

RESOLUTION NO. 1809

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING THE ADMINISTRATIVE POLICY “DISPOSITION OF UNCLAIMED MONEY AND PROPERTY” TO CONFORM TO RECENT AMENDMENTS TO A.R.S. §12-940 *et seq.*; PROVIDING THAT IF ANY PROVISION IN THIS RESOLUTION IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, by Resolution No. 1029 (dated July 26, 2001), the Town Council adopted its new “Prescott Valley Policies and Procedures Manual” which consolidated all Town policies [e.g. the Personnel Manual, the Procedures Manual (first formally adopted by Resolution No. 786, September 18, 1997), and other manuals] into a single notebook made up of individual, numbered policies on various topics; and

WHEREAS, by Resolution No. 1116 (dated October 10, 2002) the Town Council adopted a new Administrative policy entitled “Disposition of Unclaimed Money and Property” to establish specific procedures based upon the Arizona statutory procedure for responsible disposition of unclaimed money and property held in custody by Town officers and/or agencies; and

WHEREAS, on April 3, 2012 and April 4, 2012, the Arizona governor approved House Bill 2371 and Senate Bill 1241, respectively, both of which substantially amended the statutory procedures for the disposal of unclaimed property held by a state, county, city or town; and

WHEREAS, the Town Council has reviewed this proposed amendment to the Town Policy in order to conform with the amended statutory procedures and desires now to adopt the same;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA:

1. That the Administrative Policy “Disposition of Unclaimed Money and Property” be hereby amended consistent with the recent amendments to A.R.S. §12-940 *et seq.* [Note that said amended policy is attached hereto and expressly made a part hereof.]
2. That, if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.
3. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 13th day of September, 2012.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

TOWN OF PRESCOTT VALLEY

POLICIES AND PROCEDURES

Subject:		File Under Section:
DISPOSITION OF UNCLAIMED MONEY AND PROPERTY		ADMINISTRATIVE
Effective Date:	Number:	Page:
	1-06	1 of 4
Supersedes:		Approved By:
Res. No. 1116, October 10, 2002 Disposition of Unclaimed Money and Property		Larry Tarkowski Town Manager
		Date: _____/S

1.0 POLICY

1.1 It is the policy of the Town of Prescott Valley to provide effective procedures for the disposal of ~~unclaimed money or all~~ property that was used as evidence and that remaining remains unclaimed in the hands of the Town officers and/or agencies, after final disposition of the cause in which so used, or that was seized by a peace officer as being used unlawfully or for an unlawful purpose and that was held unclaimed from the date of seizure, or ~~coming~~ that came into the hands of ~~a~~ the Town officer as unclaimed or contraband.

2.0 PURPOSE

2.1 The purpose of this policy is to establish and maintain procedures in accordance with state law for the responsible disposition of all unclaimed ~~money and~~ property held in custody by the Town officers and/or agencies.

3.0 APPLICABILITY

3.1 All Town officers and/or agencies having custody of unclaimed ~~money or~~ property.

4.0 REFERENCE

4.1 A.R.S. §12-941 ~~940~~ 940 *et seq.*

4.2 ~~A.R.S. §12-1621~~ *et seq.*

5.0 DEFINITIONS

5.1 *Dispose* means the transfer of property by its return to the owner, sale, conversion or destruction or by any other means of disposal.

5.2 *Evidence* means property that is held for possible presentation in a judicial or administrative proceeding to establish the truth or falsity of an alleged matter of fact.

5.3 *Found Property* means recovered, lost or abandoned property that is turned over to a public agency where the owner may or may not be known and that is not classified as evidence.

5.4 *Property* means any item, including currency, that is held for safekeeping or as evidence or found property or that has been abandoned, unclaimed or awarded by the court.

5.5 *Safekeeping* means storage of an asset or item of value by a public agency that is not classified as evidence and that belongs to a known individual.

5.06.0 PROCEDURES

5.16.1 Custody of Unclaimed Money or Property

6.1.1 Any and all unclaimed ~~money or~~ property used as evidence and remaining unclaimed after final disposition of the cause in which so used, ~~or that was~~ seized by a peace officer as being used unlawfully or for an unlawful purpose, or ~~coming that came~~ into hands of a ~~the~~ Town officer as unclaimed or contraband shall be retained in custody by the ~~officer/agency~~ (“Custodial Officer”) ~~Town~~ for ~~ninety (90)~~ thirty (30) days.

