



## ORDINANCE

### AMENDING THE PROCEDURE FOR THE DISPOSITION OF PERSONAL PROPERTY RECEIVED BY THE POLICE DEPARTMENT

### *CITY OF NASHUA*

*In the Year Two Thousand and Twelve*

*The City of Nashua ordains* that Part I “Administrative Legislation”, Chapter 55 “Police Department”, Section 55-5 “Disposition of personal property received”, of the Nashua Revised Ordinances, as amended, be and hereby is further amended by deleting the struck-through language and adding the new underlined language as follows:

**“55-5. Disposition of personal property received.**

- A. All property or money taken under suspicion or with knowledge of its having been lost or stolen or ~~feloniously~~ illegally obtained, and all property lost or abandoned, which may come into possession of any member of the Police Department, shall be delivered to a person designated by the Chief of Police. The Chief's designee shall enter or cause to be entered in a record to be kept by ~~him~~ the department for that purpose a detailed description of the same, together with the name of the person or persons from whom received, the name of any claimants thereto, the time of the seizure and the final disposition thereof.
- B. When any person arrested shall be adjudged innocent of the offense charged, by a court of competent jurisdiction, which shall adjudge property or money belongs to such person, the Chief of Police's designee shall thereupon deliver such property or money to him personally, and not to his attorney or agent, and take his receipt therefor. If the accused is held for trial or examination, such money or property shall remain in the custody of the Chief of Police's designee until discharge or conviction of the person accused or as ordered by the court. After such discharge or conviction or court order, all such property then remaining in the custody of the ~~Chief of Police~~ Chief's designee shall, if the same is of the type described in Subsection E of this section, be disposed of in accordance with that subsection and, if it is not so described, either returned to such person or disposed of in accordance with the provisions of Subsection C and D of this section.

- C. The Chief of Police, or such person as shall be designated by ~~him~~ the Chief, shall retain all unclaimed money or property that has been in custody for a period of 180 days. If the property is not claimed by the owner, it shall be returned to the finder if the finder is known. If the finder is not known, the Chief of Police or such person as shall be designated by ~~him~~ the Chief shall sell at public auction all unclaimed property that has been in custody for a period of 180 days. It shall be within the discretion of the Chief of Police whether to hold a public auction at a designated location or by use of an on-line auction service (e.g. eBay.com or PropertyRoom.com). ~~He~~ The Chief of Police or the Chief's designee shall fix a day upon which the sale shall take place, and give notice thereof by publication in a daily newspaper at least five days before the sale. Such notice shall state the day and the hour when such sale shall commence and shall contain a general description of the property to be sold, or shall refer to a list thereof on file with the Chief of Police. The notice shall be signed by the Chief of Police or by the person designated by ~~him~~ the Chief to conduct the public auction. If an on-line auction service is used, the department shall adhere to the policies of the service used. The proceeds of such sale(s), after deducting the cost of storage, advertising, selling and other expenses incident to the handling and selling of such property shall, together with all money unclaimed for a period of 180 days, be paid into the City treasury. Money which has been found, as distinguished from money that has been stolen or feloniously illegally obtained, will be turned over to the finder if unclaimed for a period of 180 days. If the finder is not known it shall be paid into the City treasury. In no case shall any property be sold or disposed of until the necessity for thereof as evidence has ceased.
- D. If any property seized or taken possession of by the Police Department shall be of a perishable nature, or so bulky or of such nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in Subsection C of this section, the Chief of Police or the Chief's designee, shall petition the Court to have the property disposed of or sold and set forth the reasons why such property should not be retained. ~~upon certifying such fact to the Police Commission and setting forth his reasons why such property should not be retained for the period hereinabove fixed before selling same shall, with approval of the Police Commission, give notice thereof by publishing in a daily newspaper at least three days before the sale. The notice shall state the day and hour when the sale shall commence and shall contain a general description of the property to be sold or shall refer to a list thereof on file with Chief of Police, and shall be filed by the Chief of Police or by the person designated by him to conduct the auction. The proceeds of such sale, after deducting the cost of storage, advertising, selling and other expenses incident to the handling and selling of such property shall, together with all money unclaimed for a period of 60 days, be paid into the City treasury.~~
- E. None of the provisions of this section shall apply to contraband, materials adjudicated as being obscene, or weapons or other objects which in the opinion of the Chief of Police would constitute danger to public health, safety, welfare or morals should the same be returned to their respective owners or sold at public auction. All of such objects which shall come into the possession of the Chief of Police, except weapons which the Chief of Police shall deem to of use to the

Police Department, shall forthwith be destroyed under the direction of the Chief of Police or ~~his~~ the Chief's designee. such persons as shall be designated by him.

F. Bicycles

1. Bicycles lost or abandoned which may come into possession of any member of the Police Department shall be retained for a period of ~~30~~ 90 days. Said bicycles shall be delivered to the Chief of Police's designee, who shall enter or cause to be entered in a record kept by ~~him~~ the department for that purpose, a detailed description of the same, together with the name of the person or persons from whom received, the name of any claimants thereto, the time and date that it was received by the Police Department and the final disposition thereof.
2. In the event the bicycle is not claimed by the owner, it shall be returned to the finder if the finder is known. If the finder is not known, the Chief of Police or such person as shall be designated by him shall sell at public auction all bicycles that have been in custody for ~~30~~ 90 days. It shall be within the discretion of the Chief of Police whether to hold a public auction at a designated location or by use of an on-line auction service as referenced in Subsection C. Where not consistent with this Subsection F the provisions of Subsection C above shall apply.
3. Proceeds from the sale of unclaimed bicycles will be paid to an account within the Nashua Police Department to support the department's bicycle safety program, in accordance with New Hampshire RSA 471-C:13."

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**LEGISLATIVE YEAR 2012**

**ORDINANCE:** O-12-030

**PURPOSE:** Amending the procedure for the disposition of personal property received by the police department

**ENDORSERS:** Alderman-at-Large Lori Wilshire

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:** The city expects to realize greater revenue from the sale of unclaimed property by utilizing on-line auctions.

---

**ANALYSIS**

This legislation amends the procedure for disposing of unclaimed personal property held by the Police Department. The legislation allows for unclaimed property to be sold by on-line auction. In addition, property which is perishable in nature, bulky or too dangerous to retain for 180 days may be disposed of per a court order. Finally, the amendment allows the Chief of Police to designate an individual to conduct the process of holding and disposing of unclaimed property.

---

**Approved as to form:** Office of Corporation Counsel

By: 

Date: 12/20/12