

CLERK'S OFFICE
APPROVED

Date: 9-29-09

ANCHORAGE, ALASKA
AO No. 2009-111

1 **AN ORDINANCE REPEALING AND RE-ENACTING ANCHORAGE**
2 **MUNICIPAL CODE CHAPTER 7.25 REGARDING THE DISPOSITION OF**
3 **DISPOSABLE PROPERTY.**
4

5
6 **THE ANCHORAGE ASSEMBLY ORDAINS:**
7

8 **Section 1.** Anchorage Municipal Code chapter 7.25 is hereby repealed in its
9 entirety and re-enacted to read as follows:
10

11 **CHAPTER 7.25 DISPOSITION OF DISPOSABLE PROPERTY.**

- 12 7.25.010 Purpose and General Procedure.
13 7.25.020 Definitions.
14 7.25.030 Disposable Property.
15 7.25.040 Courtesy notice of possession of disposable property.
16 7.25.050 Public notice of disposable property.
17 7.25.060 Written notice of possession of disposable property.
18 7.25.070 Retrieval of disposable property other than firearms and
19 ammunition.
20 7.25.080 Retrieval of disposable property in the form of firearms and
21 ammunition.
22 7.25.090 Forfeiture of disposable property to the Municipality of
23 Anchorage.
24 7.25.100 Disposition of unclaimed disposable property other than
25 firearms and ammunition.
26 7.25.110 Disposition of unclaimed disposable property in the form of
27 firearms and ammunition.
28 7.25.120 Reimbursement of fees.
29 7.25.130 Disposition of destructible property.
30 7.25.140 Certification of disposition of unclaimed disposable property.

31
32 **7.25.010 Purpose and General Procedure.**
33

- 34 A. *Purpose:* The purpose of this chapter is to provide for the
35 disposition of disposable and destructible property that comes into
36 the possession of the Anchorage Police Department.
37
38 B. *General Procedure:*
39 1. Upon receipt by the Anchorage Police Department of
40 property governed by this chapter the property shall be

- 1 classified as evidence, found, or safekeeping.
2 2. Property classified as evidence, found, or safekeeping shall
3 become disposable property as set forth in
4 section 7.25.030 A., except as otherwise provided in
5 section 7.25.030 B.
6 3. When property becomes disposable property the Anchorage
7 Police Department shall provide notice as provided under
8 section 7.25.050 and section 7.25.060.
9 4. Disposable property not claimed and retrieved by an owner
10 or finder in conformance with this chapter shall be forfeited
11 to the Municipality as unclaimed disposable property
12 pursuant to section 7.25.090.
13

14 **7.25.020** **Definitions.**

15 For the purposes of this chapter, unless otherwise provided, the following
16 words when used in this chapter, shall have the meanings ascribed to
17 them in this section:
18

19 *Ammunition* means fixed ammunition or cartridge cases, primers, bullets,
20 shotgun shells, or propellant powder designed for use in any firearm,
21 including antique firearms, or armor piercing ammunition.
22

23 *Antique firearm* has the same definition as 18 U.S.C. § 921(a)(16) and
24 amendments thereto.
25

26 *Bicycle* means any wheeled device primarily designed to be propelled by
27 human power, including tricycles and unicycles, platform scooters and
28 may be motor-driven assisted.
29

30 *Biohazard* means infectious agents, microorganisms, blood borne
31 pathogens, or hazardous biological materials, or chemicals that present a
32 risk, potential risk, or a hazardous condition to the health of humans,
33 animals or the environment.
34

35 *Chief of police* means the Anchorage Police Department chief of police or
36 an authorized designee.
37

38 *Child pornography* has the same meaning as set forth in 18 U.S.C. § 2256
39 and amendments thereto.
40

41 *Claim date* means the date 10 days after the disposition deadline date.
42

43 *Collectible item* means money, ingots, a precious metal commodity,
44 artifact or any other item considered collectible or perceived to have an
45 above average monetary market value.
46

1 *Community based non-profit organization* means a fraternal, charitable,
2 religious, benevolent, or other non-profit organization, actively operating in
3 the Municipality of Anchorage, and is exempt from taxation under the
4 Internal Revenue laws of the United States as a fraternal, charitable,
5 religious, or benevolent organization.

6
7 *Contraband* means any property, excluding firearms and ammunition,
8 exported or imported in violation of law, or any property the possession of
9 which constitutes a violation of law or is otherwise prohibited, including
10 controlled substances and drug evidence.

11
12 *Controlled substance* means a drug, substance, or immediate precursor
13 included in the schedules set out in AS 11.71.140 through 11.71.190.

14
15 *Counterfeit or altered currency* means evidence that is transferred to the
16 United States Secret Service, and will not be subject to a claim by an
17 owner or finder, or subject to destruction.

18
19 *Dangerous or perishable property* means any designation of property in
20 the possession of the Anchorage Police Department determined to be
21 perishable, or an immediate danger, inclusive of damaged or corroded
22 ammunition, fireworks, and all forms of gun powder, or any biohazard that
23 poses a risk to municipal employees or the general public.

24
25 *Destroy* means destruction or rendering incapable for use, and
26 permanently disposing of property by any lawful means.

