

**ORDINANCE NO. 17-07**

**AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY GOVERNING THE DISPOSITION OF PERSONALTY IN THE POSSESSION OF THE CITY'S POLICE DEPARTMENT PROPERTY CUSTODIAN**

**WHEREAS**, the City's law enforcement officers in the performance of their duties frequently have occasion to take possession of various items of personalty in connection with law enforcement activities, items which may constitute contraband as that term is defined in the Kentucky Revised Statutes as well as non-contraband items which may constitute potential evidence in a subsequent criminal proceeding; and

**WHEREAS**, all such items of personalty are given over to the possession of the City police department property custodian (the "Custodian") and thereafter stored by the Custodian in the City's secure evidence storeroom; and

**WHEREAS**, although the Custodian makes an effort to return these items of personalty to their lawful owners when those items are no longer needed in connection with the possible criminal proceeding which initially brought them into the Custodian's possession, many of such items remain unclaimed and in storage; and

**WHEREAS**, the Board of Commissioners finds it to be in the public interest that it enact procedures which govern the ultimate disposition of such unclaimed items of personalty;

**NOW, THEREFORE, BE IT ORDAINED** that:

**SECTION I**

**1. Property subject to the provisions of this Ordinance.** The provisions of this Ordinance as set forth below shall have application only to items of personalty:

- (a) Which were related to a criminal proceeding as to which a final judgment has been entered which is no longer subject to appeal; or
- (b) Which were related to a contemplated criminal proceeding which did not come to fruition; or
- (c) Which have not been ordered to be either destroyed or forfeited by the court in the related criminal proceeding; or
- (d) Which are not firearms, contraband, or specie.

**2. Procedures governing disposition.**

(a) The Custodian shall give written notice sent by first class mail to the lawful owner or lawful claimant of the personalty if the identity of such person is known. If there is a name and address of the lawful owner or claimant in the police file related to the personalty notice shall be sent to that person and at that address. If there is a name in the file but no address, notice shall be sent to that person at the address on the person's driver's license. Such written notice shall describe the personalty in question and shall advise that unless the personalty is claimed by the person to whom the notice was sent within 90 days of the date of the notice, the personalty shall be deemed abandoned and forever released to the City of Richmond, Kentucky.

(b) The police department, following the expiration of such 90 days, shall either destroy the personalty or proceed with its sale by auction advertised in accordance with the provisions set forth in Chapter 424 of the Kentucky Revised Statutes. In no instance shall any such personalty be disposed of in any other fashion. All net sales proceeds shall be remitted to the City Department of Finance and deposited into the general fund.

(c) If the name and address of the lawful owner or lawful claimant does not appear in the police files related to the personalty in question, the Custodian or other employees of the police department shall make reasonable efforts to ascertain such identity and address and, if such efforts are successful, notice shall be given to such person as is set forth above in sub-section (a). If after such reasonable efforts the identity and address remain unknown, the personalty, after it has remained in the possession of the Custodian for a period of time greater than 90 days, shall be deemed abandoned and forever released to the City of Richmond, Kentucky. In such event, the personalty shall be disposed of in the manner set forth in sub-section (b), above.

**SECTION II**

This Ordinance shall become effective immediately after its enactment following second reading, and publication in accordance with the requirements of applicable law.

**DATE OF FIRST READING:** **March 28, 2017**  
**MOTION BY:** **Commissioner Morgan**  
**SECONDED BY:** **Commissioner Blythe**

<b>VOTE</b>	<b>YES</b>	<b>NO</b>
Commissioner Blythe	x	
Commissioner Eaves	x	
Commissioner Morgan	x	
Commissioner Newby	x	
Mayor Barnes	x	

**DATE OF SECOND READING:** **April 11, 2017**  
**MOTION BY:** **Commissioner Eaves**  
**SECONDED BY:** **Commissioner Blythe**

**VOTE**

Commissioner Blythe  
Commissioner Eaves  
Commissioner Morgan  
Commissioner Newby  
Mayor Barnes


**YES**

x  
x  
x  
x  
x

**NO**

  
\_\_\_\_\_  
Mayor Barnes

ATTEST:

  
\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
City Attorney, Garrett Fowles