



Korine L. Land
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TO: Mayor & City Council
FROM: Kori Land, City Attorney
DATE: January 3, 2023
RE: Ordinance Amending Chapter 32.04 – Disposal of Unclaimed Property

BACKGROUND:

Recently, the City began implementing its new abatement procedures for Code violations and discovered that the current Code addressing the disposal of unclaimed (abandoned) property and surplus property are both a bit onerous. Staff is recommending a repeal and replacement of the City Code sections related to the disposal of unclaimed and surplus property.

Abandoned Property:

When the City finds itself possessing personal property because it was found by a good Samaritan, found by the Police Department or abated as part of a Code enforcement action, it must have rules around what to do with the property. The current Code requires the following process for abandoned property:

1. After possessing the property for 60 days, the City Administrator sends a 30-day notice to the property owner.
2. After the 30-day notice expires, the City Council passes a resolution declaring it abandoned.
3. The City then publishes notice of the sale of the property, along with the owners' names and addresses in the newspaper at least 3 weeks before the sale.
4. The City holds a public sale with sealed bids.

This means that the City has to store personal property for nearly 4 months and then hold a public sale with sealed bids in order to dispose of it, regardless of what its value is. State law requires holding abandoned property for a minimum of 60 days and only requires a public sale if it exceeds \$175,000 in value.

The new ordinance states that the City will store personal property that has value for a period of 60 days, after which time, it shall be deemed abandoned and the City has the following options:

1. Sell it at public sale with sealed bids (if more than \$175,000)
2. Return the property to the finder

3. Convert the property to City use
4. Donate it to a non-profit
5. Dispose of it appropriately if it has little or no value.

The new ordinance also allows the City to dispose of such property immediately if it is dangerous, contraband, has no value or cannot be safely sold at a public sale.

Surplus Property:

Sometimes the City finds itself with surplus property (desks, chairs, ambulances) that it no longer needs. Again, the process outlined in the Code is very specific and probably has not always been followed. The current Code requires the following for the disposal of surplus property:

1. Council must declare it as surplus property.
2. If value is less than \$100, it can be sold on the open market.
3. If value is between \$100-\$500, City Administrator must sell it to the highest bidder
4. If value is over \$500, then it must be sold at a public sale with sealed bids.

The new ordinance requires the following:

1. Council must declare it as surplus property
2. Property may be sold pursuant to the Municipal Contracting Law (which has other exceptions too, but generally speaking below are the value thresholds for disposal):
 - a. If less than \$25,000 it can be sold on the open market
 - b. \$25,000-\$175,000, must get 2 or more quotes
 - c. Over \$175,000, public sale with sealed bids.

The new streamlined process will make it much less complicated to dispose of abandoned and surplus property.

RECOMMENDATION:

Approve 1st Reading of Ordinance Amending Hastings City Code Section 32.04 Regarding the Disposal of Unclaimed and Surplus Property

ATTACHMENT:

Ordinance

ORDINANCE NO. _____

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, AMENDING
HASTINGS CITY CODE CHAPTER 32.04 REGARDING THE DISPOSAL OF
UNCLAIMED AND SURPLUS PROPERTY**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

SECTION 1. REPEAL AND REPLACE. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 32.04, Subdivisions B and C, regarding the disposal of unclaimed and surplus property is hereby repealed and replaced as follows:

B. Disposition of Unclaimed Property.

1. *Procedure.* The city will take custody of all personal property, including lost money, lawfully coming into the possession of the city and city employees in the course of municipal operations and remaining unclaimed by its owner. The city shall dispose of all unclaimed property in its possession as provided in this section which is adopted pursuant to Minnesota Statute § 471.195. The city shall keep a record of all property coming into its possession, including its disposition.
2. *Storage.* The department of the city acquiring possession of the property shall arrange for its storage in a safe place for a period of sixty (60) days, unless claimed by the true owner providing satisfactory proof of ownership. If city facilities are unavailable or inadequate for storage of the property, the city may arrange for storage at a privately owned facility. For the purpose of this section, “safe place” may mean depositing money with the city finance department, provided the money does not have value beyond its face value due to its age, rarity or numismatic value.
3. *Claim by Owner.* The owner of the property may claim the property by exhibiting satisfactory proof of ownership and payment to the city for any storage or maintenance costs incurred by the city during its possession of the property. A receipt for the property shall be obtained upon release to the owner.
4. *Disposition of Property.* Property held by the city and not claimed by the true owner within sixty (60) days of collection will be deemed abandoned. The city may dispose of abandoned property in one of the following ways:
 - a. Sell the property at a public sale following ten (10) days published notice in the city’s official newspaper;
 - b. Return the property or funds to its finder;
 - c. Convert usable property to city use;

- d. Donate the property to a tax-exempt, non-profit organization; or
- e. Scrap unusable property or property of little or no value.

Any property not purchased at a public sale may then be disposed of by the city in any reasonable manner.

5. *Summary Disposal.* The city may dispose of any unclaimed property without notice and in a summary manner when the city believes this to be in the public interest and if the city determines that the property:
 - a. Is of a dangerous or perishable nature;
 - b. Is contraband;
 - c. Has no resale value; or
 - d. Cannot be legally or safely sold at a public sale.
6. *Disposition of Proceeds.* The proceeds from the sale of abandoned or unclaimed property after deduction of storage costs and any costs of sale incurred, if any, shall be deposited into the treasury of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six (6) months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage, the proportionate part of the cost of published notice and other costs of the sale.
7. *Special Provisions.* Money and other property lawfully seized by, or voluntarily surrendered to, the city at the scene of a crime or during an official police investigation must be retained by the Chief of Police in a safe place until a legal disposition is determined or the property is deemed abandoned under subdivision 4 above. If not lawfully claimed by the true owner with satisfactory proof of ownership during the sixty (60) day reclamation period outlined in subdivision 4, non-monetary property may be disposed of pursuant to subdivisions 4 and 5 above. Sale proceeds or seized money shall be deposited into the Police Department's forfeiture and seizure account to be used only for law enforcement purposes or as otherwise specified by state law.

C. *Disposal of Surplus City Property.*

1. *Declaration of Surplus and Authorizing Sale of Property.* The City Administrator may recommend to the Council that certain personal property owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, the property shall be declared surplus and the City Administrator authorized to dispose of the property in the manner stated herein.
2. *Sale of Surplus Property.* Property declared to be surplus city property and has been authorized to be sold by the City Council shall be sold in accordance with and

pursuant to the method of sale required by the Minnesota Statute § 471.345, and city policy. Where more than one method of sale is permitted, the City Administrator shall determine the method of sale to be used.

- 3. *Disposition of Proceeds.* All receipts from sales of surplus property under this section shall be placed in the City’s General Fund, unless directed to another City Fund by the City Administrator.

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

Ordinance amending the procedures for the disposal of unclaimed and surplus property in the city’s possession.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this _____ day of _____, 2023.

Mary Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the _____ on [Date].