27
28 *Destructible property* means:

- 29
30 1. Dangerous or perishable property or property determined to
31 be a biohazard;
32 2. Forensic evidence retained until completion of the final
33 judicial, quasi-judicial or adjudicatory disposition date;
34 3. Property ordered to be destroyed either by a court or
35 pursuant to a plea bargain agreement;
36 4. Contraband, unclaimed personal property, drug evidence,
37 controlled substances, or child pornography;
38 5. Property, determined by the Anchorage Police Department
39 to be unserviceable, junk, or waste, or with insubstantial fair
40 market value;
41 6. Prescription or over-the-counter medication;
42 7. Any firearm or weapon determined by an Anchorage Police
43 Department or State of Alaska armorer, bomb disposal
44 officer, or an authorized United States Department of
45 Treasury Official to be:
46

- 1 a. Unlawful to own or possess under federal or state
- 2 law.
- 3 b. Utilized in a homicide, including a suicide.
- 4 c. Unsafe, a biohazard, or presents an immediate or
- 5 potential risk of endangerment to the public.
- 6 d. Any part of a firearm causing the sale of the firearm to
- 7 be prohibited by federal or state law; and
- 8

- 9 8. Any unclaimed disposable property, the chief of police does
- 10 not claim and the purchasing officer is unable to dispose of
- 11 through sale, trade, or barter, may be deemed destructible
- 12 property.
- 13

14 *Destruction* means to destroy or permanently render unserviceable any

15 property, by any means, creating a state of substantial irreparability, ruin,

16 or disassembly.

17

18 *Digital media* means any storage device capable of holding digital data,

19 including hard and optical discs and USB drives.

20

21 *Disposable property* means property in the possession of the Anchorage

22 Police Department, excluding destructible property and impounded

23 motorized vehicles that may be lawfully returned to an owner or finder, or

24 disposed of by any means after meeting the retention periods set forth in

25 this chapter.

26

27 *Disposition deadline date* is 30 days after the posted date of a public

28 notice of disposable property which is eligible for recovery by an owner,

29 finder or authorized representative.

30

31 *Drug evidence* has the same meaning for items, excluding real property,

32 subject to forfeiture as defined under AS 17.30.110.

33

34 *Drugs* mean prescription medication, over-the-counter medication, or

35 controlled substances.

36

37 *Evidence* means any property collected, found, recovered, seized, or

38 otherwise comes into the custody of the Anchorage Police Department,

39 and retained for any criminal or internal investigation, judicial, quasi-

40 judicial, or adjudicatory proceedings.

41

42 *Fair market value* means the value reasonably expected for any

43 unclaimed disposable property disposed of under this chapter.

44

45 *Final judicial, quasi-judicial or adjudicatory disposition date* means the

46 date when all adjudicatory, quasi-judicial, and court appeals have been

1 exhausted or the appeal period has expired, for each referenced case and
2 for all persons charged or associated with the evidence in possession of
3 the Anchorage Police Department.
4

5 *Finder* means the person identified on an official police report who
6 discovered non-evidentiary found property.
7

8 *Firearm* means any device designed for or capable of delivering a
9 projectile using an explosive as a propellant, including an antique firearm,
10 pistol, rifle, shotgun, revolver or similar device. A firearm does not include
11 toy guns or guns utilizing an elastic band, compressed gas, or air to deliver
12 a projectile.
13

14 *Forensic evidence* means evidence collected that may be scientifically
15 testable, may contain organic or inorganic biological properties, may have
16 been chemically treated, or collected with the intent to conduct a scientific
17 examination for evaluation or discussion and has potential for presentation
18 in a internal investigation, judicial, quasi-judicial or adjudicatory
19 proceeding.
20

21 *Found* means non-evidentiary property held by the Anchorage Police
22 Department as lost or abandoned property.
23

24 *Insubstantial fair market value* means unclaimed disposable property the
25 Anchorage Police Department determines to have a fair market value of
26 \$50.00 or less.
27

28 *Money* means any domestic or foreign currency or comparable medium of
29 exchange currently in circulation, has value, and is generally accepted by
30 a financial institution.
31

32 *Motor vehicle* has the same meaning as defined under section 9.04.010,
33 excluding motor assisted bicycles, battery operated toys, or machines
34 designed as children's toys or for assisting pedestrian transportation.
35

36 *Over-the-counter medication* means any substance that may be lawfully
37 sold over the counter without a prescription, under 21 U.S.C. §§ 301-399a
38 (Federal Food, Drug, and Cosmetic Act) and 21 C.F.R. § 1308.22, and
39 any amendments thereto.
40

41 *Owner* means a person, the legal representative of a person, or an
42 authorized representative of a business with a legal or equitable interest in
43 disposable property, who produces proof of ownership acceptable to the
44 Anchorage Police Department.
45

46 *Owner and finder notice of possession* means a letter advising a known

1 owner, or any finder that the Anchorage Police Department is in
2 possession of disposable property which may be returned for which they
3 may have an ownership interest.
4

5 *Personal property* means property in the form of personal identification,
6 credit, debit, or bank cards, personal credentials, financial or legal
7 documents, mail, photographs, cell phones and devices containing digital
8 media, keys, grooming materials, purses, backpacks, and similar items.
9

10 *Posted date* means the first published date of an itemized list of
11 disposable property which is eligible for disposition or recovery by an
12 owner, finder or authorize representative.
13

14 *Prescription medicine* means a licensed drug or narcotic regulated by
15 legislation to require a prescription before it can be obtained and intended
16 to distinguish it from over the counter drugs which can be obtained without
17 a prescription.
18

19 *Prohibited person* means any person under federal, state, or municipal law
20 prohibited from actual or constructive possession of a firearm. A
21 prohibited person may still have an ownership interest in the firearm that
22 may be transferred.
23

24 *Property* means all tangible items, excluding impounded motorized
25 vehicles, in the possession of the Anchorage Police Department classified
26 as evidence, found, or safekeeping.
27

28 *Public notice of disposable property* means a printed notice and an
29 electronically accessible document containing information and an itemized
30 list of property in the possession of the Anchorage Police Department that
31 may be disposed of or is lawful to return to an owner, finder, or other
32 authorized representative.
33

34 *Safekeeping* means any non-evidentiary property in the possession of the
35 Anchorage Police Department placed into temporary custody on behalf of
36 a known owner.
37

38 *Unclaimed disposable property* means any disposable property in the
39 possession of the Anchorage Police Department forfeited by a court or
40 judicial proceeding, or not claimed by or timely retrieved by an owner or
41 finder after the disposition deadline date.
42

43 *Unsafe* means a state or condition of property reasonably determined
44 prima facie or through a professional conclusion, opinion or decision that it
45 is dangerous or liable to cause or inflict injury, harm, or death, or may
46 pose a significant risk of endangerment to the public.

