

CHAPTER

SURPLUS PROPERTY POLICY AND PROCEDURE

SECTION:

- 1: Authority
- 2: Scope and Purpose
- 3: County Agents Not to Receive Property Except by Public Sale
- 4: Definitions
- 5: Disposal of Various Types of Surplus Property
- 6: Surplus Property -- Determination and Procedure
- 7: Sale or Transfer of Property to a City, Town, or Political Subdivision of the State or County but not to a School District
- 8: Disposal of Land for use as a Park, Recreational Ground, or Cemetery
- 9: Disposal of Historically Significant Buildings or Monuments
- 10: **Procedure for Disposal of Other Surplus Property Items Valued at Less than \$2,500.**
- 11: **Procedure for Disposal of Other Surplus Property Items Valued at More than \$2,500.**
- 12: Exchanges of Real Property
- 13: Terms of Sale and Proceeds

1. AUTHORITY:

The Surplus Property Policy (the "Policy") is adopted under the authority of § 7-8-2211, M.C.A. The purpose of this Policy is to provide a system of accountability for property owned by Ravalli County and to ensure that property owned by Ravalli County is removed from the County's possession only through proper procedures.

~~In creating this Policy, the following factors have been considered: unneeded property takes valuable storage or office space, loses its value or becomes outdated rapidly, and outdated stored property is unlikely to be used by another department.~~

2. SCOPE AND APPLICABILITY:

~~The Surplus Property Policy (the "Policy") shall apply to all property owned by the County, and to all County employees and departments. ~~Employees of Ravalli County, volunteers working for Ravalli County (including board members), and members of their families may not receive any property disposed of by Ravalli County, except through a public sale or auction.~~~~

No County property is to be transferred for the benefit of any individual or for-profit entity unless specifically allowed by this Policy.

This Policy shall not apply to any Ravalli County local government entity that is not under the jurisdiction of the Ravalli County Board of County Commissioners ("BCC")~~political subdivision of the County or including those entities~~ that has publicly elected trustees (for example school districts and fire districts). In the event of conflict between this Policy and any applicable state or federal law, the state or federal rule shall prevail. If the ~~Ravalli County Board of County Commissioners ("BCC")~~ establishes criteria for county-owned land under §§ 7-8-2501 through 7-8-2515, M.C.A., then the provisions of those statutes shall prevail over this Policy. In all other cases, this Policy shall apply. In the event of the amendment of any rule or law incorporated in this document, or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

~~This Policy is issued by authority of the BCC. The policies may be amended from time to time at the discretion of the BCC. Suggestions for amendments to the Policy are welcome and proposed amendments should be submitted in writing to the BCC. A current version of the Policy shall be available on the County website. The version posted on the County website shall be the version in effect at any given time.~~

3. COUNTY AGENTS NOT TO RECEIVE PROPERTY EXCEPT BY PUBLIC SALE:

Agents of the County and agents' family members may not receive any property disposed of by Ravalli County, except through a public sale or auction. This prohibition also means that such persons may not retrieve items from a junk pile or garbage. —County agents include employees, officials, and volunteers (including board members).

~~2. SCOPE AND PURPOSE.~~

~~The authorization to sell and exchange county property is in accordance with~~

4. SURPLUS PROPERTY RULES AND DEFINITIONS:

4.1 GENERALLY: Terms shall be as defined in the Ravalli County Code

4.2: DEFINED TERMS: As used in this Policy, the following definitions apply:

Appraisal. "Appraisal" means an estimate of market value made by a neutral third party possessing knowledge or experience relating to valuing the item to be appraised.

Cost Value. "Cost value" means the original purchase price, when known. When Cost Value is required under this Policy but is not known, a reasonable estimate of current market value shall be substituted.

County Property Manager. The BCC shall designate and supervise a "County Property Manager," who shall ensure that proper procedures are followed when disposing of Surplus Property. ~~As necessary, the County Property Manager shall organize and conduct a sale of all Surplus Property according to this Policy.~~

Family Member. "Family Member" means a spouse, siblings, children by blood or adoption, or parents.

