

ORDINANCE NO. 2018 - 1

**AN ORDINANCE OF THE SCOTIA COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
ADOPTING TITLE VIII – SURPLUS PROPERTY**

The Board of Directors of the Scotia Community Services District does ordain as follows:

Section 1: Title VIII (Surplus Property) is hereby adopted as follows:

TITLE VIII - SURPLUS PROPERTY

CHAPTER 1 – PURPOSE

SEC 1.01. PURPOSE. The purpose of this ordinance is to:

- (1) To set forth the Scotia Community Services District’s (“CSD”, “District”) administrative policy for the transfer and disposition of surplus property, equipment and materials.
- (2) To set forth the Scotia CSD’s administrative policy for scrapping and recycling of scrap and recyclable surplus property, equipment and materials and disposing of same.
- (3) To ensure the receipt of all revenues from the disposal of surplus property, equipment and materials and scrap or recyclables.
- (4) To explain disciplinary consequences which may result should any employee violate the policy and procedures set forth below.

CHAPTER 2 – DEFINITIONS

SEC 2.01. DEFINITIONS.

- (1) “Surplus property” as used herein is used generically to describe any District property, equipment or material that is no longer needed or usable by the holding District. For purposes of this policy all surplus property including scrap, recyclables, trash, and/or junk disposed, discarded or abandoned on District property, including all surplus property placed in storage or collection containers of any kind, including containers or facilities located on property leased from the District by District tenants, is hereby deemed to be District property and not property of any District employee.
- (2) Employee’s Personal Property. For purposes of this policy an employee’s personal property is (a) that property in the possession of an employee which was the property of the employee prior to it having been brought onto or placed upon District premises, or (b) that property lawfully acquired from its prior owner or his/her authorized representative by an off-duty employee while on District premises after having been brought to District premises by its owner where such property remains in the possession of the employee as his or her property, after transfer to said employee. Each employee is responsible for determining that any property which he or she may take possession of or acquire while on District premises has been obtained or acquired from an individual lawfully authorized by its owner to make the transfer to the employee.

CHAPTER 3 – METHODS OF TRANSFER AND DISPOSITION

SEC 3.01. METHODS OF TRANSFER AND DISPOSITION. All surplus property is disposed of “as is” and “where is,” with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered unless expressly authorized by the District Board of Directors.

- (1) Trade-In. Property declared as surplus may be offered as a trade-in for credit toward the acquisition of new property.
- (2) Return to Manufacturer. Surplus property may, when possible, be returned to the manufacturer for buy-back credit.
- (3) Disposal. Surplus property may be offered for sale by the District. Appropriate methods of sale are as follows:
 - (a) Auction. Surplus property may be sold at public auction. Auctions may be conducted by District staff, or the District may contract with a professional auctioneer or electronic auction site.
 - (b) 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.
 - (c) Selling for Scrap. Surplus property may be sold as scrap if the District deems that the value of its parts exceeds the value of the surplus property as a whole.
 - (d) No Value Item. Where the District determines that property is surplus and of minimal value to the District due to spoilage, obsolescence or other cause or where the District determines that the cost of disposal of such property would exceed the recovery value, the District shall dispose of the same in such a manner as they deem appropriate and in the best interest of the District.
- (4) 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. “Public agency” means the State or any agency or subdivision thereof, any District, county, special district, or school district.

CHAPTER 4 – POLICY

SEC 4.01. POLICY. Consistent with California Government Code Section 37350 the District Board of Directors sets forth the policy of the District for disposal or destruction of surplus property.

- (1) District General Manager Directed Transfer and Disposal (Authorized).
 - (a) Property with an Estimated Market Value Exceeding \$10,000. Transfer or disposition of surplus property with an estimated market value exceeding \$10,000 per item shall be determined specifically by the District Board of Directors.
 - (b) Property with an Estimated Market Value Less than \$10,000. The District General Manager may direct the transfer and disposition of surplus property with an estimated market value not to exceed \$10,000 per item.

