

ORDINANCE NO. 2019-027-PS

**AN ORDINANCE PROVIDING FOR THE TAKING UP, THE STORING, AND THE DISPOSAL OF ABANDONED AND STOLEN PROPERTY FOUND OR SEIZED WITHIN THE CITY LIMITS OF TRUSSVILLE.**

**WHEREAS**, the City and its employees routinely comes in to possession of certain personal property owned by others; and

**WHEREAS**, the City needs a process in place to address the taking up, the storing, and the disposal of the abandoned and stolen property found or seized within the corporate limits of the City of Trussville; and

**WHEREAS**, section 11-47-116 of the Code of Alabama (1975) authorizes a municipality to adopt an ordinance addressing the same; and

**WHEREAS**, presently no ordinance exists that addresses this concern.

**NOW THEREFORE**, be it ordained by the City Council of the City of Trussville, Alabama, that the following ordinance, which shall be appropriately codified, is hereby adopted:

**ARTICLE. ABANDONED, SEIZED, OR STOLEN PROPERTY**

**Section A. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Captured portable property* means any portable property taken into the custody of a police officer in his or her official capacity, for use as evidence or as lost, stolen, or abandoned property or otherwise.

*Chief of Police* means the head of the Trussville Police Department or his or her designee.

*City* means the City of Trussville, Alabama.

*Custodian of Property* means officer or city employee who is so designated by the Chief of Police as the custodian and keeper of any and all abandoned, seized, or stolen property which comes into possession the City or its employee.

*Firearm* means any weapon from which shot is discharged.

*Money* means the lawfully established national currency denominations. Legally required commercial exchange medium for money-debt payment.

*Perishable Property* means any property that is likely to decay, perish, waste away, be destroyed, or otherwise substantially depreciate in value in a short period of time.

*Portable property* means personal property, other than vehicles.

### **Section B. Receiving, Recording, and Keeping of Records.**

(1) It shall be the duty of every police officer to deliver promptly to the custodian of property all captured portable property, including money, which he or she may take into his or her custody, and it shall be the duty of the custodian of property to receive such property.

(2) Upon delivery by a police officer to the custodian of property of any captured portable property, the custodian shall execute in duplicate a receipt for such property upon a form approved by the chief of police, describing the same as accurately as possible, which receipt shall be numbered and the duplicate thereof retained by such custodian, and the original thereof turned over to such police officer. The custodian of property shall attach to such property so received a tag bearing a number corresponding to the number placed on the receipt issued.

(3) The custodian of property shall keep such property safely in a room provided by the City. The custodian shall maintain and keep in his or her office a permanent record showing the date of the taking of each piece of such property, the place where found and taken and a description of the property.

(4) In the event any money is received by the custodian of property, the custodian of property shall deposit or cause to be deposited into the appropriate account of the City the money which shall remain in that account until further order of court relating to the purpose for which the money was seized or taken, or until the time prescribed in this ordinance has passed whichever time shall be lengthier in time.

### **Section C. Delivery to Rightful Owner.**

(1) Any captured portable property other than property being held as evidence in any legal proceeding, pending or contemplated, and other than property subject to condemnation or forfeiture under the laws of the state or under the provisions of this Code or other ordinances of the city, shall become subject to demand of the rightful owner thereof for its return upon the date of receipt thereof by the custodian of property. Any captured portable property being held as evidence in any legal proceeding, pending or contemplated, other than property subject to condemnation or forfeiture under the laws of the state or under the provisions of this Code or other ordinances of the city, shall become subject to demand of the rightful owner thereof for its return upon the date of final termination of such legal proceeding.

(2) The custodian of property shall deliver any property received by him or her as such custodian of property to the rightful owner thereof upon demand made after such property has become subject to demand therefor within the terms of this chapter and before sale thereof as provided in the following sections of this article.

(3) Upon delivery by the custodian of property to an owner of any captured portable property, the custodian of property at the time of making such delivery shall take the receipt of such owner for the property so delivered upon the duplicate receipt of the custodian for such property or upon a paper annexed to such duplicate receipt. Such receipt of the owner shall show the day on which such delivery was made, the name and address of the person to whom such property was delivered, a brief description of the property delivered, and a number corresponding to the number of the original receipt of the custodian covering such property.

