



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
August 13, 2020

Department Police

Director Approval *Harrison*

AGENDA ITEM Consider adopting an ordinance dealing with the disposal of abandoned or unclaimed property.

SUMMARY RECOMMENDATION The Police Department has excessive found property and staff recommends that the City Commission amend an ordinance to allow City staff to donate eligible property to persons or organizations deserving of such donations, retain for City use, or release unclaimed found property back to the finding party.

BACKGROUND On 10-13-16 the Commission approved Ordinance 4228 allowing the disposal of abandoned and unclaimed property.

On 07-25-2019 the Commission adopted Ordinance 4305 which approved amendments to Ordinance 4228 to allow found property to be donated to deserving organizations or persons upon approval of the City Manager.

In the case of property that is found a by a citizen who does the right thing by turning it into the City, several requests a year by the finding parties have been made to have the unclaimed property released back to them. In one such case in May of 2020, a citizen found \$100 and turned it into the police department. The citizen later inquired to see if the unclaimed money could be released back to them, and it was denied based on the current ordinance. The citizen was discouraged from doing the right thing by turning in the found money.

BUDGET IMPACT No budget impact.

SUGGESTED MOTION I move to adopt an ordinance amending City Code Section 18-452 (Ordinance 4228) as written to allow unclaimed property to be released to the person who found the property and turned it into the City.

SUPPORTING DOCUMENTS

1. Ordinance 4305
2. An Ordinance Amending City Code Section 18-452 (Ordinance No. 4305)

ORDINANCE NO. 4305

An Ordinance Amending City Code Section 18-452 (Ordinance No. 4228) Having to do with Donation of Unclaimed Property

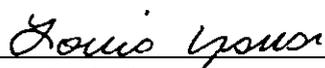
BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Subsection (b)(2) of City Code Section 18-452 (Ordinance No. 4228) is amended to read as follows in its entirety:

(b)(2) By donation to a charitable organization, church, school or such other person or persons worthy or deserving of similar consideration as determined by the city manager, or his designee, in his sole discretion. Donations shall not be made to a person or entity for purpose of re-sale of the item(s) donated. Should the city obtain evidence that a recipient of a donated item either sold, conveyed or traded it for money or other consideration, the city in its sole discretion may declare that such recipient shall be permanently disqualified from receiving future donations.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 25th day of July, 2019.



LOUIS YSUSI, Mayor

ATTEST:



DAVID W. SCHWENKER, City Clerk



State of Kansas, Montgomery County
This instrument was filed for
Record on July 26, 2019 10:44 AM
Recorded in Book 683 Page 33 - 33
Fee: \$0.00 201902477



Marilyn Calhoun, Register of Deeds



ORDINANCE NO. _____

**An Ordinance Dealing With the Disposal
Of Abandoned or Unclaimed Property**

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Ordinance No. 4305 as codified in City Code Section 18-452 is hereby amended to read as follows in its entirety:

Section 18-452. Disposal of abandoned or unclaimed property.

(a) The handling and disposal of abandoned or unclaimed property shall be handled by the city manager, or his designee.

(b) For purposes of this ordinance, the following terms shall have the following definitions:

(1) *Abandoned or Unclaimed Property* – means any tangible personal property which has come into the possession of the city which was not seized as or is not being held as evidence for purposes of a criminal proceeding, and the owner of which is not known or cannot be reasonably ascertained. Abandoned or unclaimed property shall include lost or mislaid property which has been found and turned over to the city.

(c) The city shall maintain sufficient documentation allowing it to monitor the receipt and disposition of abandoned and unclaimed property, and shall create such forms as are necessary to accomplish the same.

(d) Any abandoned or unclaimed property which has come into the possession of the city may be released to the rightful owner thereof upon the presentation of evidence of ownership sufficient to establish ownership in light of all surrounding circumstances, as determined in the sole discretion of the city manager, or his designee. It is the goal that all abandoned or unclaimed property in the possession of the city be returned to the rightful owner to the fullest extent possible.

(e) Any abandoned or unclaimed property which has not been claimed within sixty (60) days from the date of its receipt by the city may be disposed of in any of the following ways as

determined in the sole discretion of the city manager or his designee:

(1) In the case of any property that was found by a citizen and turned into the city, preference shall be given to release of such property to the person who found it and turned it in to the city; or

(2) By public auction to the highest bidder for cash; or

(3) Property may be retained for use by the city; or

(4) By donating such property to a charitable organization, church, school or such other person or persons worthy or deserving of similar consideration as determined in the sole discretion of the city manager, or his designee. Donations shall not be made to a person or entity for the purpose of re-sale. Should the city obtain evidence that a recipient of a donated item has either sold, conveyed or traded it for money or other consideration, the city manager, or his designee, may in his sole discretion declare such recipient permanently disqualified from receiving future donations.

(f) In the event that the abandoned or unclaimed property is a firearm or ammunition, such property shall only be released to its rightful owner upon presentation of a valid identification and documents showing that the rightful owner may legally possess the same.

(g) In the event the abandoned or unclaimed property is sold at public auction to the highest bidder for cash, proceeds from such sale shall be placed in the general fund of the city.

(h) To the extent that this ordinance may conflict with any state statute pertaining to the disposition of abandoned or unclaimed property, the state statute shall take precedence. It is the intent that this section shall apply to disposition of abandoned or unclaimed property which is not otherwise addressed by state statute.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the ____ day of _____, 2020.

LEONHARD CAFLISCH, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk