

ORDINANCE NO. 594-2021

AN ORDINANCE REGULATING STOLEN AND ABANDONED PROPERTY WITHIN THE CITY OF SPANISH FORT, ALABAMA

WHEREAS, *Code of Alabama* (1975) § 11-47-116, et seq., as the same may be amended, establishes and provides authority for municipalities to regulate abandoned and stolen property; and

WHEREAS, the City of Spanish Fort, Alabama, desires to regulate abandoned and stolen property within the municipal limits of the City of Spanish Fort.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. Police Chief to Be Custodian.

Every item of personal property taken up or coming into the possession of any City of Spanish Fort police officer in his or her official capacity as lost, stolen or abandoned property, or otherwise, shall be delivered to the custody of the Police Chief of the City of Spanish Fort or the Chief's designated representative and shall be stored and disposed of according to the provisions of this Ordinance.

SECTION 2. Records and Storage.

(a) The Police Chief shall keep and maintain a permanent record of all abandoned and stolen personal property recovered by the City of Spanish Fort Police Department. These records shall state the description of the property, the date of recovery of the property, the serial or other identifying number of the property, and the place of recovery of the property. The records shall be open to public inspection at all reasonable times.

(b) Property received by the Police Chief under this Ordinance shall be stored in a suitable place to protect it from deterioration and held for a period of not less than six months, except that perishable property may be immediately sold as provided in this Ordinance.

SECTION 3. Sale Procedure and Redemption.

(a) At least every six months, the Police Chief or the Chief's designated representative shall sell at public auction to the highest bidder for cash all abandoned or stolen personal property, other than firearms, which has been recovered by the police department and has remained unclaimed by the rightful owner during the preceding six-month period for a period of at least six months.

(b) Prior to the sale, notice may be given by publication in a newspaper of general circulation published in Baldwin County, once a week for two successive weeks and shall be given by posting a notice in a conspicuous place at the Spanish Fort Community Center building for a period of at least 20 days. The notice shall contain the place, date, and time of each auction and a description of each item of personal property to be sold at the auction. If publication of notice is made in the newspaper, the first notice shall run at least 20 days prior to the auction.

(c) If the abandoned and stolen personal property is of a perishable nature and reasonable attempts to locate and identify the owner of the property are not successful, the property may be sold at once without notice. The Police Chief shall attempt to obtain the best possible price for the property. The proceeds of such a sale shall be held in a separate account for a period of six months for the owner. During this period, the proceeds will be paid to the owner upon demand, less any cost of recovery, storage, maintenance, and sale. If the proceeds are not claimed within six months, after deducting and paying all expenses incurred in the recovery, storage, maintenance, and sale of the property, the net funds shall be paid to the general fund of the City of Spanish Fort.

(d) The owner of any property taken up and stored pursuant to this Ordinance, upon proof of ownership, or any person having the legal right to possession thereof, upon proof of such right, may redeem the property at any time prior to the sale by paying the reasonable expense of taking the property in charge, its maintenance and storage, and a pro rata share of the cost of publication, if notice of the sale has been published.

(e) If property is sold at public auction, as provided in this Ordinance, a notation in the storage record book shall be made of the sale and of the amount received for the property. The person making the sale may reject any and all bids if the amount bid is unreasonably low and may continue the sale, from time to time, if no bidders are present.

SECTION 4. Disposition of Proceeds.

The proceeds from the sale of property at an auction conducted under the authority of this Ordinance, after deducting and paying all expenses incurred in the recovery, storage, maintenance, and sale of property, shall be paid to the general fund of the City of Spanish Fort.

SECTION 5. Firearms

(a) The Police Chief shall keep and maintain a separate permanent record of all abandoned and stolen firearms, not subject to disposition by general law. The records shall state the description of the firearm, the date of recovery of the firearm, the serial or other identifying number, if any, of the firearm, and the place of recovery of the firearm. "Firearm" as used in this Act shall have the same meaning as defined in Section 13A-8-1 of the *Code of Alabama* 1975.

(b) Unless otherwise provided by law, the Police Chief may sell, repurpose for law enforcement use within the City of Spanish Fort Police Department or destroy these firearms if the owner of the firearm does not claim the firearm within six months of the date the Police Chief obtained it.

(c) The Police Chief may sell the firearms only to licensed gun dealers. The Police Chief shall establish a procedure to notify gun dealers of a sale. A firearm shall be sold to the gun dealer submitting the highest sealed bid. All sales shall be on a cash basis. The proceeds of the sale, after deducting and paying all expenses incurred in the recovery, maintenance, and sale of the firearms shall be paid to the general fund of the City.

(d) The Police Chief may establish a procedure to destroy firearms and may expend necessary funds for that purpose.

SECTION 6. Disposition of Property Taken as Evidence

Every item of personal property taken in as evidence in connection with the investigation of the breach of law or ordinance, if unclaimed by the owner thereof for 30 days after the final disposition of the case wherein the property is held as evidence, shall be entered into the storage record book and thereafter disposed as provided in this Ordinance.

SECTION 7. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 8. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional invalid for any reason, such holding should not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 9. Effective Date.

This Ordinance shall become effective upon its adoption, or as otherwise required by State law.

ADOPTED AND APPROVED this 4th day of October, 2021.



Michael M. McMillan
Mayor

ATTEST:



Rebecca A. Gaines
City Clerk