

Code Ordinance

By: Police Department
Introduced: August 14, 2023
Public Hearing: August 28, 2023
Adopted: August 28, 2023
Yes: Brown, Rubeo, Sullivan-Leonard, Velock
No: Graham, Johnson
Absent: None

**City of Wasilla
Ordinance Serial No. 23-18**

An Ordinance Of The Wasilla City Council Amending Wasilla Municipal Code (WMC) Chapter 5.40, Entitled "Disposition Of Property In Possession Of Police Department" To Amend WMC 5.40.010 "Disposable Property-Definitions" To Update General Definitions And Define Valuable Found Property, Safekeeping Property, And Apparent Ownership To Subject Found Property Valued At \$100 Or More To Notice And Return Procedures; Amend WMC 5.40.020 "Notice Of Possession" To Authorize Notifications On The City Website And Social Media And Clarify Notice Requirements For Valuable Found Property And Safekeeping Property; Amend WMC 5.40.030 "Disposition" And Repeal WMC 5.40.050 "Notification Of Sale Costs Fee" To Authorize Return Of Valuable Found Property To Finder Upon Proper Request Without Cost; And Repealing WMC 5.40.040 "Dedication Of Abandoned, Stolen Or Found Bicycles" To Subject Bicycles To The Same Disposition As Other Property; Amend WMC 5.40.060 "Dangerous Or Perishable Property Or Property Of Minimum Value-Immediate Disposal" To Authorize Post-Disposal Notice; And Amending WMC Section 1.04.010 "Definitions" To Add A Definition For "Newspapers Of General Circulation" That Includes The City Of Wasilla Website And Social Media Page."

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the Wasilla Municipal Code.

Section 2. Amendment of Section. WMC 1.04.010, Definitions, is hereby amended to read as follows:

"Borough" means the Matanuska-Susitna Borough, Alaska.

"Business day" means a calendar day on which the city's administrative offices are open to provide general services to the public.

"Calendar day" means any day, including Saturdays, Sundays and holidays.

"City" means the city of Wasilla, Alaska.

"Code" means the Wasilla Municipal Code, including all amendments and additions.

"Council" means the city council of the city.

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“Department” means a department, office or agency of the city.

“Department head” means the chief administrative officer of a department.

“Election” means a regular, special or run-off city election.

“Fiscal year” means the fiscal year of the city, which begins on July 1 and ends on June 30 of the following year.

“Law” means the Constitution, statutes and regulations of the United States and the state, the applicable ordinances of the borough, the ordinances of the city, and the applicable common law.

“Majority” means a simple majority.

“May” is permissive.

“Mayor” means the mayor of the City or the Mayor’s designee~~mayor of the city~~.

“Motor vehicle” has the same meaning as in AS 28.90.990.

“Newspaper of general circulation” for purposes of this Code includes any publication that distributes news to the general public that is not primarily intended for a specific professional or occupational group or distinct group of the population and which is accessible by the public in hard copy or via the internet at the public library and City Hall. A newspaper of general circulation includes, but is not limited to, the Frontiersman, the City website, and the City social media page.

“Owner, record owner, or owner of record” means, with respect to real property, the owner of record or purchaser of record as shown in the records of the district recorder.

“Person” means a public or private corporation, political subdivision, partnership, association, firm, trust, estate, or any other entity, as well as a natural person.

“Personal property” means all property other than real property.

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"Property" means real and personal property.

"Public right-of-way" means the entire width between the property lines of every way for which a legal right exists for public use.

"Published" means the setting forth of any matter for public notice in the manner provided for by law.

"Real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.

"Roadway" means the portion of a street improved for vehicular travel, including shoulders, or, where curbs are laid, the portion of the street between the curbs.

"Shall" is mandatory.

"State" means the state of Alaska.

"Street" means a right-of-way that is reserved or dedicated for public use for vehicular and pedestrian travel.

Section 3. Amendment of Section. WMC 5.40.010, Disposable property - Definitions, is hereby amended to read as follows:

~~Except as otherwise required by law, the following property in possession of the police department may be disposed of as provided in this chapter.~~ **The following words or phrases, when used in this chapter, shall have the meanings set forth in this section:**

A. "Apparent owner" of property held by the Wasilla Police Department and governed by this chapter means a person whose name appears on the records of the Wasilla Police Department as the person entitled to that property. If no name appears on the records of the Wasilla Police Department identifying the person entitled to the property, the

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apparent owner shall be the person with a right to possess and use the property superior to the rights of any other persons.

B. "Found minimum-value property" means any personal property received or found by the Wasilla Police Department with a fair market resale value of less than \$100 as reasonably determined by the Police Chief.

C. "Police chief" means the Chief of Police of the Wasilla Police Department or the Police Chief's designee.

D. "Police department" means the Wasilla Police Department or any City employee or official acting on behalf of the Wasilla Police Department.

~~A. *Disposable Property*. The term "disposable property," as defined below, is not intended to include those classes of intangible property within the scope of AS 34.45.110 through 34.45.430, generally providing for certain abandoned commercial paper to be referred to the custody and disposition of the state. Such intangible property within the scope of state law includes checks, money orders, bank deposits, life insurance proceeds, utility deposits, stocks, gift certificates, wages, and items held in a safekeeping repository.~~

~~"Disposable property," as used in this chapter, does not include a vehicle licensed to be driven on the streets. "Disposable property" is any other personal property in possession of the police department which cannot be identified to an owner, and shall include, but not be limited to:~~

~~1. Property collected as evidence and not claimed by the owner within 30 days after final disposition of the criminal case to which it pertains;~~

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~~2. Property voluntarily tendered to the police department and not claimed by the owner within 30 days thereafter;~~

~~3. Property found and delivered to the police department and not claimed by the owner within 30 days thereafter; or~~

~~4. Stolen property recovered by the police department and not claimed by the owner within 30 days after such recovery.~~

~~B. *Lawful Ownership*. Lawful ownership," as used in this chapter, means the right to possession and use of the property superior to the rights of any other persons and entities who are known to claim lawful ownership.~~

E. "Safekeeping Property" means any non-evidentiary property in the possession of the Police Department placed into temporary custody on behalf of the apparent owner of that property. The term "safekeeping property" does not include a vehicle licensed to be driven on the streets. Evidentiary Property shall be non-evidentiary beginning on the date final judgment is issued by the court in the criminal case involving the property or apparent owner of the property.

F. "Valuable found property" means any personal property received or found by the Police Department with a fair market resale value of \$100 or more as reasonably determined by the Police Chief. "Valuable found property" includes, but is not limited to:

1. Property voluntarily tendered to the police department and not claimed by the owner within 30 days thereafter;

2. Property found and delivered to the police department and not claimed by the apparent owner within 30 days after it has been delivered to the police department; or

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3. Stolen property recovered by the police department and not claimed by the apparent owner within 30 days after the property is eligible to be released by law.

"Valuable found property" does not include property subject to State of Alaska custody and disposition requirements under AS 34.45.110 through 34.45.430.

Section 4. Amendment of Section. WMC 5.40.020, Notice of Possession, is hereby amended to read as follows:

A. The Police Chief~~chief of police~~ shall publish identification of valuable found property on the City website or the City social media page for a period of at least 30 days ~~in a local newspaper on two occasions within a 30-day period a notice of possession of disposable property.~~ During the same time period the ~~chief of police~~ Police Chief shall send copies of the notice by certified mail ~~(return receipt requested)~~ to the last known apparent owner and to the finder, if any, at their respective last known address, unless the intended recipient of the notice waives notification by mail and consents to receipt of notice by telephone or email, ~~if any.~~

B. The Police Chief shall mail notice to the apparent owner of safekeeping property when such property becomes eligible for release. Notice under this subsection shall be mailed to the address identified by the apparent owner or their representative at the time the property was taken into possession by the Police Department. Safekeeping property will be considered unclaimed and abandoned if the apparent owner of the property does not take possession of it 30 days or less after the date of the written notice required under this section.

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C. Except as otherwise provided in this section, abandoned safekeeping property shall be disposed of in the same manner provided in WMC 5.40.030. The Police Department shall constitute the finder of the abandoned safekeeping property.

D B. Every notice of possession mailed or published pursuant to this section shall contain the following:

1. A general description of the property and case number associated with the property;

2. The date the police department first obtained possession of the property;

3. Notice ~~The provision that~~ the identified property must be claimed no more than 30 days from the date of the notice and that property unclaimed 30 days after the date of the notice shall constitute abandoned safekeeping property subject to disposal as provided in WMC 5.40.030 ~~unclaimed property will be sold at public auction and the proceeds will be applied to the crime prevention unit of the police department; and~~

4. Notice ~~The provision that~~ cash money that remains unclaimed for 30 days after the date of the notice constitutes abandoned and unclaimed property and may be deposited into the City treasury and become property of the city ~~unclaimed property, if money, will be paid into the city treasury;~~

5. ~~The provision that the property must be claimed by the owner within 30 days after the last date on which the notice is published; and~~

6. ~~The provision that the finder will forfeit all of his or her right, title, interest and claim in and to found property or money unclaimed by the owner~~