IT Director. "IT Director" means the Director of the County's Information Technology Department.

Private Sale. For the purposes of this Policy, "Private Sale" means any sale that is conducted fairly that is likely to realize reasonably appropriate sale proceeds.

Public Sale. "Public sale" means a sale process in which the public has notice of the sale, and either an opportunity to bid, or an equal opportunity to purchase an item at a given price. When a public sale is for an item valued at \$2500 or more, notice of the public sale must include the appraised value of the offered item(s) and be published according to the requirements of § 7-1-2121, M.C.A.

~~Non-IT Surplus Property.~~ "Non-IT Surplus Property" means property having a remaining useful life of one year or more including items with extended life due to repairs, but that is no longer necessary to the conduct of County business or the preservation of County property. Surplus Property includes the following: (a) property that has a first cost value of \$200 or greater; and (b) property valued less than \$200 that requires safekeeping and accountability (e.g. cameras, tape recorders).

Surplus Property. "Surplus Property" means County-owned property that is no longer necessary to the conduct of County business or the preservation of County property. ~~IT Surplus Property and Non-IT Surplus Property. Surplus Property, as used in this Policy, does not include property obtained by tax deed, property seized by writ of execution, or any property seized for whose disposal Montana law requires a Sheriff's sale; for disposal of such property, contact the Treasurer or County Attorney's office.~~

~~IT Surplus Property~~Surplus Property, Electronic. "IT Surplus Property~~Electronic Surplus Property~~" means surplus property that consists of computer and electronics property related to information technology and acquired with a cost or market value on the date of acquisition of \$1,000 or greater with a useful life exceeding one year (i.e., computers, laser printers, etc.) that is no longer necessary to the conduct of County business or the preservation of its property.

Surplus Property Request and Disposal Form. All items of property thought to be Surplus Property shall be entered in a "Surplus Property Disposal Form," maintained by the County Property Manager (attached).

5. PROCEDURE FOR DISPOSAL OF VARIOUS TYPES OF SURPLUS PROPERTY

• **DISPOSAL OF PROPERTY OBTAINED BY TAX DEED.** For disposal of real property the County obtained by tax deed, consult the County Attorney's office.

• **DISPOSAL OF SEIZED PROPERTY.** For disposal of property seized to satisfy a lien or judgment, seized under a writ of execution, or any other property whose disposition requires a Sheriff's sale, consult the County Attorney's office.

~~• **TRANSFER TO A SCHOOL DISTRICT.** For disposal of Surplus Property to a school district, go to section 6.1.~~

• **TRANSFER TO A CITY, TOWN, OR POLITICAL SUBDIVISION OF THE STATE OR COUNTY.** For disposal of Surplus Property to a city, town, or political subdivision (other than a school district) go to section 7.

• **DISPOSAL OF LAND FOR PARK RECREATIONAL OR CEMETERY USE TO THE STATE, ANY CITY OR TOWN IN MONTANA, OR TO THE UNITED STATES OF PROPERTY FOR RECREATIONAL OR CEMETERY USE.** For disposal of Surplus Property for use as a park, recreational grounds, or cemetery to the state of Montana, ~~or~~ to any city or town in Montana, or to the United States ~~for the use as a park, recreational grounds, or cemetery,~~ go to section 8.

• **FOR HISTORIC BUILDINGS.** For disposal of Surplus Property consisting of real property containing a historically significant building or monument, go to section 9.

• **OTHER SURPLUS PROPERTY HAVING VALUE LESS THAN \$2,500.** For disposal of Surplus Property valued at less than \$2,500, go to section 10.

- OTHER SURPLUS PROPERTY HAVING VALUE MORE THAN \$2,500. For disposal of Surplus Property valued at \$2,500 or greater, go to section 11.