1
2 *Weapon* means any item traditionally used as a weapon, except firearms
3 and ammunition, and includes a chemical dispensing device, bow, club,
4 baton, crossbow, knife, metal knuckles, martial arts weapon, stun guns or
5 a gun which uses compressed air to deliver any projectile, or any
6 explosive component or destructive device.
7

8 **7.25.030** **Disposable property.**
9

10 A. Property classified by the Anchorage Police Department as
11 evidence, found, or safekeeping property shall become disposable
12 property after expiration of the following retention periods:
13

- 14 1. Property classified as evidence shall become disposable
15 property
16 a. 30 days after it is no longer required for purposes of
17 investigation; or
18 b. If it is presented in a criminal, civil, or administrative
19 proceeding, 30 days after the final judicial, quasi-
20 judicial or adjudicatory disposition date.
21 2. Property classified as found shall become disposable
22 property 10 days after coming into the custody of the
23 Anchorage Police Department.
24 3. Property classified as safekeeping shall become disposable
25 property 10 days after coming into the custody of the
26 Anchorage Police Department.
27

28 B. The following property in possession of the Anchorage Police
29 Department is not subject to subsection A. above, and shall
30 immediately become destructible property:
31

- 32 1. Contraband evidence where there is no defendant, active
33 investigation or prosecution; or
34 2. Dangerous or perishable property.
35

36 **7.25.040** **Courtesy notice of possession of disposable property.**
37

38 A. The Anchorage Police Department may notify the last known owner
39 of disposable property, through a courtesy notice of possession,
40 that disposable property is available for retrieval.
41

42 B. A courtesy notice of possession may be by telephone, e-mail, fax,
43 or by mail.
44

45 C. No legal obligation shall be attached to the Anchorage Police
46 Department for failure to provide notice under this section.

1
2 **7.25.050** **Public notice of disposable property.**
3

4 A. The Anchorage Police Department shall publish, as deemed
5 necessary, a public notice of disposable property in a newspaper or
6 other publication of general circulation once a week over the period
7 of four weeks beginning on the first Wednesday of the published
8 month.
9

- 10 1. The notice shall be titled "Anchorage Police Department,
11 Announcement of Disposable Property, Notice and Listing."
12 2. The notice shall advise the public that the department is in
13 possession of disposable property along with the physical
14 and internet locations where lists of disposable property may
15 be viewed.
16

17 B. The Anchorage Police Department shall also:
18

- 19 1. Post monthly on the department's internet website any list(s)
20 of disposable property and include any other internet
21 websites, links, or physical locations where the public may
22 view the list(s) of disposable property;
23 2. Provide in the posting the final claim date, the item number,
24 general description, information and the manner, including
25 any restrictions, in which an owner or finder may recover
26 disposable property; and
27 3. Provide in the posting that disposable property not retrieved
28 by the claim date shall be forfeited to the Municipality of
29 Anchorage as unclaimed disposable property.
30

31 C. This section does not apply to items of \$50 or less, forensic
32 evidence, destructible, dangerous or perishable property, items
33 forfeited by a court, money payable on traveler's checks, money
34 orders, and other instruments presumed abandoned.
35

36 **7.25.060** **Written notice of possession of disposable property.**
37

38 A. The Anchorage Police Department shall, except as provided in
39 subsection D. below, provide a written notice of possession of
40 disposable property to the last known owner and any finder of
41 disposable property concurrently with posting a notice of disposal
42 property under section 7.25.050 B.
43

44 B. The written notice of possession of disposable property shall be
45 sent certified mail to the last known address of the owner and any
46 finder, or if the owner or finder is incarcerated, sent via fax, in lieu

1 of certified mail, to the correctional institution where the owner or
2 finder may reside.

3
4 C. The final notice of possession shall contain the information required
5 by section 7.25.050 B.

6
7 D. This section does not apply to items of \$50 or less, forensic
8 evidence, destructible, dangerous or perishable property, items
9 forfeited by a court, money payable on traveler's checks, money
10 orders, and other instruments presumed abandoned.

11
12 **7.25.070 Retrieval of disposable property other than firearms and**
13 **ammunition.**

14
15 A. All disposable property is subject to civil and criminal asset
16 forfeiture prior to release to an owner or finder.

17
18 B. Retrieval of disposable property by an owner or finder shall be
19 accomplished by the claim date.

20
21 C. The finder of a bicycle may not retrieve the found bicycle. If the
22 found bicycle is not retrieved by the owner, it shall be forfeited to
23 the Municipality of Anchorage as unclaimed disposable property.

24
25 **7.25.080 Retrieval of disposable property in the form of firearms**
26 **and ammunition.**

27
28 A. All firearms and ammunition are subject to civil and criminal asset
29 forfeiture prior to release to an owner or finder.

30
31 B. The owner of a firearm or ammunition shall be permitted to retrieve
32 a firearm or ammunition if:

- 33
34 1. The retrieval of the firearm and ammunition is accomplished
35 by the claim date;
36 2. The firearm or ammunition is lawful to possess; and
37 3. The owner or finder is not identified as a prohibited person.

