

EXHIBIT A

RESOLUTION R20-10-20

§ 93.01 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section:

- (A) **CONTRABAND** means any property which is unlawful to produce or possess under federal, state, or local law.
- (B) **DEPARTMENT** means the El Mirage Police Department.
- (C) **DISPOSE** means the transfer of ownership of property by sale, donation, or conversion; the return of property to the owner, or the destruction of such property.
- (D) **EVIDENCE** means property that is held for possible presentation in a judicial or administrative proceeding.
- (E) **FIREARM** means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will, or is designed to, or may readily be converted to expel a projectile by the action of expanding gases, except that it does not include a firearm in permanently inoperable condition.
- (F) **HAZARDOUS MATERIAL** means any material that, because of its quantity, concentration, or physical and chemical characteristics, may pose a present or potential hazard to human health and safety or to the environment, or the presence of which requires investigation, disposal, removal and/or remediation under any federal, state or local law.
- (G) **INTANGIBLE PROPERTY** means the definition as provided in A.R.S. § [44-301](#).
- (H) **OFFICER** means any officer, agent, or employee of the City acting within the scope of employment.
- (I) **OWNER** means the person lawfully vested with, ownership, dominion, care, control, management, or title of property.
- (J) **PROPERTY** means any tangible item, including currency. , For the purposes of this chapter, property excludes real and intangible property.
- (K) **PROPERTY VALUE** means the reasonable value of the property in its present condition.
- (L) **SAFEKEEPING** means storage of property by the City that is not classified as unclaimed property by the City or its officers.
- (M) **STOLEN PROPERTY** means that property of an owner who has been unlawfully deprived of possession, and of which has been taken into safekeeping by the City or its officers pursuant to a commission of any crime as defined by federal, state, or local law.
- (N) **UNCLAIMED PROPERTY** means any property owned by another which has come into actual or constructive possession by the City or its officers, and the owner fails to make satisfactory claim and proof of ownership within 30 days after notice has been provided in accordance with § 93.03. Unclaimed property does not include contraband, evidence, firearms, hazardous material, or stolen property as defined by this chapter, or forfeited property as provided in A.R.S. § [13-4301](#) *et seq.*

§ 93.02 Disposal of Property.

All property shall be disposed as follows:

- (A) *Unclaimed Vehicles*. Unclaimed vehicles shall be disposed of as provided by A.R.S. § [28-4831](#) *et seq.*
- (B) *Contraband/Illegal/Hazardous Materials*. Contraband, illegal, or hazardous materials shall not be returned to any person, and instead shall be:
- (1) destroyed
 - (2) retained and utilized by the Police Department for law enforcement purposes; or,
 - (3) sold, loaned, or transferred to any local, state, or federal law enforcement agency for law enforcement purposes to the extent allowed by law. Expenses for keeping and transferring such property are to be paid by the recipient.
- (C) *Evidence*. Evidence shall be disposed of pursuant to Arizona Rules of Criminal Procedure, Rule 28.2, with any property that cannot be returned to a legal owner disposed of as provided in this chapter.
- (D) *Firearms*. Firearms shall be:
1. sold, pursuant to court order, to any business that is authorized to receive and dispose of the firearm under federal and state law, unless the firearm is otherwise prohibited from being sold under federal or state law; or,
 2. traded to a federal firearms licensed business for ammunition, weapons, equipment, or other materials to be exclusively used for law enforcement purposes.
- (E) *Forfeited Property*. Property seized for forfeiture shall be disposed of as provided in A.R.S. § [13-4301](#) *et seq.*
- (F) *Intangible Property*. Intangible property shall be disposed of pursuant to the Unclaimed Property Act, A.R.S. § [44-301](#) *et seq.*
- (G) *Perishable Property*. Property that may expire, spoil, or otherwise become unsafe or unsanitary when stored at room temperature, which is not immediately reclaimed by the owner, may be destroyed within 24 hours of its acquisition by the City.
- (H) *Unclaimed Property*. Unclaimed property shall be disposed of as provided by § 93.03 of this chapter.

§ 93.03 Notice; Disposition of Property.

- (A) *Owner Known*. If the owner of the property is known, the Department shall make a reasonable attempt to provide notice to the owner. The notice shall advise the owner that they must claim the property (providing proof of ownership) and take away the property no later than 30 days following the date on the notice or the property will be disposed of by the City as provided in this article.
- (B) *Service of Notice*. Service of notice to known owner.
1. Service of notice may be accomplished by any of the following methods:
 - (a) First class mail, postage prepaid, to the last known address provided by the owner to the Department. Service of notice by mail shall be considered complete upon mailing; or
 - (b) Posting the notice on the Police Department Property Disposition webpage, or its equivalent, including Department social media pages, not less than 30 days prior to disposition by the City. If the owner fails to claim (providing proof of

ownership) and take away the property within 30 days of initial posting of the notice, the City may dispose of the property as it deems appropriate and in compliance with this chapter.