Bold & Underline, added. Strikethrough, deleted

~~unless the finder files a written request with the chief of police for return of the unclaimed property within 30 days after the last date on which the notice is published.~~

EG. The Police Chief shall have the discretion to identify records and documents sufficient to prove apparent ownership of property governed by this chapter. ~~Any claim to lawful ownership, in response to the publication provided for above or otherwise, shall be verified by proof of lawful ownership and~~
A the claimant of property governed by this chapter shall bear the burden of proving lawful ownership **or right of possession.**

Section 5. Amendment of Section. WMC 5.40.030, Disposition, is hereby amended to read as follows:

If the property is unclaimed by the lawful owner **or finder, if any,** after the publication and ~~/or~~ mailing of the notice of possession and the expiration of the time periods as required by WMC 5.40.020 **has expired,** the property shall be disposed of as follows:

A. **Valuable found** Found property, including money, shall be returned to the finder, if any, upon condition that a timely request **so long as the finder submits a completed request for recovery of the valuable found property on a form and in the manner required by the Department** ~~for such has been received by the police department~~ **at the time the valuable found property was submitted to the Department.** However in **In** no event shall the return **of valuable found property** to the finder be understood as a termination of ~~the~~ **terminate, alter or in any way impact** finder's **responsibilities under federal, state or local law.** ~~responsibility pursuant to state, federal, municipal statutory or common law.~~

Bold & Underline, added. Strikethrough, deleted

B. All property, other than money, which is not addressed by subsection (A) of this section shall be subject to a claim by the ~~chief of police~~ **Police Chief** that retention of such property for use by the city will serve the public interest. Weapons so claimed by the ~~chief of police~~ **Police Chief** may be used for trading or bartering in order to acquire equipment for police use. If the ~~chief of police~~ **Police Chief** does not make such a claim, the property that is legal for private ownership and not precluded by court order, shall be sold at a public auction. The proceeds from that sale, shall be quantified and reported to the city council for allocation pursuant to the annual budget process and, unless otherwise determined, shall be budgeted for the crime prevention, **reserve, or explorer's** unit of the police department. Unclaimed or unreturned money shall be paid into the city treasury.

C. *Sale of Property.*

~~1. An auction under this section must be preceded by a single publication of notice, at least three weeks in advance of the sale, in a newspaper of general circulation in the general area of Wasilla, Alaska.~~

1.2. Sale of an item of **unclaimed** abandoned property shall be to the highest **qualified** bidder **by public auction**. However, the **The city may establish a minimum bid amount for unclaimed property and refuse to sell unclaimed property for less than that amount. If the minimum bid is not met at public auction, the city may dispose of the unclaimed property in any lawful manner, including but not limited to the destruction or disposal of the unclaimed property.** ~~city may decline the highest bid and reoffer the property for sale if in the judgment of the city the bid is insufficient. Property unsold shall become the property of the city and may be disposed of in any lawful manner.~~

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2 3. Unless expressly stated by the City in a notice of public auction, all unclaimed property sold at auction is sold “as is” and the City makes no guarantees regarding the property or any liens existing on that property. ~~The purchaser of property at a sale undertaken pursuant to this ordinance takes the property free of all claims of the persons or entities or the previous holder of the property and of all persons claiming through or under them. The city is **authorized** empowered to execute any documents necessary or desirable to complete the transfer of ownership.~~

Section 6. Repeal of Section. WMC 5.40.040, Dedication of abandoned, stolen or found bicycles, is hereby repealed.

~~5.40.040 Dedication of abandoned, stolen or found bicycles.~~

~~Any bicycle in the possession of the police department not claimed for 90 days, and for which the owner is not known, may be dedicated to public use or benefit as determined by the mayor or his or her designee.~~

Section 7. Repeal of Section. WMC 5.40.050, Notification and sale costs fee, is hereby repealed:

~~5.40.050, Notification and sale costs fee.~~

~~Before returning property to a finder or owner, and before delivering money to the city, the chief of police shall require a reasonable fee from the person receiving the property or money delivered for the costs of notice, publication and sale attributable to the property or money delivered. The proceeds from that fee shall be deposited into the city account.~~

Section 8. Amendment of Section. WMC 5.40.060, Dangerous or perishable property or property of minimal value-Immediate disposal, is hereby amended to read as follows:

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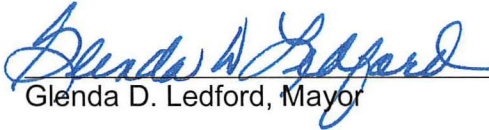
A. ~~Property in the possession of the police department and determined by the chief of police to be p~~Perishable or property that ~~or to constitutes~~ an immediate danger to the public may be disposed of immediately in any manner without notice of sale. Notice of disposal of property destroyed under this subsection shall be sent to the finder and apparent owner, if known, of the property no more than 10 business days after the destruction of the property.

B. Found minimum-value p~~Property of minimal value insufficient to justify the expense and administrative time associated with the procedure set forth herein may be disposed of in any manner without notice of sale. Proceeds of any such disposition shall be subject to this chapter.~~

C. ~~Without limitation, property of less than \$100.00 fair market resale value shall be presumed to be property of minimal value pursuant to this section.~~

Section 9. Effective Date. This ordinance shall take effect upon adoption.

ADOPTED by the Wasilla City Council on August 28, 2023.


Glenda D. Ledford, Mayor

ATTEST:


Jamie Newman, MMC, City Clerk

[SEAL]

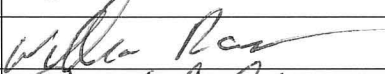




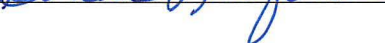
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City of Wasilla
Legislative Staff Report
Ordinance Serial No. 23-18
(Code Ordinance)

Amending Wasilla Municipal Code (WMC) Chapter 5.40, Entitled "Disposition Of Property In Possession Of Police Department" To Amend WMC 5.40.010 "Disposable Property-Definitions" To Update General Definitions And Define Valuable Found Property, Safekeeping Property, And Apparent Ownership To Subject Found Property Valued At \$100 Or More To Notice And Return Procedures; Amend WMC 5.40.020 "Notice Of Possession" To Authorize Notifications On The City Website And Social media And Clarify Notice Requirements For Valuable Found Property And Safekeeping Property; Amend WMC 5.40.030 "Disposition" And Repeal WMC 5.40.050 "Notification Of Sale Costs Fee" To Authorize Return Of Valuable Found Property To Finder Upon Proper Request Without Cost; And Repealing WMC 5.40.040 "Dedication Of Abandoned, Stolen Or Found Bicycles" To Subject Bicycles To The Same Disposition As Other Property; Amend WMC 5.40.060 "Dangerous Or Perishable Property Or Property Of Minimum Value-Immediate Disposal" To Authorize Post-Disposal Notice; And Amending WMC Section 1.04.010 "Definitions" To Add A Definition For "Newspapers Of General Circulation" That Includes The City Of Wasilla Website And Social Media Page."

Originator: City Attorney for Police Chief
Date: 7/24/2023

Agenda of: 8/14/2023

Route to:	Department Head	Signature	Date
X	Chief of Police		8/7/23
X	Finance Director		8/6/23
X	Deputy Administrator		8/4/23
X	City Attorney		8/28/23
X	City Clerk		8/4/23
X	Mayor		8/7/23

Fiscal Impact: ☒ yes or ☐ no

Attachments: Ordinance Serial No. 23-18 (11 pages)

Summary Statement: The purpose of the Ordinance is to modernize the terms and procedures used by the City of Wasilla ("City") to dispose of property in the possession of the Wasilla Police Department ("Department") to ensure that the City's laws regarding personal property held by the Department: 1) reflect best practices for property disposition held by a police department and 2) protect the public's best interests and the interests of property owners while ensuring efficient use of Department resources.

Specifically, the Ordinance:

1. Defines what constitutes "safekeeping property," "valuable found property," and other related definitions to ensure that notice, return, and reporting requirements are limited to valuable found property, which is property with a value of \$100 or more, rather than

property where the costs of publication, storage and disposition would exceed the resale value of the property.

2. Authorizes the Department to post notice on the City website and social media page, which currently have a follower count of approximately 16,000 people. The Department has routinely utilized its social media presence to provide the public with important notices and information in recent years with much success. It also reduces, if not eliminates, the Department's publication costs.
3. Authorizes a finder of valuable property to have the property found returned to them without cost. While these revisions maintained the Department's discretion to retain certain found property when it serves the best interests of the City (for example, found firearms), the Ordinance proposes a clear procedure for returning found property to the finder and makes the request for return procedure user-friendly to ensure more good Samaritans receive the unclaimed valuable found property that they diligently turned in to the Department.
4. The Ordinance revises the Code to ensure uniform and consistent storage, return, auction, and destruction of valuable property and clarify the Department's ability to dispose of property of minimum value without expending substantial resources on notice and auction procedures. Similarly, it eliminates special storage and retention procedures for bicycles, allowing them to be addressed in the same manner and subject to the same protections as other personal property in the Department's possession.

Proposed Action: Introduce and set the Ordinance for public hearing.