

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE SECTION 2.60, LOST
AND STOLEN PROPERTY, TO CHANGE THE TITLE,
MINIMUM HOLDING PERIOD, AND TO MAKE OTHER
UPDATES

WHEREAS, the Police, Parks and Public Works departments of the City routinely encounter lost or unattended personal property in City parks and other City-owned property; and

WHEREAS, City staff collects, tags and stores such for safekeeping to give the owner an opportunity to claim the property; and

WHEREAS, such property is retained at the Police Department, which has limited capacity, or at 707 F Street, the former City shops building; however, this location will become unavailable for storage use in the spring of 2019, requiring the City to find alternative means and locations to store lost and unattended property; and

WHEREAS, Chula Vista Municipal Code section 2.60.010, enacted in 1967, requires retention of such property for at least six (6) months; and

WHEREAS, pursuant to California Civil Code section 2080.4 and Civil Code section 2080.6, a city may provide by ordinance or regulations for the care, restitution, sale or destruction of unclaimed property in the city's possession, so long as the ordinance requires the city to hold such unclaimed property for the State-law minimum of ninety (90) days; and

WHEREAS, staff has requested and demonstrated a need to reduce the required retention period for lost and unclaimed property from six (6) months to ninety (90) days for consistency with State law and to allow more efficient management of limited storage space in the Police Department and other City property; and

WHEREAS, Chula Vista Municipal Code section 2.60.150, Vesting of title to unclaimed property in finder, which applies to a found item turned in by a finder who wants to claim the item, requires the Police Department to advertise the found item in a newspaper of general circulation when the item is valued at \$25 or more; while these instances are rare, the staff time and ad costs to City for advertising exceeds the value of the found item because the value threshold is so low; and

WHEREAS, pursuant to California Civil Code section 2080.3, the value threshold requiring advertising found property when the finder wishes to claim the item is \$250; and

WHEREAS, staff has requested and demonstrated a need to increase the value threshold for advertising found property in which a finder seeks to claim the item from \$25 to \$250, to save staff time and City funds and for consistency with State law; and

WHEREAS, staff has requested to change the title from “lost and stolen” property to “unclaimed” property for consistency with state law and the ordinances of other cities.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I.

Chapter 2.60

UNCLAIMED PROPERTY*

Sections:

- 2.60.010 Holding period – Minimum term – Exceptions.
- 2.60.020 Holding period – Bicycles and perishable material – Sale permitted when.
- 2.60.030 Sale – Procedure generally.
- 2.60.035 Transfer of property to city.
- 2.60.040 Sale – Notice of time and place required.
- 2.60.050 Sale – Payment of purchase price – Receipt – Transfer of title.
- 2.60.060 Recovery of property by owner permitted when.
- 2.60.070 Disposition of proceeds of sale – Generally – Manner of selling items.
- 2.60.080 Disposition of proceeds of sale – Perishable property procedure.
- 2.60.090 Responsibility for care and preservation – Liability for loss or damage.
- 2.60.095 Destruction of unclaimed property – Liability for destruction.
- 2.60.100 Identification tag required – Contents.
- 2.60.110 Register to be maintained – Contents.
- 2.60.120 Chapter not applicable to animals.
- 2.60.130 Identification markings for certain impounded articles – Purpose and intent.
- 2.60.140 Identification markings for certain impounded articles – Procedure authorized.
- 2.60.150 Vesting of title to unclaimed property in finder.

* For statutory provisions regarding the disposition of lost or unclaimed property, see Civil Code § 2080, et seq.; for authority for municipalities to regulate the disposition of lost property in the hands of the police, see Civil Code § 2080.4.

CROSS REFERENCE: Purchasing Systems, see Ch. 2.56 CVMC.

2.60.010 Holding period – Minimum term – Exceptions.

All unclaimed personal property, except animals, bicycles and perishable property, in the possession of the police department or other City department shall be held by the police department or other City department for a period of at least 90 days. (Ord. 1067 § 1, 1967; prior code § 2.37).

2.60.020 Holding period – Bicycles and perishable material – Sale permitted when.

Unclaimed perishable property may be sold at public auction or transferred in the manner set forth in this chapter for personal property other than perishable property, prior to the expiration of the 90-day period. Bicycles may be sold at public auction in the same manner, or donated to a

nonprofit, charitable organization designated by the chief of police, after being held by the police department for a period of at least 90 days. (Ord. 2657 § 1, 1995; Ord. 2098 § 1, 1985; Ord. 1067 § 1, 1967; prior code § 2.38).

2.60.030 Sale – Procedure generally.

After holding such unclaimed property for the period described herein, the same shall be sold by the chief of police, or his duly authorized representative, at public auction to the highest bidder or, in the case of unclaimed bicycles only, may be donated to a nonprofit, charitable organization designated by the chief of police. Any donation of bicycles shall be made pursuant to department policy for designation of eligible nonprofit, charitable organizations, which shall set forth standards including, but not limited to: that the recipient organization will use the bicycles for donation to youths determined to be “at risk” or of special financial need and that donations of bicycles will not be made to members of the police department or their respective families. Alternatively, pursuant to the provisions of CVMC 2.60.035, said unclaimed property may be transferred to the city. (Ord. 2657 § 2, 1995; Ord. 2098 § 1, 1985; Ord. 1067 § 1, 1967; prior code § 2.39).

2.60.035 Transfer of property to city.

Upon recommendation of the chief of police or his duly authorized representative, the city purchasing agent may determine that unclaimed property is suitable for use by the city. The provisions of this chapter relating to the holding period and notice shall be complied with prior to the transfer to and acquisition by the city. (Ord. 2098 § 2, 1985).

