

Chapter 38

LAW ENFORCEMENT*

***Cross references**--Administration, ch. 2; court, ch. 26; offenses and miscellaneous provisions, ch. 42; traffic and vehicles, ch. 70.

Article I. In General

Sec. 38-1. Police department created.

Sec. 38-2. Board of police commissioners created.

Sec. 38-3. Board of police commissioners; duties and powers.

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Sec. 38-32. Disposal of abandoned property.

Sec. 38-33. Exceptions.

ARTICLE I.
IN GENERAL*

***Editors Note:** The introductory language of Ordinance No. 89-3, adopted February 13, 1989, and codified in this chapter, provided as follows:

ORDINANCE NO. 89-3

Whereas, the Town of Mukwonago, did on April 11, 1986, eliminate the position of Constable in the Town of Mukwonago; and

Whereas, the town board, at the time the constable position was eliminated wanted to retain full authority of our police officers and therefore officers were hired by contract as independent contractors to perform police service for the town; and

Whereas, the town board feels that the interim control our contracted police officers by the town board is no longer necessary; and

Whereas, the creation of a police department under Wis. Stats. § 60.56(1)(a)1., allows the town board to create a board of police commissioners, pursuant to Wis. Stats. § 62.13(1);

Now therefore, the town board of the Town of Mukwonago do ordain as follows:

Sec. 38-1. Police department created.

There is created in the town a police department consisting of a chief and as many officers as may be approved by the town board from time to time. Other than those powers and duties specifically granted to the board of police commissioners, by Wis. Stats. § 62.13, and the town board, all other duties, powers and responsibilities over the police department are reserved to the town board.
(Ord. No. 89-3, § I, 2-13-1989)

Sec. 38-2. Board of police commissioners created.

Pursuant to Wis. Stats. § 60.57(1)(a), there is created a board of police commissioners for the town.
(Ord. No. 89-3, § II, 2-13-1989)

Cross References: Boards, commissions, and committees, § 2-101 et seq.

Sec. 38-3. Board of police commissioners; duties and powers.

(a) *Membership.* The membership of the board of police commissioners shall

consist of five citizen members, any three of whom shall constitute a quorum.

(b) *Appointment and term.* Each member of the board of police commissioners shall be appointed by the town chair and such appointment shall be confirmed by the town board. Appointments shall be made between the last Monday of April and the first Monday of May. Terms of office shall be five years staggered for all members. All appointments shall be five-year terms and coincide with the original appointments. Terms of office for police commissioners shall begin on the second Monday of May.

(c) *Duties, powers and authority.* The board of police commissioners shall conduct their meetings and have all the duties, responsibilities and powers as contained in Wis. Stats. § 62.13, as amended from time to time.
(Ord. No. 89-3, § III, 2-13-1989)

Secs. 38-4--38-30. Reserved.

ARTICLE II.

ABANDONED PROPERTY

Sec. 38-31. Defined.

Abandoned property, for purposes of this article, is property that has been seized, confiscated or held by the town police department ("department"), that is not the subject of a pending investigation or court action, and that is not disposed pursuant to court order at completion of a criminal action or proceeding, and that has not been claimed by its rightful owner within 90 days following the date the department determines the property can be released. Property that appears to be or is reported as lost or stolen is not abandoned property unless, in addition to the foregoing, the property is not claimed within 90 days of the date that the department exhausts all reasonable efforts to notify the person who filed the report of the location and times when the property can be claimed from the department.

(Ord. No. 2004-1, § 1, 1-14-2004)

Sec. 38-32. Disposal of abandoned property.

Except as noted in section 38-33 below, abandoned property shall either be sold at auction as described in Wis. Stats. § 66.0139, or be disposed as follows:

- (1) *Disposition in best interests of the town.* The department may dispose of abandoned property in such manner as the chief of the department deems to be in the best interests of the town, including but not limited to public or private sale, gift or exchange. It is presumed that if the proceeds of sale are likely to exceed the costs of sale, then sale at the highest price obtainable therefor is in the best interests of the town, unless the chief concludes that

this presumption is not appropriate in any particular case in the best interests of the town.

- (2) *Exception.* Subsection (1), above, does not apply if the abandoned property is money. Money shall not be sold, given or exchanged. Upon being deemed to be abandoned property the full amount of the money shall be deposited into the town general fund.
- (3) *Inventory required.* A written inventory of the disposition shall be maintained as a public record for no less than two years describing:
 - a. A description of the abandoned property;
 - b. The date of disposition;
 - c. The method of disposition;
 - d. The name and address of the person taking possession of the property.
- (4) *General fund.* All money received as a result of the disposition, after deducting the necessary expenses of keeping the property and conducting the sale, shall be deposited in the town general fund, shall be deemed town property, and may be used by the town for all lawful purposes.

(Ord. No. 2004-1, § 2, 1-14-2004)

Sec. 38-33. Exceptions.

The following exceptions apply:

- (1) This article does not apply to abandoned motor vehicles, for which Wis. Stats. § 342.40 applies.
- (2) This article does not apply to dangerous weapons and ammunition, for which Wis. Stats. § 968.20 applies.
- (3) This article does not apply to flammable, explosive, or incendiary substances, materials or devices that pose a danger to life or property in their storage, transportation, or use immediately upon taking possession thereof ("explosives"), except as follows. In lieu of the procedures otherwise applicable to abandoned property, explosives may be safely disposed by the department in any lawful manner that the department deems best able to protect the health and safety of the public and department personnel, pursuant to Wis. Stats. § 66.0139(3). The department may attempt to return explosives to the rightful owner if the explosives have a commercial value in normal business usage and do not

pose an immediate threat to life or property. The department shall presume that if explosives appear to be or are reported lost or stolen an attempt must be made to return the material to the rightful owner.

(Ord. No. 2004-1, § 3, 1-14-2004)