EXCHANGES OF REAL ESTATE PROPERTY. For transactions involving exchanging of real property, go to section 12.

~~IT SURPLUS PROPERTY -- DETERMINATION AND INITIAL PROCEDURE~~

~~The department head or designee wishing to dispose of County electronics shall~~

~~enter the items on a Surplus Property Request and Disposal Form and give the Form to the Information Technology Department Director ("IT Director), who will determine whether the property is IT Surplus Property.~~

~~If the IT Director determines that the property is not necessary to the conduct of County business or the preservation of its property but is not IT Surplus Property because it has a cost value less than \$1,000, the IT Director may sell, destroy, junk, cannibalize, or, with approval of the County Property Manager, donate the property to a governmental or non-profit entity. The IT Director shall report any property sold or donated under this section 4.2 to the County Property Manager, who shall maintain a list of property sold or donated under this Section 4.2 and under Section 5.2 (below), including the date and to what person or entity the items were sold or donated.~~

~~If the IT Director determines the property is IT Surplus Property, the IT Director shall submit the Form to the County Property Manager. The County Property Manager shall approve the Surplus Property designation by initialing the form, and will arrange the movement of the IT Surplus Property into a proper storage facility. The Surplus Property Request and Disposal Form will be presented to the BCC in a public meeting for approval by resolution that the Surplus Property listed in the Surplus Property Request and Disposal Form is Surplus Property and ready for disposal.~~

6. ~~NON-IT SURPLUS PROPERTY -- DETERMINATION AND PROCEDURE.~~

6.1. The department head or designee wishing to dispose of an item of property shall determine if the item is no longer necessary for conduct of County business. If the item is no longer necessary for County business, it may be disposed of as surplus property according to this Policy.

6.2. The department head or designee shall determine the Cost Value of the item. If the Cost Value of the item is less than \$200, the department head may sell, destroy, junk, cannibalize, or, with approval of the County Property Manager, donate the property to a governmental or non-profit entity. If the Cost Value is more than \$200, the department head shall enter the item on a Surplus Property Request and Disposal Form and submit the Form to The department head or designee wishing to dispose of County property shall enter the items on a Surplus Property Request and Disposal Form and submit the Form to the County Property Manager, who will determine whether the property is Non-IT Surplus Property.

6.3. The County Property Manager shall consult with the IT Director before disposing of Electronic Surplus Property, who shall determine whether any item to be disposed of has a data storage medium, such as a hard drive. The IT Director shall ensure that any data storage medium that the IT Director believes could possibly contain specific information related to County activities shall be disabled or erased before disposing under any section of this Policy.. If the County Property Manager determines the property is not necessary to the conduct of County business or the preservation of its property but is not Non-IT Surplus Property because it has a cost value less than \$200 and the property does not require safekeeping and accountability, the department head may sell, destroy, junk, cannibalize, or, with approval of the County Property Manager, donate the property to a governmental or non-profit private entity. The County Property Manager shall maintain a list of property sold or donated under this Section 5.2 and under Section 4.2 (above), including the date and to what person or entity the items were sold or donated.

6.4. If the County Property Manager determines the property is Non-IT Surplus Property, the County Property Manager shall approve the designation of Surplus Property by initialing the Form, and will arrange to have the Non-IT Surplus Property properly stored until disposal. The County Property Manager shall submit tThe Surplus Property Request and Disposal Form will be presented to the BCC, which shall hold a public meeting to approve or reject the disposal of the listed items of surplus property in a public meeting for approval by resolution that the Surplus Property listed in the Surplus Property Request and Disposal Form is Surplus Property and ready for disposal.

6.5. The County Property Manager or the appropriate department head shall determine how to dispose of the Surplus Property according to this Policy once the BCC has approved of the disposal.