6.1.2 Found property turned over to the Town may be returned to the person who found and turned it over if all of the following conditions apply:

- i. The property is not contraband.
- ii. The property remains unclaimed for thirty days after reasonable efforts have been made to locate and notify the owner.
- iii. The person who found and turned over the property is not a public officer or employee of the federal, state or local government who found the property in the course of performing the duties of the office or employment.

~~6.1.35-1.2~~ All unclaimed ~~money~~ U.S. currency held in custody pursuant to the provisions of 65.1.1 shall be deposited into the Town's General Fund pending the final disposition of said ~~money~~ currency.

6.2 Owner Notification

6.2.1 If any property is available for release and the owner is known, the Town shall make a reasonable attempt to notify the owner.

6.2.2 If the owner of property held by the Town that has a value of more than one hundred fifty dollars (\$150.00) is not known, the Town shall publish or post a notice containing the description of the property before the final disposal of the property.

6.3 Sale of Property

6.3.1 If, after the 30-day notice period has expired, the owner or person entitled to the property has not claimed and retrieved the property, the property may be sold. The proceeds shall be paid to the Town's General Fund.

6.3.2 Notwithstanding Subsection 6.3.1, if the property is a firearm the Town shall file a petition in the Prescott Valley Magistrate Court, requesting an order directing that the firearm be sold to any business that is authorized to receive and dispose of the firearm under federal and state law and that shall sell the firearm to the public according to federal and state law (unless the firearm is otherwise prohibited from being sold under federal and state law). The Town of Prescott Valley Police Department may trade a firearm that it has retained to a federal firearms-licensed business for ammunition, weapons, equipment or other materials to be exclusively used for law enforcement purposes. The petition shall be substantially in the form of the example attached hereto as Exhibit "A" and incorporated herein by this reference.

~~5.2 Filing a Petition~~

~~5.2.1 At the conclusion of the ninety-day period, the Custodial Officer shall file a petition in the Yavapai County Superior Court, requesting an order directing that the property be sold or that the money be escheated to the Town's General Fund. The petition shall be in substantially the form of the examples attached hereto as Exhibit "A" and incorporated herein by this reference.~~

~~5.2.2 A notice of the petition shall be provided to the owner of the money or property, if known, by mailing or personally delivering a copy of the notice and petition to said owner. The notice shall be in~~

~~substantially the form of the example attached hereto as Exhibit "B" and incorporated herein by this reference. The owner of the money or property shall have sixty (60) days from the date of the notice to claim the described money or property or to answer the petition.~~

~~5.2.3 If the name and address of the owner are unknown, the notice shall be published once in a newspaper published within Yavapai County. The notice shall be in substantially the form of the example attached hereto as Exhibit "C" and incorporated herein by this reference. Said notice shall be published at least eighteen (18) days prior to the date of the anticipated sale of the property or the date on which the money will be paid into the Town's General Fund.~~

~~5.2.4 If the owner has not claimed the money or property or answered the petition within sixty (60) days of the date of the notice (within 18 days from the date of publication of the notice in the case of an unknown owner), the court will issue an order granting the petition.~~

~~5.2.5 If the property or money is claimed by the record owner within the sixty-day period, the Custodial Officer shall file a motion with the Superior Court requesting that the petition be dismissed.~~

~~5.3 Sale of Property/Escheat of Unclaimed Money~~

~~5.3.1 Upon entry of the court order granting the petition for the sale of the property, the Custodial Officer shall post a written notice in three (3) public places, two of which shall be in the Town and one at or near the door of the courthouse of the Yavapai County Superior Court. Said notice shall describe the time and place of the sale and shall be posted for at least ten (10) consecutive days immediately prior to the date of the sale.~~

~~5.3.2 On the date scheduled for the sale, the property shall be sold on or near the premises where it is being held in custody or at some other place more convenient for exhibiting the property to purchasers. All sales shall be made at public auction to the highest bidder between the hours of ten a.m. and four p.m. No person who is a Town officer or employee shall become a purchaser or be interested in such sale. All proceeds from the sale shall be paid to the Town's General Fund.~~

~~5.3.3 Upon the entry of the court order granting the petition to escheat, the money described in the petition shall become the property of the Town.~~

~~5.3.3.1 Money turned over to the Town as lost may be returned to the person who found and turned it over if the finder is not a~~

~~person who is a public officer or employee of the federal, a state or local government who found the money in the course of the performance of the duties of the office or employment. If such money is not claimed within the sixty day notice period, the court shall order all of the money paid as a reward to the finder who turned the money over to the Town.~~

~~5.4~~ Exceptions

~~5.4.1~~ Tangible personal property turned over to the Town as lost may be returned to the person who found and turned it over if all of the following conditions apply:

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- ~~i.~~ The property is not contraband.
 - ~~ii.~~ No other disposition of the property is specifically provided by law.
 - ~~iii.~~ The property remained unclaimed for ninety days after reasonable efforts have been made to locate and notify the owner.
 - ~~iv.~~ The person who found and turned over the property and/or money is not a public officer or employee of the federal, a state or local government who found the property in the course of performing the duties of the office or employment.

