

CLERK'S OFFICE

APPROVED

Date: 7-25-00

ANCHORAGE, ALASKA

AO NO. 2000-113

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 7.25.010 AND
2 10.20.037 TO REDEFINE TERM SECONDHAND MERCHANT REGARDING PROCEDURES FOR
3 NOTIFICATION, DISPOSITION AND DISPOSAL OF STOLEN PROPERTY

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6 THE ANCHORAGE ASSEMBLY ORDAINS

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8 Section 1. Anchorage Municipal Code section 7.25.010 is amended to read as follows

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10 **7.25.010. Disposable property.**

11 This chapter is to be interpreted consistently with section 10.20.037. The notice procedures set forth in this
12 chapter do not apply to property seized from pawnshops or secondhand stores, antique stores, auction
13 halls, used firearm dealers, and used automobile display lots [SECONDHAND MERCHANTS]. Notice
14 of intent to dispose for property seized from pawnshops or secondhand stores, antique stores, auction
15 halls, used firearm dealers and used automobile display lots [SECONDHAND MERCHANTS] is
16 addressed in section 10.20.037. The disposal procedures set forth in this section will apply to property seized
17 from a pawnshop or secondhand store, antique store, auction hall, used firearm dealer, and used
18 automobile display lot [SECONDHAND MERCHANT] only where the pawnshop, secondhand store,
19 antique store, auction hall, used firearm dealer or used automobile display lot [OR SECONDHAND
20 MERCHANT] has waived the right to notice of disposal as provided for in section 10.20.037.K. Except as
21 otherwise required by law, the following property in possession of the police department may be disposed
22 of as provided in this chapter:

- 23 A. Property collected as evidence and not claimed by the owner within 15 days after final
24 disposition of the criminal case to which it pertains;
25 B. Property voluntarily tendered to the police department and not claimed by the owner within
26 15 days thereafter;
27 C. Property found and delivered to the police department and not claimed by the owner within
28 15 days thereafter;
29 D. Stolen property recovered by the police department and not claimed by the owner within 30
30 days after such recovery.

31 The term "disposable property," as used in this chapter, does not include a vehicle which has been
32 impounded for a violation of title 9. Disposable property is any property in possession of the police
33 department which cannot be identified to an owner.

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35 Section 2. Anchorage Municipal Code section 10.20.037 is amended to read as follows

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37 **10.20.037. Pawnbroker/ secondhand store, antique store, auction hall, used firearm dealer,**
38 **or used automobile display lot [SECONDHAND MERCHANT]; duties upon notification of property**
39 **reported stolen and disposition of seized property.**

- 40 A. Following notification from the police department that an item of property has been reported
41 stolen, the pawnbroker, secondhand store, antique store, auction hall, used firearm
42 dealer, or used automobile display lot [OR SECONDHAND MERCHANT], hereinafter
43 referred to in this section as "merchant [LICENSEE]," shall hold that property safe from

alteration, loss, or damage.

- B. The merchant [LICENSEE] shall place an identifying tag or other suitable identification upon the property which shall contain the officer's name, date, agency and case number.
- C. Property held shall not be disposed of or released for 60 days from the date of police notification unless pursuant to a court order, or released by the officer who placed the initial hold or by a member of the pawn detail. Such a hold does not preclude the actual physical seizure of the item at a later time in accordance with applicable law. The intent of this section is that property should not be seized unless there is a good faith intent to refer the matter for prosecution upon completion of the investigation.
- D. In cases where police have placed a verbal hold on an item they must then give written notice confirming the hold order within ten business days. If such written notice is not received within that period of time, then the hold order shall cease, however, the holding period may be extended in successive 60-day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order should be considered expired and no longer in effect.
- E. The police shall not place on hold any item of personal property unless they have probable cause to believe that the item of personal property is stolen. Any hold that is placed on an item will be removed as soon as practicable after the item on hold is determined not to be stolen, or is determined to be no longer needed for evidence or for investigation of criminal activity.
- F. Willful noncompliance of a licensee to a hold order shall be cause for the pawnbroker's or used automobile display lot's [SECONDHAND MERCHANT'S] license to either be suspended or revoked pursuant to section 10.10.035.
- G. Before disposing of seized property, unless it waives the right, the merchant [LICENSEE] from which it was seized shall be entitled to receive notice from the police pursuant to subsection H of this section when they no longer require the property for use in connection with a criminal case.
- H. The police department shall provide notice of intent to dispose of seized property which shall require claims to be submitted within 30 days by individuals whom they are aware might claim an ownership or other legal interest in the property. This includes the apparent owner, the party from whom the property was seized and any other party notifying the police that it has an interest in the property, unless that individual was convicted of theft of the property or has denied or has otherwise waived interest in the property.
- I. If more than one party submits a claim for seized property within the 30-day time period set forth in the notice or if the police department refers property to the administrative hearing officer for a determination of legal entitlement as provided for in subsection J of this section, then a hearing shall be held by the municipal administrative hearing officer to determine legal entitlement to the property. Any such hearing shall be conducted following the procedures as outlined in chapter 3.60. The burden of proof at such a hearing shall be on the party or parties claiming a legal interest. The hearing officer's decision shall be limited to determining whether any party has established its right to the item by a preponderance of the evidence. If no party is able to prove its right to the item by a preponderance of the evidence, the property shall be returned to the merchant [LICENSEE].
- J. If only one party responds within the 30-day time period provided, the property may be either returned to that party without a hearing or, if the indicia of ownership in possession of the police department are inconsistent with the claim, the matter may be referred to the administrative hearing officer for a determination of the validity of the claim prior to return.

Indicia of ownership include, among other things, timely filed complaints or police reports of stolen property; local, state or national police information data bases; documents in possession of the police department; merchant [LICENSEE] or property identification numbers; markings on the property; or other similar indicia of ownership. Subject to subsection K of this section, if none of the individuals so notified express their desire to have the property returned to them within the time period set forth in the notification, then the police department may dispose of the property as provided in section 7.25.030 and consistent with AS 12.36.030.

K. If the merchant [LICENSEE] waives his or her right to receive notice as in subsection G of this section, the seized property may be returned directly to the owner/victim as reflected in police department records or disposed of in accordance with chapter 7.25 upon conclusion of the police department's use of the property in the criminal investigation. If the merchant [LICENSEE] does not waive his or her right to receive notice, he or she will receive a notice of intent to dispose of the property as provided for in subsection H of this section. The merchant [LICENSEE] will have 30 days from that notification to assert a claim to the seized property by asserting his or her property interest in writing to the property section of the police department. If the merchant [LICENSEE] does not waive his or her right to receive notice and no party, including the merchant [LICENSEE], submits a claim, the property shall be returned to the merchant [LICENSEE] after the time prescribed in AS 12.36.030.

Section 3. This ordinance shall become effective immediately upon its approval and passage by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 25 day of July, 2000.


Chair of the Assembly

ATTEST:


Municipal Clerk