- (c) Transfer and disposition of surplus property may include:
 - (i) All surplus property will first be considered for transfer between departments for the benefit of the Scotia CSD.
 - (ii) All surplus property not needed by the Scotia CSD may be offered for sale for the highest estimated market value. Surplus property may be sold by public auction, electronic auction site, or sealed bid.
 - (iii) Surplus property may be donated or sold as less than estimated market value to public agencies and nonprofit organizations.
 - (d) Scrapping/Recycling/Junking.
 - (i) Such activities may involve the sale of surplus property at public auction or through sealed bids to public bodies, organizations, or vendors including scrap dealers or recycling centers.
 - (ii) It is the policy of the Scotia CSD that no employee may engage in any sale, scrapping or recycling or other disposal of District property, as defined herein, unless specifically directed to engage in such activity by the District General Manager who has been lawfully and duly authorized and designated to direct such activity.
 - (e) Real Estate. All activity involving the declaration and sale of surplus real estate shall require authorization by the District Board of Directors regardless of the actual or estimated value.
- (2) Proceeds from Transfer and Disposition of Property. When so authorized to transfer, sell, donate, recycle, and scrap District property, the employee directed to undertake such activity shall remit the entire proceeds from any such activity to the District by check or money order made payable to the Scotia CSD, and shall be deposited into the appropriate fund.
- (3) Personal Scrapping, Recycling or Disposal of Trash or Junk (Unauthorized). Transferring, selling, donating, scrapping, recycling or disposing of District property, as defined herein (regardless of monetary value), by District employees for personal gain or to benefit the interest of any person or party other than the Scotia CSD, including handling or disposal of trash or junk **except** as directed by District General Manager lawfully and duly authorized and designated to direct such activity, is strictly forbidden.

District employees are prohibited from claiming ownership of, giving away, recovering, or salvaging for personal use, or the use or interest of any person other than the Scotia CSD, any materials abandoned, disposed or stored upon District premises, including trash or other materials, placed in, upon or in the vicinity of recycling or collection cans, dumpsters or bins located on District premises, or collection or debris piles, or other District storage or disposal facilities or refuse sites, and including any such facility or site belonging to any District tenant. Furthermore, District employees are prohibited from taking possession of any surplus property or the proceeds from the sale of surplus property designated for disposal as trash, scrap, or as recyclables, except as lawfully authorized by persons designated with such authority by the District General Manager. This prohibition includes giving any such surplus property or the proceeds from the sale

of such surplus property to any person or party other than for the duly authorized benefit and interest of the Scotia CSD, or authorizing any other person or party to accept, receive or take any such surplus property to benefit their own interest, except as provided hereinabove.

- (4) Any transfer and/or disposal of surplus property authorized by the District General Manager shall be reported to the District Board of Directors as a receive and file item on the District Board of Directors agenda.

CHAPTER 5 – DISCIPLINARY ACTION

SEC 5.01. DISCIPLINARY ACTION. Appropriate disciplinary action, up to and including termination, will be taken should an employee be found, through proper investigation, to:

- (1) Have failed to promptly remit to persons officially designated to receive proceeds, including cash or other consideration, from the sale of District property, as defined herein, including the proceeds from the sale, scrapping or recycling of any such property belonging to the District; and
- (2) Have failed, in the performance of their duties, to promptly place in appropriate District containers, bins, dumpsters, or other collection facilities, equipment or containers, or have received, taken, given away, collected, stored or retained in other than appropriate District containers, bins, or collection facilities, or dump sites, District scrap, recyclables, trash or any such surplus property belonging to District; and
- (3) Have engaged in selling, scrapping, recycling or handling of District property in violation of this chapter or the procedures set forth herein, including having engaged in any such activity for their personal interest or gain, or in aid of others doing the same for their respective interest or gain; and
- (4) Have used District vehicles, facilities or equipment to collect, store, or transport surplus property to sites, locations, or facilities, including the facilities of scrap vendors or recycling centers, except as specifically directed by the District General Manager, in accordance with this chapter and the procedures set forth herein; and

CHAPTER 6 – PROCEDURES

SEC 6.01. PROCEDURES. All surplus property is disposed of “as is” and “where is,” with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or usability of the property offered unless specified by the District Board of Directors. It is critical to maintain a trail of documentation for audit purposes regarding the disposition of property of the Scotia CSD.

The District General Manager is authorized to declare property, equipment and materials surplus.

- (1) Transfer Surplus Property for Trade-In or Return to Manufacturer.
 - (a) district employees may offer property for trade-in toward the purchase of new property and equipment with the approval of the District General Manager. district

employees will attach trade-in information to the procurement documents, and will notify the Board Clerk of the procurement and disposition of property and equipment.