2.60.040 Sale – Notice of time and place required.

Prior to the sale at public auction or transfer, notice of the time and place of such sale and articles to be sold or transferred shall be given by the chief of police, at least five days before the time fixed therefor, by publication once in a newspaper of general circulation published in the city. (Ord. 2098 § 1, 1985; prior code § 2.40).

2.60.050 Sale – Payment of purchase price – Receipt – Transfer of title.

At the time of the sale of any unclaimed property, the purchaser shall pay the cash purchase price into the finance department, and the finance department shall issue a validated receipt for such money for the personal property being purchased, and the chief of police or the authorized member of his department shall, upon presentation of such validated receipt, transfer such property to the purchaser. (Prior code § 2.40.1).

2.60.060 Recovery of property by owner permitted when.

Any person may claim property in possession of the police department at any time prior to the first publication of notice of sale or transfer by proving, to the satisfaction of the chief of police, ownership of such property and paying the required fee(s). (Ord. 2506 § 1, 1992; Ord. 2098 § 1, 1985; prior code § 2.41).

2.60.070 Disposition of proceeds of sale – Generally – Manner of selling items.

All moneys derived from the sale of unclaimed property other than perishable property shall be deposited in the general fund of the city and shall belong to the city. If more than one article is offered for sale at auction, they may be sold individually or collectively, as the chief of police may determine. (Prior code § 2.42).

2.60.080 Disposition of proceeds of sale – Perishable property procedure.

All moneys, if any, derived from the sale of unclaimed perishable property shall be held for the owner of such property, providing he shall prove ownership of the perishable property prior to the expiration of the period of 90 days from the date of first possession of such property by the chief of police. If no owner claims such property within the 90-day period, then the moneys derived from such sale shall be placed in the general fund of the city. (Prior code § 2.43).

2.60.090 Responsibility for care and preservation – Liability for loss or damage.

The chief of police or City staff designated by the chief of police shall be responsible for the care and preservation of the unclaimed property hereinbefore referred to, until the same is sold, destroyed, or returned to the lawful owner thereof, but in no event shall the chief of police, designated staff or the city be liable in damages for the loss or damage to such unclaimed property. (Ord. 2147 § 3, 1986; prior code § 2.44).

2.60.095 Destruction of unclaimed property – Liability for destruction.

The chief of police or his representative may destroy all unclaimed property after holding the unclaimed property for the period prescribed herein, with no owner appearing and proving ownership of the property within the prescribed period, or the unclaimed property may be destroyed upon the failure of the property to be sold at public auction pursuant to this chapter; but in no event shall the chief of police or the city be liable for damages for the destruction of such unclaimed property. (Ord. 2147 § 2, 1986).

2.60.100 Identification tag required – Contents.

Each article of unclaimed property shall be identified with a tag on the same, showing the first date of possession by the chief of police and the circumstances surrounding his acquisition of possession. (Prior code § 2.45).

2.60.110 Register to be maintained – Contents.

The chief of police or City staff designated by the chief of police shall maintain a register of all unclaimed property received by the police department. Such register shall describe each item of property; the time, date and place it was received; the name of the person from whom it was received; and the circumstances surrounding its receipt, together with the date and manner of disposition of such property. (Prior code § 2.45.1).

2.60.120 Chapter not applicable to animals.

This chapter shall not apply to lost, strayed or unclaimed animals. (Prior code § 2.46).

2.60.130 Identification markings for certain impounded articles – Purpose and intent.

It is the purpose and intent of the city council to establish a procedure which authorizes the police department of the city to place identifying numbers upon certain articles which have been impounded during the course of investigation of theft, where said articles have had the identifying numbers removed or obliterated, thus making the possession of said articles illegal under the provisions of Section 537E of the California Penal Code. Said procedure is also intended for application to any articles which come into the possession of the police department

for control or custody by any other process and which may also have had any identifying numbers or markings obliterated therefrom. (Ord. 1193 § 1, 1969; prior code § 2.10.1).

2.60.140 Identification markings for certain impounded articles – Procedure authorized.

The chief of police is authorized and directed to assign a distinguishing number or identification mark and affix said number or mark to any item, from which the manufacturer's name plate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, so that said article may be properly and legally returned to the possession of the person legitimately entitled to the ownership and possession thereof. (Ord. 1193 § 1, 1969; prior code § 2.10.2).

2.60.150 Vesting of title to unclaimed property in finder.

A. Valuation of \$250.00 or More. If the reported value of the property is \$250.00 or more and no owner appears and proves his ownership of the property within 90 days, the police department shall cause notice of the property to be published at least once in a newspaper of general circulation. If after seven days following the first publication of the notice, no owner appears and proves his ownership of the property and the person who found or saved the property pays the cost of the publication, the title shall vest in the person who found or saved the property, unless the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction. Title to the property shall not vest in the person who found or saved the property or in the successful bidder at the public auction unless the required fee(s) is first paid to the city, county, or city and county whose police department caused the notice to be published.

B. Valuation of Less Than \$250.00. If the reported value of the property is less than \$250.00 and no owner appears and proves his ownership of the property within 90 days, the title shall vest in the person who found or saved the property, unless the property was found in the course of employment by an employee of any public agency, in which case the property shall be sold at public auction.

C. Exception – Bicycle. If the found or saved property is a bicycle, if no owner appears and proves ownership of the bicycle within 90 days, the title shall not vest in the person who found or saved the bicycle. All such unclaimed bicycles shall be sold at public auction or donated for charitable purposes pursuant to this chapter. (Ord. 2657 § 3, 1995; Ord. 2506 § 1, 1992; Ord. 2147 § 1, 1986; Ord. 1766 § 1, 1977).

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Tracy Lamb
Community Services Director

Glen R. Googins
City Attorney