

Introduced by: City Manager Herron  
Date: October 22, 2002  
Public Hearing: November 26, 2002  
Action: Adopted  
Vote: Unanimous

## *CITY OF BETHEL, ALASKA*

### **SUBSTITUTE ORDINANCE #02-34**

#### **AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 4 OF THE BETHEL MUNICIPAL CODE ENTITLED "REVENUE AND FINANCE" REGARDING DISPOSAL OF PROPERTY IN THE POLICE DEPARTMENT'S POSSESSION**

**BE IT ORDAINED** by the City Council of Bethel, Alaska, that:

**SECTION 1. Classification.** This ordinance is permanent in nature and shall be incorporated into the Bethel Municipal Code ("Code").

**SECTION 2. Content.** Title 4 of the Code (Revenue and Finance) is hereby amended by adding a new chapter 11 to read as follows:

#### **Chapter 4.11** Disposal of property in the Police Department's possession

- 4.11.010 Definitions.
- 4.11.020 Disposable property
- 4.11.030 Notice of disposable property
- 4.11.040 Disposition of unclaimed disposable property
- 4.11.050 Reimbursement of fees
- 4.11.060 Disposition of destructible property

**SECTION 3. Content.** The following sections of chapter 11 of the Code (Revenue and Finance) are hereby added to read as follows:

#### 4.11.010 Definitions.

For the purposes of this chapter, unless otherwise provided, the following words when used in this chapter shall have the meanings ascribed to them in this section:

*"Collectible item"* means any disposable property, including money, ingots, or a precious metal commodity, which may be considered collectible or perceived to have an above average monetary market value.

*"Community based non-profit organization"* means a fraternal, charitable, religious, benevolent, or other nonprofit organization, actively operating in Bethel, that is exempt from taxation under the Internal Revenue laws of the United States as a fraternal, charitable, religious, benevolent, or other nonprofit organization.

*"Contraband"* means any property exported or imported in violation of law, or any property the possession of which constitutes a violation of law or is otherwise prohibited, including controlled substances, drug paraphernalia, and altered or counterfeit money.

*"Controlled substance"* means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140-11.71.190.

*"Dangerous property"* means any disposable property in the possession of the police department that is an immediate danger or health hazard to anyone, including city employees or the general public.

*"Destroy"* means destruction, rendering incapable for use, and permanently disposing of property by any lawful means, excluding auction, sale or converting to city use.

*"Destructible property"* means any disposable property in the possession of the police department that is dangerous, perishable, forensic evidence released after the final judicial disposition date, or any other disposable property that may be destroyed as set out in section 4.11.060.

*"Disposable property"* means any property in the possession of the police department, including money or collectible items that can be lawfully released or disposed of after retention periods set out in this chapter. Disposable property does not include motorized vehicles towed or impounded which are regulated by chapter 10.15, or city surplus property, regulated by chapter 4.10.

*"Disposition deadline date"* is 30 days after the posted date of the Notice of Disposable Property.

*"Drug paraphernalia"* means any items whose objective characteristics or objective manufacturer's design indicate that it is intended for use in the consumption, ingestion, inhalation, injection or other method of introduction of a controlled substance into the human body or to facilitate a violation of AS 11.71.

*"Drugs"* means prescription drugs, over-the-counter medication, or controlled substances.

*"Evidence"* means any property that is collected, found, recovered, seized, or otherwise comes into the custody of the police department, and retained for any criminal or internal investigation, judicial, quasi-judicial, or adjudicatory proceedings.

*"Fair market value"* means the commercial value that could reasonably be expected for any unclaimed disposable property disposed of under this chapter.

*"Final judicial disposition date"* means the date when all adjudicatory, quasi-judicial, and court appeals have been exhausted or the appeal period has expired, for each referenced case and for all persons associated with the evidence in possession of the police department.

*"Finder"* means the person identified on an official police report who has given found property to the police department.

*"Firearm"* means any weapon that is capable of delivering a projectile using an explosive as a propellant, including a pistol, rifle, shotgun, revolver or similar device.

*"Found property"* means non-evidentiary property held by the police department as lost or abandoned property.

*"Insubstantial fair market value"* means unclaimed disposable property which the police department determines to have a fair market value of \$50.00 or less.

*"Money"* means any domestic or foreign currency or comparable medium of exchange that is currently in circulation, has value, and is generally accepted by a financial institution.

*"Notice of disposable property"* means a printed or electronically accessible document containing information and an itemized of disposable property in the possession of the police department.

*"Over-the-counter medication"* means any substance that may be lawfully sold over the counter without a prescription, under 21 U.S.C. §§ 301-392 (Food, Drug, and Cosmetic Act) and 21 C.F.R. § 1308.22, and any amendments to these federal laws.

*"Owner"* means a person, legal representative, or a business with a legal or equitable interest in disposable property, that can produce sufficient proof of ownership acceptable to the police department.

*"Personal property"* means property in the form of personal identification, credit, debit, or bank cards, personal credentials, financial or legal documents, mail, photographs, keys, grooming materials, clothing or similar items.

*"Property"* means any item in the possession of the police department classified as evidence, found, safekeeping, or for destruction.

*"Safekeeping property"* means any non-evidentiary property in the possession of the police department placed into temporary custody on behalf of a known owner.

*"Unclaimed disposable property"* means any disposable property in the possession of the police department that is not claimed by or not timely retrieved after the disposition deadline date.

*"Vehicle"* means any motor vehicle, motorcycle, motor-driven cycle, snow machine, all terrain vehicle, or any classification of trailer. Motor assisted bicycles, battery operated toys, or machines designed as children's toys, are not considered a vehicle.