- (b) District employees may offer property and equipment for buy-back credit to the manufacturer with approval of the District General Manager. District employees will forward buy-back credit documents to the Board Clerk, and will notify the Board Clerk of this disposition of property and equipment.
- (c) Department heads and The Board Clerk will inform the District General Manager of all trade-ins and credits since it is critical for budgeting and asset tracking.

If surplus property is to be applied to a purchase order, the trade-in value and/or credit shall be itemized on the purchase order. The amount charged against the appropriation code will be the value of the purchase before application of the trade-in credit.

(2) Disposal of Surplus Property.

- (a) Excess property not needed or useable by the District, not transferred for trade-in or manufacturer's credit, will be declared surplus by the District General Manager.

For surplus property with an estimated market value in excess of \$10,000, the method of disposal will be determined by the District Board of Directors.

- (i) In determining the estimated market value, the District General Manager shall determine the methods used to make such determination including, but not limited to tools such as Kelly Blue Book, classified advertisements, and local vendors with similar products available, whenever possible.
 - (ii) The estimated market value may consider a computation of expenses associated with the disposal of surplus property. These expenses may include advertising, auction costs, storage, and other costs.
- (b) Method of Disposal. Sale of surplus property shall be to the highest bidder or for the highest market value and may be disposed of by sale by public auction, or sealed bid.
- (i) Auction. Surplus property may be sold at public auction. Public auctions may be conducted by District staff, or the District may contract with a professional auctioneer or electronic auction site.

Sale of surplus property at public auction conducted by District staff must be noticed by the District no later than 10 days prior to such auction. The District General Manager shall reserve the right to reject any and all bids received for any item.
 - (ii) Sealed Bid. Sealed bids may be solicited for the sale of surplus property. The District General Manager shall reserve the right to reject any and all bids received for any item.
 - (iii) Selling for Scrap. Surplus property may be sold as scrap if the District General Manager deems that the value of its parts exceeds the value of the surplus property as a whole after approval of the District Board of Directors. For-profit vendors shall include scrap dealers and recycling centers.

- (iv) No Value Item. Where the District General Manager determines that property is surplus and of minimal value to the District due to spoilage, obsolescence or other cause or where the District General Manager determines that the cost of disposal of such property would exceed the recovery value, he/she shall dispose of the item in such a manner as they deem appropriate and in the best interest of the District considering the ability to recycle. Disposal of no value items must be approved by the District Board of Directors.
 - (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.
 - (A) "Public agency" means the State or any agency or subdivision thereof, any District, county, special district, or school district.
 - (B) Non-profit organizations are recognized as charitable organizations exempt under Section 501(c)(3) of the Internal Revenue Code.
- (3) Accounting for the Disposition of Surplus Property.
- (a) Copies of all records documenting the surplus property process will be kept on file with the Board Clerk.
- (4) Transfer of Ownership and Title. Delivery of the surplus property together with transfer of ownership and title passes upon receipt of the proceeds.
- The Board Clerk shall cause licenses and title documents to be executed and transferred upon verification of receipt of funds.
- (5) Surplus Property and Employees. District employees shall not be the purchasers of any surplus real or personal property of the District.
- This disqualification shall extend to the family members of such employees and any third persons acting at the direction or request of a disqualified employee where the purchase or sale is intended for the benefit of such employee.
- Any exceptions to this policy will only be made at the direction of the District General Manager.
- Violation may result in disciplinary action up to and including discharge.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The Board of Directors hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: California Environmental Quality Act (CEQA) Determination. Under the EIR that was completed upon the formation of the Scotia Community Services District, a determination was made that the District would not result in a significant environmental impact. This ordinance is also exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 4: Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 5: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: 1/18, 2018

ATTEST:

Julie Thomas
Clerk, Scotia Community Services District

APPROVED:

Ralph J. Walsh
President, Scotia Community Services District

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 2018-1, passed and adopted at a regular meeting of the Board of Directors of the Scotia Community Services District, Humboldt County, California on the 18th day of January, 2018, by the following vote:

AYES: Bristol, Pitcairn, Newmaker, Pryor, Walsh

NOES: Ø

ABSENT: Ø

ABSTENTIONS: Ø

Julie Thomas
Clerk, Scotia Community Services District