

Chapter 53

PROPERTY, DISPOSITION OF

§ 53-1. Police Department property disposal.

§ 53-2. Lost and abandoned property.

[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 3, Ch. 5, of the 1996 Code. Amendments noted where applicable.]

§ 53-1. Police Department property disposal.¹

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

AGENCY-OWNED PROPERTY — Any physical property acquired by the agency to support its mission. For the purposes of formal inventory, this includes items having a dollar value of \$100 or more and all firearms.

EVIDENCE — Physical property which is related to a crime, which may establish guilt or innocence.

FOUND PROPERTY — Physical property that comes into contact with law enforcement personnel and has no apparent evidentiary value.

FULL EVIDENCE SEAL — Containers which are properly sealed in accordance with Wisconsin Department of Justice Criminal Investigation and Physical Evidence Handbook instruction for transmittal to the Crime Laboratory.

B. Disposal of property.

- (1) All property, including that which is evidence, found, abandoned or seized in conjunction with any legal process will be disposed of according to applicable laws and ordinances.
- (2) Timely disposal is a must and is dependent upon notification to the Property Custodian as to when retention of property is no longer required. This notification shall be made as soon as possible after officers learn of such information.
- (3) The final disposition of evidence will be accomplished within three months after legal or investigative requirements have been satisfied, unless courts or the District Attorney require extended retention. Legal requirements shall include any post conviction appeals, or as follows:
 - (a) Expiration of the statute of Limitations of the crime will be considered final case disposition, allowing for the disposal of evidence in the case.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- (b) Notification from the court or the District Attorney's office of the conviction and final disposition of a case, and considering post conviction appeal possibilities, evidence may be disposed of in the approved manner.
- (4) In the case of found property, every effort will be made by the Property Custodian or recovering officer to notify the owner the item may be released. The notification may occur by personal contact, telephone, or letter, and will be documented on the property report.
 - (5) The finder, except on-duty police employees, may claim found property after 90 days, if the owner remains unidentified after bona fide attempts at identification and contact. Exceptions to this general rule are: guns not controlled by statute may be retained by the agency for its use; identifiable, unusual or uniquely valuable items may be retained by the agency as long as investigative circumstances warrant; and contraband or hazardous materials will not be released.
 - (6) When the owner of the found property cannot be determined, and the finder fails to claim the item(s), item(s) shall be disposed of according to this chapter or converted for use by the Waupaca County Sheriff's Office.
 - (7) Due to the limited storage space available, every attempt will be made to dispose of property on a quarterly basis.
 - (8) Items to be disposed of may be sold at public auction, by sealed bid after inspection, or converted to use by the agency or in any other manner which would be in the best interest of the agency.
 - (9) All proceeds from the sale of property shall be placed into an account from which the Iola Police Department will have sole access for the purposes of providing training and equipment for its officers.
 - (10) Funds from this account will also be used to satisfy any legal fees resulting from the transfer of ownership of any item to the Waupaca County Sheriff's Office and for any expenses incurred for the disposal of any such items.

§ 53-2. Lost and abandoned property.

A. Village custody of lost or abandoned property.

- (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this section.
- (2) Lost and abandoned property will be examined by the Chief of Police for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.
- (3) No village employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.

- (4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.
- (5) No village employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the Clerk-Treasurer.

B. Disposal procedures.

- (1) Class of property. All property which has been abandoned, lost or remained unclaimed for a period of 30 days after the taking of possession of the same by the village shall be disposed of as follows, except that if the property is usable for village operations, the property need not be sold at auction, but may become the property of the village:
 - (a) Vehicles. Vehicles shall be disposed of as set forth in the applicable provisions of Chapter 244 of this Code of Ordinances.
 - (b) Intoxicating liquor and fermented malt beverages. Intoxicating liquor and fermented malt beverages shall be destroyed.
 - (c) Firearms, ammunition and explosives. Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms Bureau of the U.S. Department of Treasury. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.
 - (d) Other property with a fair market value of \$100 or less. An item of property with a fair market value of \$100 or less shall be destroyed or sold at public auction. Perishable property which deteriorates to a fair market value of less than \$100 shall be destroyed.
 - (e) Other property with a fair market value of over \$100. An item of property with a fair market value of more than \$100 shall be sold at public auction or by sealed bid.
 - (f) Illegal property. Property which cannot be legally possessed shall be destroyed.
- (2) Disposal by auction or sealed bid.
 - (a) Whenever any property under this section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official village newspaper. The property auctioned or sold by sealed bid shall be sold in as-is condition to be highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal.

The department head responsible for the property shall determine the time which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the village and the amount of the bid be forfeited to the village.

- (b) Any village official selling property under this section shall maintain for two years an inventory of any property not disposed of by auction or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.
- (3) Lost property. Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this section until 30 days after mailing to the person finding the property a notice that he or she may claim ownership of said property. The Chief of Police shall determine what portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any village employee finding property in the regular course of his or her employment.
- (4) Payment to Village Treasury. All sums received from the sale of property under this section shall be paid to the Village Treasury.