~~6.1. Transfer of property to a school district~~

~~6.1.1. Private sale authorized. The BCC may sell Surplus Property directly to a school district by private sale, without a public auction, provided that the following conditions are met (see §§ 7-8-2216 and 2213, and 2214, M.C.A.):~~

~~(a) Sale price is for no less than 90% of the Surplus Property's appraised value;~~

~~(b) The Surplus Property has been appraised no more than three months prior to the date of sale.~~

~~(c) For Surplus Property valued in excess of \$2,500, public notice of the sale has been given to the public according to the requirements of § 7-1-2121, M.C.A.~~

~~For disposal of Surplus Property to a school district that does not meet the requirements of section 6.1.1, follow the procedures in section 6.5 or 6.6.~~

7. SALE OR TRANSFER OF PROPERTY TO A CITY, TOWN, OR POLITICAL SUBDIVISION OF THE STATE OR COUNTY BUT NOT TO A SCHOOL DISTRICT.

(See § 7-8-101, MCA.)

7.1 The BCC may sell or trade any property without an ordinance, public notice (other than listed below), public auction, bids, or appraisal, provided the following requirements are met:

- The BCC first passes a resolution of intent to sell the property;
- The BCC gives notice of intent by publication as provided in § 7-1-2121, MCA.; and
- The sale transactions are made by resolution of the BCC entered in the minutes of the regular or special meetings, according to § 7-8-101, MCA.

7.2 Political subdivisions of the County include irrigation districts, rural special improvement districts, special improvement districts, county water or sewer districts, and fire district. The County Property Manager may consult the County Attorney's office if there are questions about whether an entity is a political subdivision.

8. DISPOSAL OF LAND FOR USE AS A PARK, RECREATIONAL GROUND, OR CEMETERY. (See § 7-8-102, MCA.)

The BCC may convey to the state of Montana or to any city or town in Montana or to the United States of America any tract of county-owned land provided the following requirements are met:

- the tract does not exceed 1,280 acres;
- the tract is to be used for the establishment and maintenance of a park, recreational grounds, or cemetery;
- the land will to be maintained by the state, city, town, or federal government as a public park, recreational grounds, or cemetery.
- the land shall be deeded upon the condition that it shall be devoted and maintained by the state, city, town, or federal government for the purpose of a public park, recreational grounds, or cemetery;
- the land shall be deeded upon the condition that if the land ceases to be used for such purpose for a period of 5 years in succession, title thereto shall revert to the county.

9. DISPOSAL OF HISTORICALLY SIGNIFICANT BUILDINGS OR MONUMENTS.

The County may sell or give the property to private nonprofit organizations or non-governmental groups provided the following requirements are met:

- the organization or group agrees to restore or preserve the property;
- the contract for the transfer of the property contains a provision that requires the property to be preserved in its present or restored state upon any subsequent transfer;
- the contract for the transfer provides for the reversion of the property to the County for noncompliance with conditions attached to the transfer, as provided in § 7-8-2211, M.C.A.

10. PROCEDURE FOR DISPOSAL OF OTHER SURPLUS PROPERTY ITEMS VALUED AT LESS THAN \$2,500.

10.1 For Surplus Property not subject to the provisions of Sections 7 through 9 valued less than \$2,500, the County Property Manager may conduct a public sale, or a private sale with the BCC's approval.

10.2 If the property is sold at public sale, public notice must be given as provided in § 7-1-2121, M.C.A. § 7-8-2217, M.C.A. Any additional notice may be given, including notice directed only to Ravalli County employees.

10.3 Any items left unsold after public or private sale will be disposed of at the discretion of the BCC, with priority given to governmental or non-profit entities. Surplus Property may be given to private individuals or for-profit entities only at the direction of the BCC.

11. SURPLUS PROPERTY VALUED AT \$2,500 OR MORE.

11.1 Surplus Property disposed of under this section 6.6 shall be appraised for fair market value, no more than three months prior to the date of sale. See § 7-8-2214, M.C.A.