38
39 C. If the owner of a firearm or ammunition is identified as a prohibited
40 person, the owner shall be prohibited from retrieving the firearm or
41 ammunition. However, the prohibited person may:

- 42
43 1. Transfer full and complete ownership interest, including all
44 rights, title and interest, in the firearm and ammunition to a
45 non-prohibited person or the Anchorage Police Department;
46 2. Arrange for the Anchorage Police Department to release the

1 firearm and ammunition to a federally licensed firearms
2 dealer for the sole purpose of sale.
3

4 D. The finder of a firearm or ammunition not designated as evidence
5 may retrieve the firearm or ammunition if:
6

- 7 1. The owner of the firearm or ammunition does not retrieve the
8 firearm or ammunition pursuant to subsection B. above;
- 9 2. The finder delivers a letter to the Chief of Police requesting
10 the firearm or ammunition prior to the disposition deadline
11 date;
- 12 3. The firearm or ammunition is retrieved by the claim date and
- 13 4. The finder is not identified as a prohibited person. Any finder
14 identified as a prohibited person shall not be entitled to any
15 claim, possession, constructive possession or any ownership
16 interest in any found firearm or ammunition.
17

18 **7.25.090 Forfeiture of disposable property to the Municipality of**
19 **Anchorage.**
20

21 All disposable property, including firearms and ammunition, forfeited by a
22 court or judicial proceeding, or not retrieved by the owner or finder by the
23 claim date shall be deemed forfeited to the Municipality of Anchorage and
24 disposed of as unclaimed disposable property.
25

26 **7.25.100 Disposition of unclaimed disposable property, other**
27 **than firearms and ammunition.**
28

29 A. Unclaimed disposable property forfeited to the Municipality
30 pursuant to section 7.25.090 shall be governed by this section.
31

32 B. The purchasing officer shall authorize the disposition of unclaimed
33 disposable property as follows:
34

- 35 1. Unclaimed disposable property, excluding money and
36 collectible items, shall be subject to a claim by the chief of
37 police for retention, use, trade or bartering.
- 38 2. Unclaimed disposable property, excluding forensic evidence,
39 destructible, dangerous and perishable property and
40 property not claimed by the chief of police, may be disposed
41 of by the purchasing officer through destruction, sale, trade,
42 bartering, donation to a community based non-profit
43 organization, or through an agreement or contract.
- 44 3. Unclaimed disposable property in the form of money,
45 excluding collectable and foreign currency, shall be delivered
46 to the municipal treasurer for deposit into the Anchorage

1 Metropolitan Police Service Area Fund.

2 4. Collectable and foreign currency or a collectable item may
3 be disposed of by sale with the proceeds deposited into the
4 Anchorage Metropolitan Police Service Area Fund.

5
6 C. Upon approval by the purchasing officer, any unclaimed disposable
7 property claimed under subsection B.1. shall be used for:

- 8
9 1. Anchorage Police Department use, issue, training, or parts;
10 or,
11 2. Any municipal use.

12
13 D. Unclaimed disposable property that is determined to be forensic
14 evidence, digital media or personal property or is property the
15 purchasing officer is unable to dispose of through sale, trade, or
16 barter may be disposed of as destructible property in conformance
17 with section 7.25.130.

18
19 **7.25.110 Disposition of unclaimed disposable property in the**
20 **form of firearms and ammunition.**

21
22 A. Except as provided in subsection B., C., and D. below, unclaimed
23 disposable property in the form of firearms and ammunition
24 forfeited to the Municipality pursuant to section 7.25.090 shall be
25 disposed of by:

- 26
27 1. A public sale not limited to firearms dealers;
28 2. Trade-in for credit in the purchase of firearms; or
29 3. Transfer to a state or municipal law enforcement agency,
30 including the Anchorage Police Department.

31
32 B. If federal or state gun laws or regulations prohibit the sale of a
33 particular firearm under subsection A. above, the purchasing officer
34 shall:

- 35
36 1. Arrange for the sale of the firearm to a firearms dealer who
37 has the appropriate federal license to buy the firearm;
38 2. Trade-in or transfer of the firearm under subsections A.2.
39 and A.3. above; or
40 3. Order the firearm to be dismantled, destroying those firearm
41 parts causing the sale of the firearm under subsection A to
42 be prohibited, and disposing of the other parts of the firearm
43 under subsection A.

44
45 C. Notwithstanding subsection A. or B. above, no firearm, firearm part,
46 or ammunition shall be sold if the condition of the firearm, firearm

1 part, or ammunition is not functional for its intended use, is in
2 obvious disrepair or damage, is in an unsafe condition, or has no
3 residual value as a separate piece part. Nor shall a sale be
4 conducted that invalidates the protections afforded the Municipality
5 under AS 18.65.340(e).

- 6
7 D. Firearms used in the commission of a homicide, including a suicide,
8 are exempt from the provisions of this section and shall be
9 disposed of in accordance with section 7.25.130 A., or in
10 accordance with a judicial order or plea agreement.
11
12 E. The provisions of this section do not apply to firearms or
13 ammunition the Anchorage Police Department may agree to
14 dispose of at the request of the owner.
15

16 **7.25.120 Reimbursement of fees.**

- 17
18 A. At the time disposable property is retrieved by an owner, finder, or
19 authorized person, and prior to shipping any disposable property,
20 the chief of police may require a reimbursement fee pursuant to
21 subsection B. below from the owner, finder, or other authorized
22 person receiving the disposable property.
23
24 B. A reimbursement fee may include the costs of courtesy notice of
25 possession, public notice, written notice of possession, publication,
26 storage, postage, shipping, shipping container and materials, sale,
27 or any other cost or handling expenses.
28
29 C. The chief of police may waive a reimbursement fee for good cause.
30
31 D. Any collected reimbursement fee shall be deposited into the
32 Anchorage Metropolitan Police Service Area Fund.
33

34 **7.25.130 Disposition of destructible property.**

- 35
36 A. Destructible property may be destroyed or disposed of by any
37 lawful means, except:
38
39 1. The chief of police may authorize the return of a prescription
40 when there is no evidence of contamination or product
41 tampering and the owner provides evidence of a valid
42 medical need.
43
44 B. Notwithstanding any other section in this chapter, property that
45 comes into the possession of the Anchorage Police Department
46 that is determined to be a biohazard, dangerous or perishable is

exempt from the retention periods provided under section 7.25.030, and may be immediately disposed of by any lawful means.

7.25.140 Certification of disposition of unclaimed disposable property.

A. The municipal internal auditor shall certify the proper disposition of unclaimed disposable property under this chapter anytime:

1. Property in the form of money is forfeited to the Municipality of Anchorage.
2. Property is released to a vendor under municipal contract or agreement for the purposes of auction, barter, sale, trade or donation.
3. Property, in the form of drugs, firearms, or unlawful parts of firearms, is destroyed.

Section 2. This ordinance shall be effective on September 29, 2009

PASSED AND APPROVED by the Anchorage Assembly this 29th day of September, 2009.

Debbi Osseander
Chair of the Assembly

ATTEST:

Beth S. Gustafson
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2009-111

Title: **AN ORDINANCE REPEALING AND RE-ENACTING ANCHORAGE
MUNICIPAL CODE CHAPTER 7.25 REGARDING THE DISPOSITION OF
DISPOSABLE PROPERTY.**

Sponsor: **MAYOR**
Preparing Agency: Anchorage Police Department
Others Impacted: Purchasing Department; Risk Management

CHANGES IN EXPENDITURES AND REVENUES:	(In Thousands of Dollars)				
	FY09	FY10	FY11	FY12	FY13
Operating Expenditures					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	-	-	-	-	-
3900 Contributions	-	-	-	-	-
4000 Debt Service	-	-	-	-	-
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:	\$ -	\$ -	\$ -	\$ -	\$ -
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

This ordinance has no public sector economic effects. This ordinance repeals and re-enacts AMC Chapter 7.25 to add and clarify definitions, prevent the retrieval of firearms and ammunition by persons prohibited from possessing firearms under federal, state, or municipal law, comply with Federal gun laws and the provisions of AS 18.65.340 regarding the disposition of firearms and ammunitions by the state and municipalities, and clarify the disposition processes for firearms and drug paraphernalia along with reducing municipal liability and the potential for civil suits and risk management claims.

PRIVATE SECTOR ECONOMIC EFFECTS:

This ordinance has no private sector effects. Firearm owners prohibited by federal gun laws from possessing a firearm may legally transfer ownership to another person or sale through a federally licensed gun dealer.

Prepared by: Greg A. Stewart, APD Evidence Manager

Telephone: 786-8608

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 511-2009

Meeting Date: September 15, 2009

1 **From: MAYOR**

2
3 **Subject: AN ORDINANCE REPEALING AND RE-ENACTING ANCHORAGE**
4 **MUNICIPAL CODE CHAPTER 7.25 REGARDING THE**
5 **DISPOSITION OF DISPOSABLE PROPERTY.**
6

7 This ordinance repeals and re-enacts Anchorage Municipal Code chapter 7.25
8 to accomplish the following:
9

- 10 • Clarify definitions, including among others, the definition of ammunition,
11 digital media, drug paraphernalia, firearm, possession and prohibited
12 person.
13
- 14 • Prevent the retrieval of firearms and ammunition by persons prohibited
15 from possessing firearms under federal, state, or municipal law.
16
- 17 • Clarify the disposition process of disposable property in the form of a
18 firearms and ammunition held as evidence, safekeeping or found.
19
- 20 • Comply with federal firearm laws and regulations when facilitating the final
21 disposition of disposable property in the form of a firearm or ammunition.
22
- 23 • Comply with the provisions of AS 18.65.340 governing the disposition of
24 firearms and ammunition by the state and municipalities.
25
- 26 • Provide for the disposal of unclaimed disposable property in the form of
27 digital media or a device containing irremovable digital media which
28 contains, or potentially contains, child pornography or personal data that
29 could be utilized in the crime of identity theft or fraud; and
30
- 31 • Reduce potential liability, civil suits and risk management claims against
32 the Municipality related to the final disposition of unclaimed disposable
33 property in the form of digital media, firearms, ammunition and drug
34 paraphernalia.
35

36 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
37 **REPEALING AND RE-ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER**

7.25 REGARDING THE DISPOSITION OF DISPOSABLE PROPERTY.

Prepared by: Greg Stewart, APD Evidence Manager
Approved by: Stephen Smith, Acting Chief of Police
Concur: Bart Mauldin, Purchasing Officer
Concur: Dennis A. Wheeler, Municipal Attorney
Concur: George J. Vakalis, Municipal Manager
Respectfully submitted: Daniel Sullivan, Mayor

G:\mat\open matters\Firearms - APD Release Policy\Rev AM 08.21.09.DOC

Chapter 7.25 DISPOSITION OF DISPOSABLE PROPERTY*

***Editor's note:** AO No. 2002-171, § 1, effective Dec. 17, 2002, amended the title of Ch. 7.25 from "Abandoned, Stolen or Lost Property" to "Disposition of Disposable Property." See the Code Comparative Table.

Cross references: Penal code, Tit. 8; vehicles and traffic, Tit. 9; redemption and sale of impounded vehicles, Ch. 9.50; disposition of abandoned vehicles, § 15.20.040.

State law references: Personal property, AS 9.40; uniform abandoned vehicles law, AS 28.11.010--28.11.110; uniform unclaimed property act, AS 34.45.110 et seq.; sale, AS 34.45.060.