*"Weapon"* means any item traditionally used as a weapon, except firearms, and includes a chemical dispensing device, bow, club, baton, crossbow, knife, metal knuckles, martial arts weapon, or a gun which uses compressed air to deliver a pellet, BB, paintball or similar projectile, or any explosive component or device.

4.11.020 Disposable property.

- A. Except as otherwise required by law, the following property in possession of the police department is disposable property and shall be disposed of as provided for in this chapter:
  - 1. Evidence that is releasable and has been retained for 30 days after the final judicial disposition date;
  - 2. Safekeeping property that has not been claimed by the owner within 30 days after being acquired by the police department; and
  - 3. Found property that has not been claimed by the owner within 30 days after being acquired by the police department.
- B. The following property in possession of the police department is not subject to the retention periods in subsection A:
  - 1. Property voluntarily submitted to the police department by the owner for the purposes of disposal or destruction;
  - 2. Non-evidence contraband; or
  - 3. Dangerous or perishable property.

4.11.030 Notice of disposable property.

- A. The police department shall prepare a notice of disposable property after an accumulation of disposable property or as deemed necessary.
- B. The police department shall make a reasonable attempt to identify and notify the last known owner and any finder of found property by sending a notice of disposable property to the last known address according to police department records.
- C. The police department shall publish in a newspaper with circulation in Bethel the locations, including any website addresses, where the public can find the most current notice of disposable property.
- D. Each notice of disposable property shall contain the following information:
  - 1. Posted date of the notice of disposable property;
  - 2. Disposition deadline date;
  - 3. Notice of disposable property tracking number for each property item;
  - 4. General description for each property item; and
  - 5. Explanation of the procedures for the owner and any finder to claim the property item, as well as retrieve the property item within 15 days of the date of notice of

disposable property.

- E. The notice requirements in subsection A through C do not apply to disposable property subject to destruction under section 4.11.060 or forfeited by a court or plea bargain agreement.

4.11.040 Disposition of unclaimed disposable property.

- A. The police department shall authorize the disposition of unclaimed disposable property in one of the following manners:
  - 1. All unclaimed disposable property, excluding money, collectible items, and property items subject to destruction under section 4.11.060, shall be subject to a claim by the police chief for retention, use, or trade in accordance with the provisions of this chapter.
  - 2. All unclaimed disposable property, not claimed by the police chief, may be disposed of by any form of sale or trade in accordance with this chapter, including donation to community based non-profit organizations through an agreement or contract, except;
    - a. As otherwise provided for in section 4.11.060;
    - b. Money, which shall be deposited in the general fund;
    - c. Money determined to be a collectible item, may be deposited directly into the general fund or disposed of by sale in accordance with the provisions of this section; or
    - d. Firearms, which shall be sold only to a federal licensed firearms dealer.
- B. Any unclaimed disposable property claimed by the police chief under the provisions in subsection A.1. may be used for:
  - 1. Police department use, issue, training, or parts; or
  - 2. Barter or trade when the unclaimed disposable property is a weapon or firearm with a federal licensed firearms dealer, gun manufacturer or police supply company, for the purchase or acquisition for the police department of weapons, firearms, police equipment, or firearm related parts or accessories.

4.11.050 Reimbursement of fees

- A. At the time disposable property is being retrieved by any owner or finder, and before shipping of any disposable property, the police chief shall require a reimbursement fee from the person receiving the disposable property.
- B. A reimbursement fee may include costs related to any notice, publication, storage, postage, shipping, or other related handling expenses.

- C. The police chief may waive a reimbursement fee for good cause.
- D. Any collected reimbursement fee shall be put in the general fund.
- E. The reimbursement fee shall be set and periodically adjusted by noncode ordinance.

4.11.060 Disposition of destructible property.

- A. The following types of disposable property may be destroyed in accordance with the provisions of this chapter:
  - 1. Unclaimed safekeeping property acquired under section 4.11.020A.2;
  - 2. Property ordered to be destroyed by a court or pursuant to a plea bargain agreement;
  - 3. Property, including money, determined by the police department to be contaminated, a biohazard, or health hazard;
  - 4. Ammunition, contraband or personal property;
  - 5. Property determined by the police department to be unserviceable, junk, or waste, have insubstantial fair market value, or does not sell at an auction; and
  - 6. Prescription or over-the-counter medication, except that the police chief may authorize the return of a prescription when there is no evidence of contamination or product tampering and the owner can provide evidence of a valid medical need.
- B. Notwithstanding other provisions of this chapter, firearms or weapons may be destroyed or rendered incapable of use, and then permanently disposed of by any lawful means, when the police chief or a United States Department of Treasury official, inspects, examines or otherwise determines:
  - 1) There is a violation of municipal, state, or federal law, such as the Federal Firearms Act, which makes the weapon or firearm not legal for private ownership or possession; or
  - 2) The weapon or firearm is unsafe, a biohazard, or presents an immediate or inherent danger to the public, or is determined by the police chief to be in the best interest of the community.
- C. Any property that comes into the possession of the police department that it determines to be perishable or dangerous may be immediately disposed of by any lawful means.

**SECTION 4. Effective Date.** This Ordinance shall take effect immediately upon approval by the

City Council.

**ENACTED THIS 26<sup>th</sup> DAY OF November 2002, by a vote of 7 in favor and 0 opposed.**

ATTEST:

\_\_\_\_\_  
Hugh Short Jr., Mayor

\_\_\_\_\_  
Janette Persinger, City Clerk