

CITY OF MADISON, WISCONSIN

AN ALTERNATE CHARTER ORDINANCE

PRESENTED  
REFERRED

June 4, 2013  
PSRC, Board of Park  
Commissioners, DCC

Creating Section 8.44 of the Madison General Ordinances to establish rules for the treatment of lost or abandoned property found on public property.

LEGISTAR # 30338

DRAFT

Drafted by: Michael P. May

Date: July 11, 2013

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DRAFTER'S ANALYSIS: Recent events such as the Boston Marathon bombing have made citizens much more aware of items left in public places. Madison does not have an ordinance setting forth procedures for taking possession and disposing of abandoned property. This ordinance establishes guidelines for such procedures. At least two state statutes establish procedures for treating lost or abandoned property that comes into the possession of public officials. These laws, Wis. Stat. §§ 66.0139 and 170.105, contain contradictory procedures, use procedures for notice and valuation of property that date from many years ago, and make distinctions based on whether property is "lost" or "abandoned", a distinction that leads public officials into the speculative domain. Nothing in the state statutes suggest they are of statewide concern and uniform application, making them subject to the City's power to opt out of the statutes by a Charter ordinance.

By this charter ordinance, the City opts out of those statutes and establishes a uniform procedure for treatment of property left on public property. The ordinance requires uniform procedures be adopted within 6 months of adoption, and describes the elements required in any such procedures as to notice, storage and disposal of the property. The ordinance ~~allows the covered agencies to adopt their own rules, or to adopt~~ requires one set of rules to be followed City-wide by all covered agencies.

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The Common Council of the City of Madison do hereby ordain as follows:

Section 8.44 entitled "Lost or Abandoned Property" of the Madison General Ordinances is created to read as follows:

**"8.44 LOST OR ABANDONED PROPERTY.**

- (1) Charter Ordinance. By this ordinance, the City of Madison is exercising its authority under Article XI, sec. 3 of the Wisconsin Constitution, Wis. Stat. § 66.0101, and Wis. Stat. § 62.11(5). The City of Madison hereby determines not to be covered by the provisions of Wis. Stat. §§ 66.0139 and 170.105, with respect to lost or abandoned property. The City adopts this Charter Ordinance to create uniform rules for the treatment of lost or abandoned property that comes into the possession of city employees, officials or agents, and for the safety of the public in identifying and removing packages left in public places.
- (2) Definitions. For the purpose of this ordinance, the following definitions apply:
  - (a) "Lost Property" means personal property, money or chattels that have been lost or abandoned or left on public property without the permission of the public owner. Lost property does not include (i) items left on the terrace or in garbage

Approved as to form:

or recycling containers for the scheduled sanitation pick up, (ii) items seized as evidence in police investigations, or (iii) automobiles or bicycles, which are covered by Secs. 12.128(4) and 12.761, MGO, respectively.

(b) "Appropriate City Agencies" shall mean the Madison Police Department, Madison Fire Department, and any of the Divisions of the Department of Public Works and Transportation (Parks, Water Utility, Engineering, Streets, Madison Metro, Traffic Engineering and Parking).

(3) Requirement.

(a) Except as provided in Subdivision (b), if any City employees, officials or agents obtain possession of Lost Property within the scope of their public duties, the Lost Property shall be turned over to one of the Appropriate City Agencies.

(b) City employees, officials or agents may immediately dispose of Lost Property that either

1. Has an estimated aggregate replacement value of fifty dollars (\$50) or less;
2. Consists of contraband or any dangerous materials, including flammable, explosive or incendiary materials, or other materials that pose a danger to persons or property;
3. Is perishable; ~~or~~
4. Poses a public health risk; ~~or~~
5. Has no sentimental or legal value.

(4) The Appropriate City Agencies shall develop, within six (6) months of the effective date of this ordinance, uniform city-wide procedures for the notification of the City's impending removal of the Lost Property (where applicable) and the holding and disposal of Lost Property subject to Subsection (3)(a). ~~The agencies may each develop their own procedures, or may develop procedures to apply City-wide.~~ The procedures shall include the following elements:

(a) Preparation and retention of an electronic log of Lost Property obtained and disposed of, to include a description of the property, where it was obtained, and how the property was disposed.

(b) ~~Maintaining or posting in one identified place in the City-County Building, for a period of no less than thirty (30) days after acquisition of Lost Property, of a printed copy of the log of Lost Property.~~ Maintain a posting in one identified place in the City-County Building, with instructions for locating and accessing the electronic log of Lost Property.

(c) A method of ascertaining whether a person claiming Lost Property has reasonably demonstrated a right to the property, and a record of any Lost Property returned to such person.

(d) The methods of disposal of Lost Property that has remained unclaimed for a period of ~~thirty-fourty-five (3045)~~ thirty-fourty-five (3045) days after acquisition of the property, which may include public auction, sale of the property through the Internet, transfer to non-profit entities, disposal as waste, or other reasonable methods of disposal. For purposes of disposal of the property, property that has remained unclaimed for a period of ~~thirty-fourty-five (3045)~~ thirty-fourty-five (3045) days becomes the property of the City. For purposes of this subparagraph, Madison Metro may dispose of property that remains unclaimed after fourteen (14) days of acquisition.

(5) Property found by members of the public is subject to Wis. Stat. §§ 170.07-170.10.

(6) This is a Charter Ordinance and shall be effective upon sixty (60) days from passage and publication subject, however, to the referendum procedures in Wis. Stat. § 66.0101(5)."