11.2 For purchases of any vehicle, road machinery or other machinery, apparatus, appliances, equipment or materials or supplies, Surplus Property may be traded in as part of the purchase price. See §§ 7-8-2211, 7-5-2301 through -2308, M.C.A.

11.3 Except for sales to a school district ~~For items not subject to section 6.6.2,~~ any first attempt at disposal shall be through public sale such as by a live or electronic online auction, coordinated by the County Property Manager. See § 7-8-2212, M.C.A. Subsequent attempts may be by other public sale.

11.4 Notice of the public sale shall be given to the public according to the requirements of § 7-1-2121, M.C.A. and the appraised value of the Surplus Property shall be stated in the notice of sale.

11.5 Any taxpayer who believes that the appraised value is less than the actual value may challenge the appraisal value, and the pending sale shall be vacated. See § 7-8-2215, M.C.A.

11.6 Public sale may not be for less than 90% of the Surplus Property's appraised value (or the percentage provided in § 7-8-2213, M.C.A. if different).

11.7 If the amounts offered in the public sale are not acceptable (in the opinion of the County Property Manager), the County Property Manager may reject the bids in whole or in part.

11.8 If Surplus Property does not sell at public auction according to the terms of this section 6.6, the County may at any time sell the Surplus Property by private sale, but for no less than 70% of the appraised value (unless § 7-8-2218, M.C.A. provides a different percentage, in which case the percentage listed in that section shall control).

12. EXCHANGES OF REAL PROPERTY.

Except for disposal of Surplus Property under Sections 6.1, 6.2, 6.3, and 6.4, if Ravalli County wishes to exchange Surplus Property consisting of real property for real property owned by another party, both properties must be appraised, and no exchange is permitted unless property received in exchange for the County property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of title for property having the lesser value. See § 7-8-2211(3), M.C.A.

13. TERMS OF SALE AND PROCEEDS

13.1 Cash or terms. Sale shall be for cash, U.S. postal money orders, certified checks, cashier's checks, or payment terms otherwise allowed by the BCC, provided that at least 20% of the purchase price is paid in cash and deferred payments bear interest at the rate of 6% per year payable annually, extended over a period of not more than five years. See § 7-8-2213(1), M.C.A.

13.2 Title. Legal title to sold Surplus Property shall pass to the buyer only after payment of the full amount of the purchase price into the County treasury.

13.3 No warranties. The County Property Manager shall, as a condition of sale, require any buyer/recipient of Surplus Property to sign a disclaimer of all warranties. See Exhibit "A" for Disclaimer of Warranty Form.

13.4 Release. If any Surplus Property item poses any sort of threat, danger, or potential liability, the County Property Manager shall consult the County Attorney, who may advise the County Property Manager to obtain a signed release of liability from the buyer/recipient of the property. See Exhibit "B" for sample Release of Liability Form.

13.5 Unless otherwise required by this Policy, the expenses of sale shall be paid to the department incurring those expenses out of Surplus Property sale proceeds; excess sale proceeds shall be deposited in any County account at the discretion of the BCC. See § 7-8-2220, M.C.A.



**SURPLUS PROPERTY
POLICY AND PROCEDURE**

Exhibit A

Disclaimer of Warranty Form

I understand that I am purchasing the following Ravalli County Surplus Property **AS IS AND WITH ALL FAULTS**, and that the item(s) are not covered by any warranty or condition, whether express, implied, or statutory, including, without limitation, any implied warranty of merchantability, of fitness for a particular purpose, and of lack of viruses in computer equipment.

(list property) _____

Signature

Printed Name



**SURPLUS PROPERTY
POLICY AND PROCEDURE**

Exhibit B

Release of Liability Form

I hereby fully release and forever discharge Ravalli County, its assigns, agents, employees, officials, and attorneys of and from all manner of claims associated in any manner to my purchase of Ravalli County Surplus Property in a sale conducted on

_____, 20__.

Signature

date

Printed name

Address