~~5.4.2~~ Items valued at twenty five dollars or less may be given to an appropriate charity.

~~5.4.3~~ Items that have military or historical value may be given to an appropriate museum.

~~5.4.4~~ Coins that have a value lesser or greater than face value may be sold to a dealer or for fair market value, whichever is greater.

~~5.4.5~~ Items that have a useful value to a law enforcement agency may be retained and utilized by that law enforcement agency.

~~5.4.5.1~~ Retention and utilization of firearms being held by a law enforcement agency pursuant to A.R.S. §12-941 shall include the right to trade such firearms with duly licensed firearms dealers in order to obtain firearms that are more useful to the agency.

6.45.5 Record Keeping

6.4.15.5.1 A record of all transactions under these policies and procedures shall be maintained for at least twenty-four months.

IN THE MAGISTRATE COURT OF THE TOWN OF PRESCOTT VALLEY
COUNTY OF YAVAPAI, STATE OF ARIZONA

In re the Matter of:

(Description of Property)

) Docket No.

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**PETITION FOR SALE OF
FIREARMS**

COMES NOW the Town of Prescott Valley Police Department (“Petitioner”), by and through undersigned counsel, and pursuant to A.R.S. §12-945(B) hereby respectfully petitions this court for an order for the sale of the firearms described herein. As grounds therefore, Petitioner states as follows:

On (date), _____(fully describe property and the facts and circumstances under which the said property came into the custody of petitioner and under which it remains unclaimed).

In accordance with A.R.S. §12-945(B), if any firearm received by an officer pursuant to A.R.S. §12-941 is not claimed or taken away, the Town may proceed to dispose of it by first petitioning the court for an order for the sale of the firearm. The thirty-day waiting period (from the date Petitioner took possession of the firearms) pursuant to A.R.S. §12-942 has expired and the firearms remain unclaimed.

The owner(s) of the firearms described herein [is known/is not known]. [if known] The Town made a reasonable attempt to notify the owner(s) that the described firearm(s) is available for release pursuant to A.R.S. §12-944. Thirty days have passed since the owner was notified and the property remains unclaimed. [if not known] Pursuant to A.R.S. §12-944(B), the Town published/posted a notice containing the description of the property. A copy of the Notice is

attached hereto as Exhibit "A" and incorporated herein by this reference. Thirty days have passed since the notice was published/posted and the property remains unclaimed.

WHEREFORE, based upon the foregoing facts and authority, Petitioner respectfully requests an order of this Court for the sale of the firearms described herein consistent with the requirements of A.R.S. §12-945(B).

DATED this ____ day of _____, ____.

TOWN OF PRESCOTT VALLEY POLICE DEPARTMENT

By _____

Ivan Legler
Attorney for Town of Prescott Valley
7501 E. Civic Center
Prescott, AZ 86314
(928) 759-3031

COPY OF THE FOREGOING
MAILED this ____ day of _____, ____,
to:

IN THE MAGISTRATE COURT OF THE TOWN OF PRESCOTT VALLEY
COUNTY OF YAVAPAI, STATE OF ARIZONA

In re the Matter of:) Docket No.
(Description of Property))
) **ORDER FOR SALE OF FIREARMS**
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_____)

This matter having come before the Court on Petitioner’s Petition for Order for Sale of Firearms and the Court finding good cause therefor;

IT IS HEREBY ORDERED that those firearms described in the Petition shall be sold by Petitioner to any business authorized to receive and dispose of firearms under federal and state law.

IT IS FURTHER ORDERED that Petitioner shall select only those authorized businesses that will resell the firearms to the public in accordance with federal and state law, unless the firearm is otherwise prohibited from being sold under federal and state law.

DATED this ____ day of _____, 2012.

Honorable R. Keith Carson
Prescott Valley Magistrate

COPY OF THE FOREGOING
MAILED this ___ day of _____, _____,
to: