

**ORDINANCE NO. O2014.07**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF TEMPE, ARIZONA, AMENDING  
CHAPTER 26, ARTICLE III, TEMPE CITY  
CODE, BY AMENDING SECTION 26-53.1  
RELATING TO DISPOSAL OF PROPERTY IN  
POLICE POSSESSION.**

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

**Section 1.** That Chapter 26, Article V, Section 26-70 of the Tempe City Code is hereby amended to read as follows:

**Sec. 26-53.1. Disposal of property in police possession, notice, publication.**

(a) Money or property coming into the hands of the police department as abandoned, stolen, found, seized, contraband, safekeeping or as evidence, shall be disposed of as follows:

- (1) Property used as evidence in any criminal proceeding shall be disposed of as provided in the State Rules of Criminal Procedure, Rule 28.2; items which cannot be returned to a legal owner shall be disposed of as provided in paragraph (10) below;
- (2) Property seized as a forfeiture shall be disposed of as forfeitures under A.R.S. §13-4301 et seq.;
- (3) Illegal drugs not used for evidence or as forfeitures shall be disposed of as provided in A.R.S. § 13-3413;
- (4) Confiscated spirituous liquors not used as evidence shall be destroyed unless otherwise provided herein;
- (5) Stolen property not used as evidence or falling under another provision herein shall be disposed of as property held for safekeeping under paragraph (9) thereof;
- (6) Contraband not otherwise disposed of as provided herein shall be destroyed;

- (7) Explosives and hazardous materials shall be destroyed, disposed of or retained for use by the police department unless otherwise provided for in this section;
- (8) Perishable items not otherwise disposed of as provided herein or reclaimed by the owner may be destroyed after twenty-four (24) hours of its acquisition by the department;
- (9) Property which is being held for safekeeping by the police, or entrusted to the police for safekeeping, shall be disposed of after the department provides notice to the person entrusting the property or the owner. The notice shall be sent to such person within thirty (30) days after the entrustment notifying that person to claim the property no later than thirty (30) days following the date of the notice, or else the property will be disposed of by the department as provided in paragraph (10); or
- (10) Property whose disposition is not otherwise provided for in this section shall be disposed of ~~as follows:~~ PURSUANT TO STATE LAW.
  - a. ~~Items of an apparent market value estimated at twenty five dollars (\$25) or less may be disposed of by the police department as it deems appropriate and in accordance with the city's materials management ordinance and policies; or~~
  - b. ~~Items of a value of twenty five dollars (\$25) or more and all found money may be disposed of after notice is mailed to the person known or believed to be the owner of the property. If an owner or other claimant is unknown, the city shall publish notice that the property, if not claimed within the time period, will be disposed of, used or sold by the city. Sixty (60) days after notice of the property is mailed or published as provided herein, if the property remains unclaimed by the owner or other claimant, the city shall petition the city court for disposal of the property. If the property remains unclaimed ninety (90) days after acquisition of the property, then the court shall order escheatment and disposition as requested by the city. The city may dispose of such property in any manner authorized by law for excess or surplus materials generally.~~

(b) If there is a dispute as to the ownership of money or property coming into the possession of the police department, the department shall request an administrative hearing to determine who has the greater right to the possession of the property. All parties claiming an ownership interest in the property shall be given notice of the hearing and an opportunity to be heard. The hearing officer shall establish rules of administration and procedure to ensure the fair and orderly conduct of hearings held pursuant to this section.

(C) MONEY OR PROPERTY COMING INTO THE HANDS OF THE POLICE DEPARTMENT AS ABANDONED, STOLEN, FOUND, SEIZED, CONTRABAND, SAFEKEEPING OR AS EVIDENCE, SHALL PURSUANT TO STATUTE, REQUIRE THE CITY TO POST A NOTICE CONTAINING A DESCRIPTION OF THE PROPERTY BEFORE THE FINAL DISPOSITION OF THE PROPERTY.

**Section 2.** Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

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Judith R. Baumann, City Attorney