#### **Section D. Sale of Property- Generally.**

(1) At least every six months any portable property, other than property subject to condemnation or forfeiture under the state law, or under the provisions of this Code or other ordinances of the city, which shall have been taken up and stored and shall have remained in the custody of the custodian for a period of three months or more, shall be sold by the city purchasing agent at the direction of the chief of police at public auction to the highest bidder for cash. Such sales to be made after notice of the time and place thereof shall have first been given by publication of notice once a week for two successive weeks in a newspaper of general circulation published in the city. The first publication shall be at least twenty (20) days before the sale. The owner of any of the property taken up and stored may redeem the same at any time prior to its sale by paying the reasonable expense of taking the property in charge, its maintenance and storage, and a pro rata share of the cost of publication. Each article shall be sold separately and a notation in the storage record book shall be made of the amount received for each article. The person making the sale shall have the right to reject any and all bids if the amount bid be unreasonably low, and shall have the right to continue the sales from time to time if no bidders are present. In the event that no bids are received, or the bid is rejected as being unreasonably low, or the city desires to purchase the article, then and in such event the purchasing agent of the city shall be permitted to bid and have the right to bid a reasonable amount on behalf of the city and the property shall then be sold to the city if its bid be the highest; provided that the purchasing agent shall make no single purchase on behalf of the city hereunder where the purchase price amounts to \$500.00 or more. The proceeds of the sale shall be paid into the general fund of the city after deducting and paying all expenses incurred in the taking up, maintaining and selling of the property. Where such portable property is money, no sale or publication shall be required and if such money is not claimed by the rightful owner thereof within six months after its receipt by the custodian the same shall be paid into the general fund of the City.

(2) In the event the chief of police determines that the sale of property is not practical or in the event property is not sold as provided in paragraph (1) of section D, the chief of police may order the property be destroyed or be donated to a reputable non-profit, charitable organization so designated by the City.

#### **Section E. Sale of Perishable Property.**

In all cases of perishable property, it shall be the duty of the custodian of property to report the same with all convenient speed to the chief of police, who shall have power in his or her discretion to order such property disposed of at public or private sale, and the proceeds of such sale shall be held by the director of finance in lieu of the property so taken for the benefit of the person entitled

to receive the same as the lawful owner of the property so sold. The director of finance shall pay over to the erstwhile owner of such perishable property the amount of the proceeds of the sale, less expenses of the sale, if such owner shall demand the same within six months from the date of the sale.

**Section F. Disposal of Firearms.**

(1) Any pistol, rifle, shotgun or other dangerous or deadly weapon not held as evidence in any legal proceeding, pending or contemplated, nor subject to condemnation or forfeiture under the state law, or under the provisions of this Code or other ordinances of the city; which shall have been taken up and stored as captured portable property under the provisions of this Code; have remained unclaimed in the custody of the city's custodian of property for a period of over six months; and is not subject to disposal as required in section 13A-11-84 of the Code of Alabama (1975) may be destroyed or otherwise rendered inoperable at the written direction of the chief of police.

(2) The chief of police shall maintain a permanent record of the identification of such property and shall make a written report to the mayor and director of finance every six months listing those weapons destroyed or otherwise rendered inoperable by the terms of this section.

(3) Should a firearm be held for disposal under section 13A-11-84 of the Code of Alabama (1975), the custodian of property shall ensure disposal of the firearm as required under section 13A-11-84 of the Code of Alabama (1975).

**Section G. Miscellaneous and Enactment Provisions.**

(1) In the event of any conflict between this ordinance and state or federal law, the state or federal law shall prevail.

(2) In the event any provision of this ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

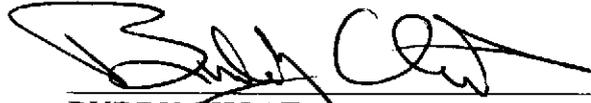
(3) This ordinance shall become effective upon its passage, adoption, and publication as required by law.

DONE this the 25<sup>TH</sup> day of JUNE, 2019.



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JEF FREEMAN  
COUNCIL PRESIDENT



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BUDDY CHOAT  
MAYOR

ATTEST:



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LYNN PORTER  
CITY CLERK