF JULY, 2018.**

AMERICAN FORK CITY



Bradley J. Frost, Mayor

ATTEST:



Terilyn Lurker, Recorder