(C) *Unknown Owner*. If the owner of the property is not known, the property may be disposed of as follows

1. If the property value of the item is less than \$150, the property may be disposed of by the City as it deems appropriate.
2. If property value of the item exceeds \$150, notice containing a description of the property shall be posted on the Department Property Disposition webpage, or its equivalent, including social media pages, not less than 30 days prior to disposition by the City. If the owner fails to claim (by providing proof of ownership) and take away the property within 30 days from the date of posting, the City may dispose of the property as it deems appropriate and in compliance with this chapter.

(D) *Disposition of Property*. Unless otherwise provided in this chapter, unclaimed property may be disposed of by the City as provided below without further notice or court order. Unclaimed property may be:

1. returned to the owner, if proof of ownership is provided and the property has not otherwise been disposed of by the City;
2. returned to the person who found the property if the person who found the property is not a public employee of a federal, state, or local government, or if the property was not found as a result of the duties of the office or employment;
3. destroyed;
4. converted and utilized by the City to the extent allowed by law;
5. sold, loaned, or donated to any local, state, or federal governmental entity; any nonprofit or charitable organization; or any museum or similar education institution, to the extent allowed by law, with expenses for keeping and transferring such property are to be paid by the recipient; or,
6. treated as surplus and disposed of in accordance with this chapter and the City's procurement code.

§ 93.04 Petition; Disposition of property if disputed.

(A) If there is a dispute regarding the ownership or release of property, the City or claimant shall send a request to the City Municipal Court for a hearing to be conducted to determine ownership or appropriate release of the property as provided in this chapter.

(B) All parties known to be claiming an ownership interest in the property shall be given notice by the court of the hearing date by first class mail postage prepaid. Service shall be considered complete upon mailing to the address provided by the claimants or the last known address on file with the Department.

(C) Any person claiming an interest in the property shall be known as a respondent, and the City shall be known as the petitioner.

(D) All respondents are required to bring or file with the court an original and one copy of all documentary evidence, and all correspondence and other documents exchanged with any insurance carrier or other person regarding reimbursement for the property.

(E) Both the petitioner and respondent shall have the right to appear at the hearing and present evidence in support of their claim to the property or basis to decline release.

(F) The failure of a respondent to appear at the hearing shall constitute a waiver of any and all claim(s) to the property by such person against the City and shall cause and authorize the court to enter a ruling consistent therewith.

(G) The hearing shall be informal. The rules of evidence shall not apply to the hearing and decisions shall be based upon the preponderance of the evidence. The Municipal Court may allow testimony to be given orally or through sworn written affidavits.

(H) The court's decision shall be issued within 15 calendar days of the close of the record. The decision shall be in writing, and shall be mailed first class mail, postage prepaid, to each respondent or claimant appearing. The decision of the court shall be final upon issuance.

(I) Prior to receiving possession of the subject property, the prevailing claimant shall be required to provide a copy of the decision and appropriate identification to the City or its officers and may be required to pay all costs of publication, if any.

(J) Any property not claimed by the prevailing party within 30 days from the date the court issued its decision shall become unclaimed property, without the necessity of further court proceedings.

§ 93.05 Firearms; Petition for Return.

(A) Firearms will be returned to the owner as provided by the Arizona Revised Statutes and this chapter, except as follows: When the firearm is illegal, as provided by federal or state law;

1. When the return of the firearm is prohibited or forfeited by federal or state law, or court order;
2. When the owner has known criminal charges pending which involve a felony, domestic violence, or misconduct involving firearms in any jurisdiction;
3. When the firearm must be retained for evidentiary purposes, regardless of the nature of the proceeding;
4. When the owner is a prohibited possessor pursuant to A.R.S. §13-3101;
5. When release of the firearm to the owner is otherwise precluded by this chapter, or state or federal law; or,
6. When Department questions the appropriateness of the return. In such cases, the Department shall file a petition with the City Municipal Court as provided in section 93.04 no later than five days after the denial of the request for release.

(B) Firearms will be returned to the prevailing claimant only after first being dismantled by the Department in a manner which will not preclude reassembly. If ammunition is to be returned, the Department reserves the option of returning the ammunition on a day different from which the firearm is returned.

(C) When a firearm is seized by the Department pursuant to an investigation of a felony, domestic violence, or misconduct involving firearms, the Department shall not release the firearm to a third party who claims to have had ownership of the weapon transferred to that third party by the owner since the seizure of the weapon.

(D) A person, other than the person from whom a weapon was seized, who claims ownership of the firearm must present documentary proof of ownership to the Department before the weapon will be

released to that person.

(E) If the Department declines to return a firearm to any person for any reason identified in subsection (A) of this section, the claimant requesting the return of the firearm may file a petition with the City Municipal Court and request a hearing in accordance with Section 93.04.

(F) Prior to receiving possession of the firearm, the prevailing claimant shall be required to provide a copy of the decision and appropriate identification to the Department.

(G) Any property not claimed by the prevailing party within 30 days from the date the court issued its decision shall become unclaimed property, without the necessity of additional notice or further court proceedings.