

ORDINANCE NO. 80-O-343

AN ORDINANCE GOVERNING THE DISPOSAL OF UNCLAIMED, BAILED, AND STOLEN PROPERTY AND DECLARING AN EMERGENCY.

Sections:

- Section 1. Unclaimed property.
- Section 2. Sale of Perishable Property.
- Section 3. Fees allowed to Municipal Court Judge and Brookings Police Department.
- Section 4. Delivery of Stolen Property to Owner.
- Section 5. Rights and Authority Converted by Order of Delivery.
- Section 6. Disposal of Unclaimed Property of Money; Sale of Property.
- Section 7. Title of Purchase at Sale.
- Section 8. Crediting and Appropriating Proceeds of Sale Paid Into City Treasury; Rights of Owner.
- Section 9. [Emergency clause]

The city of Brookings ordains as follows:

Section 1. Unclaimed property. If personal property deposited with the City of Brookings or any agency thereof is not claimed and taken away within one (1) year after the time it was received, the City of Brookings may at any time thereafter proceed to sell the property in the following manner:

A. Notice of Sale: Before property shall be sold pursuant to this section, at least 60 days, notice of sale shall be given tie owner of the property, if his name and residence are known, either personally or by mail, or by leaving a notice at his residence or place of doing business) or, if the name and residence of the owner is not known, a notice shall be published and contain a description of the property), for six (6) successive weeks in the Curry Coastal Pilot. The last publication of the notice shall be at least 18 days prior to the time of sale.

B. Affidavit by Custodian when No Response to Notice: If the owner or person entitled to the property to be sold pursuant to this section shall not take it away and pay the charges thereon after 60 days' notice is given, the agency of the City of Brookings having possession thereof shall deliver to the Municipal Court an affidavit setting forth a description of the property remaining unclaimed, the time of its reception, the publication of the notice, and whether the owner of the property is known or unknown.

C. Inventory and Order to Sell: Upon the delivery to the Municipal Court of the affidavit as provided in Subsection (b) above, the Municipal Court Judge shall cause the property to be examined in her presence, and a true inventory thereof to be made. She shall annex to such inventory an order under her hand that the property therein described be sold at public auction by the Brookings Police Department.

D. Sale: The Brookings Police Department, after receiving the inventory and order provided for in Subsection (c) above, shall give 10 days, notice of the sale by posting written notices thereof in three or more places within the City of Brookings, and sell the property at public auction to the highest bidder in the same manner as provided by law for sales under execution from Justice Court.

E. Delivery of Proceeds to Municipal Court: Upon completing the sale provided for in Subsection (d) above, the Brookings Police Department shall endorse, upon the order provided for in Subsection (c) above, a return of proceedings. The Brookings Police Department shall deliver the order to the Municipal Court Judge, together with the inventory and the proceeds of the sale, after deducting their fees.

F. Disposal of Proceeds by Municipal Court: From the proceeds of the sale provided for in Subsection (e) above, the Municipal Court Judge shall pay all legal charges that have incurred in relation to the property, or a ratable portion of each charge if the proceeds of the sale are not sufficient to pay all the charges; and further, the balance, if any, shall be immediately paid over to the City Finance Director, and a statement delivered therewith containing a description of the property sold, the gross amount of the sale, and the costs, charges and expenses paid to each person.

G. Procedure by City Finance Director: The City Finance Director shall make an entry Of the amount received by him and the time when received, and shall file in his office that statement delivered to him by the Municipal Court Judge pursuant to Subsection (f) above.

H. Payment to Person Proving Ownership: If the owner of the property sold, or his legal representative, furnishes satisfactory evidence to the City Finance Director of his ownership of the property deposited in the City Treasury pursuant to Subsection (f) above, he shall be entitled to receive from the treasurer the amount deposited with him.

Section 2. Sale of Perishable Property. Perishable property, if not reclaimed within 30 days after it was left, may be sold by giving 10 days, notice thereof. The sale shall be conducted and the proceeds of the sale shall be applied as provided in Section 1 above. Any property in the state of decay or manifestly liable to immediately become decayed, may, after inspection, be summarily sold by order of the Municipal Court Judge, as provided in Section 1(c).

Section 3. Fees allowed to Municipal Court Judge and Brookings Police Department. Municipal Court Judge shall receive \$9.00 for each day's service rendered pursuant to Section 1 and 2; and, the Brookings Police Department shall receive the same fees as are allowed by law for sales upon an execution, and \$.50 a folio for making an inventory of property.

Section 4. Delivery of Stolen Property to Owner.

A. On satisfactory proof of the title of the owner of the property, the Municipal Court Judge, who examines the charge against the person accused of the crime, shall

order it to be delivered to the owner or his duly authorized agent, on paying the reasonable and necessary expenses incurred in this preservation, which shall be ascertained and certified by the Municipal Court Judge.

B. If property that is the subject of a theft has not been delivered to the owner, the Court before which a trial is had for the stealing thereof, may, on like proof and condition, order its delivery to the owner or his agent.

Section 5. Rights and Authority Converted by Order of Delivery. The order provided for in Section 8 below entitles the owner or his agent to demand and receive the possession of the property from the officer having it in custody and authorizes such officer to deliver it accordingly, but it does not affect the rights of third persons.

Section 6. Disposal of Unclaimed Property of Money; Sale of Property. If stolen property is not claimed by the owner within sixty (60) days from the conviction of the person charged with the theft, the officer having it in custody shall, if it is money, pay it into the City treasury. If it is other property he shall sell it as upon an execution and, after paying the expenses of the sale and preservation of the property, which shall be ascertained and certified by the Clerk of the Municipal Court, pay the proceeds into the City treasury.

Section 7. Title of Purchase at Sale. The sale of property pursuant to Section 6 above conveys a good title to the purchaser as against any person.

Section 8. Crediting and Appropriating Proceeds of Sale Paid Into City Treasury; Rights of Owner. Money paid into the City treasury pursuant to Section 6 shall be credited and appropriated as a fine imposed upon a person convicted of a theft; but, the owner of the property, at anytime within one (1) year of the conviction, upon making satisfactory proof of ownership before the Municipal Court, may, by the order of such court, have the proceeds repaid to him from the City treasury.

Section 9. [Emergency clause]

Effective September 9, 1980