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7.25.005 Definitions.

For the purposes of this chapter, unless otherwise provided, the following words when used in this chapter, shall have the meanings ascribed to them in this section:

Bicycle means any wheeled device primarily designed to be propelled by human power, including tricycles and unicycles, and may be motor-driven assisted.

Collectible item means any disposable property, including, but not limited to, money, ingots, or a precious metal commodity, which may be considered collectible or perceived to have an above average monetary market value.

Community based non-profit organization means a fraternal, charitable, religious, benevolent, or other non-profit organization, actively operating in the Municipality of Anchorage, that is exempt from taxation under the Internal Revenue laws of the United States as a fraternal, charitable, religious, or benevolent organization.

Contraband means any property exported or imported in violation of law, or any property the possession of which constitutes a violation of law or is otherwise prohibited, including controlled substances, drug paraphernalia, and altered or counterfeit money.

Controlled substance means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140--11.71.190.

Dangerous or perishable property means any disposable property in the possession of the Anchorage Police Department determined to be perishable, or determined to be an immediate danger or health hazard to anyone, including municipal employees or the general public.

Destroy means destruction or rendering incapable for use, and permanently disposing of property by any lawful means, excluding auction, sale or converting to municipal use.

Destructible property means any disposable property in the possession of the Anchorage Police Department that is dangerous, perishable, forensic evidence released after the final judicial, quasi-judicial or adjudicatory disposition date, or any other disposable property that may be destroyed as set out in Section 7.25.060.

Disposable property means any property in the possession of the Anchorage Police Department, including money or collectible items, that can be lawfully released or disposed of after retention periods set out in this chapter. Disposable property does not include motorized vehicles towed or impounded to a towing yard, which are regulated under Title 9 and 15, or municipal surplus property, regulated by Section 7.10.070.

Disposition deadline date is 30 days after the posted date of the notice of disposable property.

Drug paraphernalia has the same meaning as in Section 8.35.010.

Drugs means prescription drugs, over-the-counter medication or controlled substances.

Evidence means any property that is collected, found, recovered, seized, or otherwise comes into the custody of the Anchorage Police Department, and retained for any criminal or internal investigation, judicial, quasi-judicial, or adjudicatory proceedings.

Fair market value means the commercial value that could reasonably be expected for any unclaimed disposable property disposed of under this chapter.

Final judicial, quasi-judicial or adjudicatory disposition date means the date when all adjudicatory, quasi-judicial, and court appeals have been exhausted or the appeal period has expired, for each referenced case and for all persons associated with the evidence in possession of the Anchorage Police Department.

Finder means the person identified on an official police report who has given found property to the Anchorage Police Department.

Firearm means any device that is designed for or capable of delivering a projectile using an explosive as a propellant, including a pistol, rifle, shotgun, revolver or similar device.

Forensic evidence means evidence collected that is scientifically testable, may contain organic or inorganic biological properties, may have been chemically treated, or collected with the intent to conduct a scientific examination for evaluation or discussion and has potential for presentation in a internal investigation, judicial, quasi-judicial or adjudicatory proceeding.

Found property means non-evidentiary property held by the Anchorage Police Department as lost or abandoned property.

Insubstantial fair market value means unclaimed disposable property which the Anchorage Police Department determines to have a fair market value of \$50.00 or less.

Money means any domestic or foreign currency or comparable medium of exchange that is currently in circulation, has value, and is generally accepted by a financial institution.

Notice of disposable property means a printed or electronically accessible document containing information and an itemized list of disposable property in the possession of the Anchorage Police Department.

Notice of possession means a letter mailed or electronically sent to a known owner or any finder of disposable property, advising that the Anchorage Police Department is in possession of the disposable property for which they may have an ownership interest.

Over-the-counter medication means any substance that may be lawfully sold over the counter without a prescription, under 21 U.S.C. §§ 301-392 (Food, Drug, and Cosmetic Act) and 21 C.F.R. § 1308.22, and any amendments to these federal laws.

Owner means a person, their legal representative, or an authorized representative of a business with a legal or equitable interest in disposable property, that can produce sufficient proof of ownership acceptable to the Anchorage Police Department.

Personal property means property in the form of personal identification, credit, debit, or bank cards, personal credentials, financial or legal documents, mail, photographs, keys, grooming materials, clothing or similar items.

Property means any item in the possession of the Anchorage Police Department classified as evidence, found, safekeeping, or for destruction.

Safekeeping property means any non-evidentiary property in the possession of the Anchorage Police Department placed into temporary custody on behalf of a known owner.

Unclaimed disposable property means any disposable property in the possession of the Anchorage Police Department that is not claimed by, or timely retrieved after, the disposition deadline date.

Vehicle means any motor vehicle, motorcycle, motor-driven cycle, snow machine, all terrain vehicle, or any classification of trailer. Motor assisted bicycles, battery operated toys, or machines designed as children's toys, are not considered a vehicle.

Weapon means any item traditionally used as a weapon, except firearms, and includes a chemical dispensing device, bow, club, baton, crossbow, knife, metal knuckles, martial arts weapon, or a gun which uses compressed air to deliver a pellet, BB, paintball or similar projectile, or any explosive component or destructive device.

(AO No. 2002-171, § 2, 12-17-02)

7.25.010 Disposable property.

- A. Except as otherwise required by law, the following property in possession of the Anchorage Police Department is disposable property and shall be disposed of as provided for in this chapter:
1. Evidence which is no longer required for purposes of investigation or presentation and has been retained for 30 days after the final judicial, quasi-judicial or adjudicatory disposition date;
 2. Safekeeping property that has not been claimed by the owner within 15

- days after being acquired by the Anchorage Police Department;
3. Found property, excluding bicycles, that has not been claimed by the owner within 15 days after being acquired by the Anchorage Police Department; and
 4. Found bicycles that have not been claimed by the owner within ten days after being acquired by the Anchorage Police Department.
- B. The following property in possession of the Anchorage Police Department is not subject to the retention periods in subsection A:
1. Property voluntarily submitted to the Anchorage Police Department by the owner for the purposes of disposal or destruction; or
 2. Found contraband; or
 3. Dangerous or perishable property.

(CAC 2.76.010; AO No. 79-203; AO No. 88-79; AO No. 95-115, § 2, 7-6-95; AO No. 2000-113, § 1, 7-25-00; AO No. 2002-171, § 3, 12-17-02)

7.25.015 Notice of possession.

- A. The Anchorage Police Department shall make an attempt by any reasonable method to identify and notify the last known owner. In the event the owner does not claim the property, a notice of possession shall be sent to the owner and to any finder of found property in the following manner:
1. Certified mail, return receipt requested; or
 2. Fax, if it is determined that the owner or any finder is currently incarcerated in a correctional facility that prohibits acceptance of certified mail on behalf of an inmate. A fax transmission receipt report shall constitute sufficient verification of receipt of the notice.
- B. The notice of possession shall contain the following information:
1. Date of the notice of possession;
 2. Disposition deadline date;
 3. Notice of disposable property tracking number for each property item;
 4. General description of each property item;
 5. Explanation of procedures for owner and any finder to claim and retrieve property;
 6. Provision that the owner or any finder shall be required to sign an indemnity, defend and hold harmless release;
 7. Provision that any reimbursement fee shall be required to be paid at the time the property item is retrieved;
 8. Provision that any owner or finder shall forfeit to the municipality any and all rights, titles, claims or ownership interests in any disposable property not timely claimed or retrieved; and

9. Provision that property forfeited to the municipality shall be disposed of by any means as provided in this chapter and Title 7, with any net proceeds deposited into the Anchorage Metropolitan Police Service Area Fund.

(CAC 2.76.020; AO No. 79-203; AO No. 80-97; AO No. 88-79; AO No. 2002-171, § 4, 12-17-02)

Note: Formerly § 7.25.020.

7.25.020 Notice of disposable property.

- A. The Anchorage Police Department shall prepare a notice of disposable property after an accumulation of disposable property or as deemed necessary. An itemized list of the disposable property contained in each notice shall be forwarded to the purchasing officer.
- B. The purchasing officer shall publish in a newspaper of general circulation within the municipality for four non-consecutive days each calendar month the locations, including any website addresses, where the public can find the current listing(s) of disposable property as provided for in subsection A.
- C. Each posting of a notice of disposable property shall contain the following information:
 1. Posted date of the notice of disposable property;
 2. Disposition deadline date;
 3. Notice of disposable property tracking number for each property item;
 4. General description for each property item;
 5. Provision that the owner has a priority claim over any finder regarding found property;
 6. Provision that the owner shall contact the Anchorage Police Department before the disposition deadline date to claim the property;
 7. Provision that any finder shall submit a letter claiming an interest in a disposable property item to the chief of police that is postmarked, electronically dated, or hand-delivered before the disposition deadline date. The letter shall include the finder's name, mailing address, contact phone number during normal business hours, notice of disposable property tracking number, and a brief description of each claimed property item;
 8. Provision that the owner or any finder shall contact the Anchorage Police Department and arrange for retrieval of claimed property within 15 days after the disposition deadline date;
 9. Provision that the owner or any finder shall be required to sign an indemnity, defend and hold harmless release;
 10. Provision that any owner or finder shall forfeit to the municipality any and all rights, titles, claims or ownership interests in any disposable property that is not timely claimed or retrieved; and

11. Provision that any and all disposable property forfeited to the Municipality of Anchorage shall be disposed of by any means provided in this chapter.
- D. The notice requirements in subsection's A. through C. do not apply to disposable property subject to destruction under Section 7.25.060 or forfeited by a court or plea bargain agreement.

(AO No. 2002-171, § 5, 12-17-02)

7.25.030 Disposition of disposable property.

- A. Disposable property shall be returned to any owner if claimed and retrieved within the time periods established in 7.25.010 and according to the procedures in Sections 7.25.015 and 7.25.020, unless the property is subject to forfeiture, unlawful to possess, subject to destruction, or its release is otherwise prohibited by this chapter or federal, state, or other municipal laws.
- B. Disposable found property, except bicycles, that is not claimed and retrieved by the owner within the time periods and according to the procedures in Sections 7.25.015 and 7.25.020, shall be returned to the finder, unless the property is subject to forfeiture, unlawful to possess, subject to destruction, or its release is otherwise prohibited by this chapter or federal, state, or other municipal laws.
- C. All disposable property in subsection A or B that is not released to the owner or any finder within the time periods and after the notification requirements established by this chapter, and any found bicycles not claimed by the owner, shall be forfeited to the Municipality of Anchorage as unclaimed disposable property.

(CAC 2.76.030; AO No. 79-203, 1-1-80; AO No. 88-79; AO No. 2002-171, § 6, 12-17-02)

7.25.035 Disposition of unclaimed disposable property.

- A. The purchasing officer shall authorize the disposition of unclaimed disposable property in one of the following manners:
 1. All unclaimed disposable property, excluding money, collectible items, and property items subject to destruction under Section 7.25.060, shall be subject to a claim by the chief of police for retention, use, trade or bartering in accordance with the provisions of this chapter.
 2. All unclaimed disposable property, not claimed by the chief of police, may be disposed of by the purchasing officer through any means, including sale trade or bartering in accordance with this chapter and the provisions of Title 7, or donation to a community based non-profit organization through an agreement or contract, except:
 - a. As otherwise provided for in Section 7.25.060;
 - b. Money, which shall be given to the municipal treasurer for deposit into the Anchorage Metropolitan Police Service Area Fund;
 - c. Money determined to be a collectible item, may be deposited directly into the Anchorage Metropolitan Police Service Area Fund or disposed of by sale in accordance with the provisions of this

section; or

- d. Except as provided in subsection e. below, firearms shall be sold to the highest bidder at a public auction through an auctioneer certified as a federally licensed firearms dealer.
 - e. If state or federal law prohibits the sale of a firearm, such firearm shall be disposed of either by:
 - 1. Sale to a firearms dealer with an appropriate federal licensee, or
 - 2. Dismantling the firearm, destroying parts causing the sale to be prohibited, and disposing of the remaining parts of the firearm at a public auction pursuant to subsection d. above.
- B. Any unclaimed disposable property claimed by the chief of police under the provisions in subsection A.1., and upon approval by the purchasing officer, may be used for:
- 1. Anchorage Police Department use, issue, training, or parts; or
 - 2. Any municipal use that serves the public interest; or
 - 3. Trade or barter when the unclaimed disposable property is a weapon or firearm, through the purchasing officer with a federally licensed firearms dealer or gun manufacturer for the purchase or acquisition of weapons, firearms, police equipment, or firearm related parts or accessories for use by the Anchorage Police Department.

(AO No. 2002-171, § 7, 12-17-02; AO No. 2006-53, § 1, 6-6-06)

7.25.040 Auction sale. (Repealed)

(CAC 2.76.040; AO No. 79-203; AO No. 2002-171, § 8, 12-17-02)

7.25.045 Disposition of bicycles. (Repealed)

(AO No. 77-210; AO No. 79-203; AO No. 81-118; AO No. 88-79; AO No. 2002-171, § 8, 12-17-02)

7.25.050 Reimbursement of fees.

- A. At the time disposable property is being retrieved by any owner or finder, and before shipping any disposable property, the chief of police shall require a reimbursement fee pursuant to subsection B. from the person receiving the disposable property.
- B. A reimbursement fee may include costs of any notice, publication, storage, postage, shipping, any other cost or handling expense related to a disposable property item.
- C. The chief of police may waive a reimbursement fee for good cause.
- D. Any collected reimbursement fee shall be deposited into the Anchorage

Metropolitan Police Service Area Fund.

(CAC 2.76.050; AO No. 79-203; AO No. 88-79; AO No. 2002-171, § 9, 12-17-02)

7.25.060 Disposition of destructible property.

- A. The following types of disposable property may be destroyed by any lawful means in accordance with the provisions of this chapter:
1. Property acquired under subSection 7.25.010B.;
 2. Property ordered to be destroyed by a court or pursuant to a plea bargain agreement;
 3. Property, including money, determined by the Anchorage Police Department to be contaminated, a biohazard, or health hazard;
 4. Ammunition, contraband or unclaimed personal property;
 5. Property determined by the Anchorage Police Department to be unserviceable, junk, or waste, has insubstantial fair market value, or does not sell at an auction; and
 6. Prescription or over-the-counter medication, except that the chief of police may authorize the return of a prescription when there is no evidence of contamination or product tampering and the owner can provide evidence of a valid medical need.
- B. Notwithstanding other provisions of this chapter, firearms or weapons may be destroyed or rendered incapable of use, and then permanently disposed of by any lawful means, when a police department armorer or a United States Department of Treasury Official, inspects, examines or otherwise determines:
1. There is a violation of municipal, state, or federal law, including the Federal Firearms Act, which makes the weapon or firearm not legal for private ownership or possession; or
 2. The weapon or firearm is unsafe, a biohazard, or presents an immediate or inherent danger to the public.
- C. Notwithstanding Section 7.25.070, any property that comes into the possession of the Anchorage Police Department that is determined to be dangerous or perishable may be immediately disposed of by any lawful means.

(CAC 2.76.060; AO No. 79-203 ; AO No. 2002-171, § 10, 12-17-02)

7.25.070 Certification of disposition of disposable property.

- A. The municipal internal auditor shall certify the proper disposition of disposable property under this chapter anytime:
1. Disposable property in the form of money is destroyed or forfeited to the Municipality of Anchorage.
 2. Disposable property is released to a vendor or a third party contractor for the purposes of barter, sale, trade or donation.

3. Disposable property in the form of drugs or firearms are destroyed.
(AO No. 2002-171, § 11, 12-17-02)

Content ID: 008087**Type:** Ordinance - AO

AN ORDINANCE REPEALING AND RE-ENACTING ANCHORAGE

Title: MUNICIPAL CODE CHAPTER 7.25 REGARDING THE DISPOSITION OF DISPOSABLE PROPERTY.**Author:** smiko**Initiating Dept:** APD**Description:** AO to Repeal and Re-Enact Chapter 7.25**Date Prepared:** 8/27/09 6:45 AM**Assembly Meeting Date:** 9/15/09**Public Hearing Date:** 9/29/09

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	9/4/09 3:27 PM	Exit	Joy Maglaqui	Public	008087
MuniManager_SubWorkflow	9/4/09 3:27 PM	Approve	Joy Maglaqui	Public	008087
Legal_SubWorkflow	9/4/09 12:11 PM	Approve	Dean Gates	Public	008087
Finance_SubWorkflow	9/4/09 11:06 AM	Approve	Lucinda Mahoney	Public	008087
OMB_SubWorkflow	9/4/09 7:58 AM	Approve	Cheryl Frasca	Public	008087
APD_SubWorkflow	8/27/09 9:59 AM	Approve	Vicki Blume	Public	008087
AllOrdinanceWorkflow	8/27/09 6:48 AM	Checkin	Stephen Miko	Public	008087