

PROPOSED ORDINANCE

Proposed by: Town Attorney

A proposed ordinance to amend Chapter 2, Administration, of the Code of the Town of Vienna, adding a new Article 7 and new Sections 2-69 to 2-74 to establish procedures for the disposition and disposal of property seized by the police in accordance with Virginia Code §15.2-1719 (1950 as amended).

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF VIENNA, VIRGINIA
THAT:

Section 1: The Town Code, Chapter 2 be amended, adding new Article 7, Disposition of Property Seized by Police, and adding new Sections 2-69 to 2-74 to the Code of the Town of Vienna and to read as follows:

Article 7, Section 2-69 to 2-74 - Disposition of Property Seized by Police.

Section 2-69. - Property seized by police; disposition generally; notice of sale.

- (a) It shall be the duty of the Chief of Police to keep or cause to be kept a record of all property seized or otherwise taken possession of by the Police Department of the Town of Vienna. If, after sixty (60) days have elapsed from the date of possession of property acquired other than by seizure the property has not been claimed by the rightful owner thereof, the Chief of Police shall direct that such property be released to the possession of any person who found and delivered or caused the property to be delivered to the Police Department upon such person claiming said property within ten (10) days from the expiration of the initial sixty (60) day period, provided that such finder is not himself either a member of the Police Department or member of any such person's immediate family. Failure by the finder to claim said property within the ten (10) day period shall be deemed a waiver of any claim the finder may have to said property. Unclaimed property shall be treated as provided in Subsection (b) hereof.*
- (b) Property seized or otherwise taken possession of by the Police Department which is necessary to any court action and which is not claimed by the rightful owner thereof within sixty (60) days from the date of the final disposition of such court proceedings or by the finder within ten (10) days after the initial sixty (60) day period shall, within one (1) year from the expiration of the aforementioned seventy (70) days, be included on a list certified by the Chief of Police and forwarded to the Town purchasing agent describing such property, showing the date of seizure or possession by the Police Department, and stating that the listed property is not necessary to any court action and that no person has claimed ownership thereof.*

- (c) *Upon receipt of such list, the purchasing agent shall publish or cause to be published, in two (2) or more newspapers published or having general circulation in the County of Fairfax, a description of such property with the date of seizure or the taking possession thereof and shall give notice that if such property be not claimed by the rightful owner thereof within thirteen (13) days from the initial date of such publishing such property will be sold at public auction at such place as the purchasing agent may direct and in such a manner as to expose to the inspection of bidders all property so offered for sale; provided, however, that all such unclaimed property of use to the Town may be retained for the use of the Town.*
- (d) *In addition to the publication of notice provided for in this section, the purchasing agent shall post or cause to be posted at the public notice board inside the front door of the Town Hall for the Town of Vienna a copy of the notice published in the newspapers, and shall make a record of the date when such publication and the posting of notice are made. If more than three (3) days have passed since the last date of such publication and posting and no claim for such property described in such notice shall have been made by the rightful owner thereof, the purchasing agent shall retain it for use by the Town or proceed to sell such property at public auction.*

Section 2-70. - Sale or donation of unclaimed bicycles.

Any bicycle not necessary to any court action seized or taken into possession by the Police which has been in the possession of the Police Department, unclaimed, for more than seventy (70) days (as set forth in Town of Vienna Code Section 2-69(a), (b)) may be sold at public auction or donated to a charitable organization, provided more than three (3) days have passed since the purchasing agent has caused to be published at least once a week for two (2) successive weeks in newspapers of general circulation within the County, the location and description of the bicycle. Where a bicycle seized or taken into possession by the Police Department is necessary to court action, the above time periods shall begin to run as of the date of final disposition of said action.

Section 2-71. - Perishable or bulky property seized by police; disposition.

If any property seized or taken possession of by the police force shall be of a perishable nature or so bulky or of such nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in Section 2-69, upon a certificate of such fact by the Chief of Police setting forth his reasons why such property should not be retained for the period fixed in Section 2-69 before selling the same, the purchasing agent shall cause such property to be advertised forthwith in two or more newspapers published or having general circulation in the Town and shall sell such property at public auction at any time after three (3) days shall have elapsed from the date of such publication.

Section 2-72. - Property seized by police; applicability of Sections 2-69 to 2-74.

Nothing in Sections 2-69 to 2-74 shall be held to require the Chief of Police to take possession of or to make disposition of any lost or stolen property, the disposition or possession of which is otherwise provided for by law, and none of the provisions of Sections 2-69 to 2-74 shall apply to pistols, revolvers, derringers, Bowie knives, dirks, slingshots, metallic knuckles or other deadly weapons of like character, but all such weapons shall be disposed of in accordance with Va. Code Ann. § 15.2-1721.

Section 2-73. - Property seized by police; duty of officers to deliver property immediately to Chief of Police.

It shall be the duty of all officers and members of the Police Department into whose possession any property seized or taken shall come to deliver the same at once to the Chief of Police or his designated officer unless it is wanted for immediate use as evidence in any case, and in that event a report and inventory of the same shall be forwarded at once to the Chief of Police.

Section 2-74. - Property seized by police; disposition of proceeds of sale of property.

The proceeds of any sale made as provided in Section 2-2-1 shall be paid into the Town treasury and credited to the Town of Vienna General Fund or may be paid into a dedicated fund maintained by the Vienna Police Department for a Crime Solvers' Treasury.

Section 2: This Ordinance shall become effective ten (10) days following notice of adoption by the Town Council.

Passed and approved this _____ day of _____, 2015.

Laurie A. DiRocco, Mayor

ATTEST:

Town Clerk

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