Another common problem that city and village officials must address is lost and abandoned property, whether it is brought to the municipal offices by a resident who found the property or whether it is picked up off the street by a local official.

What local governments must do and may do with lost or abandoned property is often a confusing question. How local officials handle such property depends upon the type of property and the circumstances under which it was lost or abandoned. This article will provide an overview of New York’s laws regarding the handling of lost or abandoned property.

Lost v. Abandoned
The difference between lost property and abandoned property is important. Property is lost when “the owner no longer possesses [it] because of accident, negligence, or carelessness.” Property is abandoned when “the owner voluntarily surrenders, relinquishes, or disclaims” their rights to it. The distinction between lost property and abandoned property may seem minor, but it is important for purposes of determining how local officials may handle it.

Types of Property
Property is defined as the rights in a “resource such as land, chattel, or an intangible.” Local governments gener-
ally only have to deal with lost or abandoned real property or chattel/personal property. However, the type of property dictates how it is handled when it is lost or abandoned. Chattel/personal property is governed by the NYS Personal Property Law, although lost and abandoned motor vehicles are governed by the NYS Vehicle and Traffic Law. In addition, abandoned real property is governed by the NYS Real Property Actions and Proceeding Law.

Lost Personal Property

The handling of lost personal property, whether it be a bicycle or an engagement ring, is governed by Personal Property Law Article 7-B, which defines “property” for purposes of Article 7-B as “money, instruments payable, drawn or issued to bearer or to cash, goods, chattels and tangible personal property.” Note, however, that specific property is exempted from the definition of property for purposes of Article 7-B.

Personal Property Law (“PPL”) § 251 defines “lost property” for purposes of Article 7-B as including “lost or mislaid property.” Section 251 also creates a presumption that “[a] bandoned property, waifs and treasure trove, and other property which is found” is lost property and that such presumption is “conclusive unless it is established in an action or proceeding commenced within six months after the date of the finding that the property is not lost property.”

With limited exceptions, PPL § 252 requires individuals who find lost property that is worth $20 or more to return the property to the owner or to deposit the property with the city, village or town police (or the county sheriff if the village and town do not have a police department).

Unless otherwise prescribed by a city council or village board of trustees pursuant to General Municipal Law § 250 (see below), the police must accept and retain custody of the lost property, giving the individual depositing the property a receipt acknowledging the deposit and identifying the property or instrument. If the property was found in a place other than a public street or highway, the police must notify the occupant or person in charge of the premises where the property was found. Additionally, the police must notify anyone they know of who they believe has an interest in the found property.

If lost property has only salvage value, the police may sell it immediately using reasonable methods, and the police must sell perishable property as soon as possible. Additionally, the police may sell any property at public auction when the expenses reasonably incurred in dealing with the property, including the cost of transporting, storing and appraising the property, equal more than half of the reasonable estimate of the proceeds likely to be realized by selling the property at public auction.

If the police sell lost property, the proceeds remaining after deducting the reasonable expenses of selling and otherwise dealing with the property prior to the sale are considered as lost property.

The police must keep lost property and the sale proceeds of lost property for the following retention periods, unless delivered to the owner prior to these deadlines:

1. Property or proceeds worth less $100 - three months;
2. Property or proceeds worth $100 or more but less the $500 - six months;
3. Property or proceeds worth $500 or more but less the $5,000 - one year; and
4. Property or proceeds worth $5,000 or more - three years.

Three months prior to the expiration of the applicable lost property retention period, the police must notify the owner, if known, and any person believed to have an interest in the property, if they know the address or a former address of such owner or person. The police must also notify anyone who has made a claim to the property, the finder, and any person who has filed notice asserting the right of the finder as provided in PPL § 256.

The police must serve the written notice, either personally or via certified mail, informing the interested parties that they have three months to claim or contest ownership of the lost property and that if the owner fails to appear and claim the property, it will be delivered to the finder or, if the finder has not asserted a right to the property, then it will be sold at public auction and the proceeds will become the property of the city or village.

Title to lost personal property that has been deposited with the police vests in the finder when it is delivered to them after the retention period.

Note that if a city or village officer or employee finds the item in the course of performing their official duties, the city or village is deemed to be the finder. Numerous exceptions exist regarding the handling of personal property (see PPL § 256) and special rules apply regarding the handling of “instruments” (i.e., checks, promissory notes, bonds) (see PPL § 255).

Local Government Rules Regarding Handling Lost Personal Property

As previously noted, local governments have specific authority to establish their own rules when handling lost personal property. Specifically, General Municipal Law § 250 authorizes city councils and village board of trustees to enact rules and regulations to administer Personal Property Law Article 7-B. Specifically, cities and village may:
1. Designate a public officer to accept and keep custody of found property and found instruments;
2. Establish procedures for determining the value and for estimating the net sum likely to be realized by sale at public auction of lost property as defined in Personal Property Law Article 7-B;
3. Establish a procedure for disposing of derelict automobiles and other property having no value or salvage value only;
4. Establish longer or shorter periods of time for reporting and depositing found property and instruments;
5. Establish provisions for notices, reports, storage, and sales of found property not inconsistent with the provisions of Personal Property Law Article 7-B;
6. Provide for the payment of proceeds from the sale of lost property as defined in Personal Property Law Article 7-B into a public fund other than the treasury of the municipal corporation.

Pursuant to General Municipal Law § 251, two or more local governments may enter into an inter-municipal agreement to handle lost personal property pursuant to Personal Property Law Article 7-B and General Municipal Law § 250.

Abandoned Vehicles
Specific rules apply to the handling of abandoned vehicles. Cities and villages may provide for removing and storing vehicles when they are:

- Parked or abandoned on highways during snow storms, floods, fires, or other public emergencies;
- Found unattended and obstructing traffic; or
- Illegally stopped, standing, or parked.\(^{11}\)

Cities and villages may require the vehicle's owner to pay reasonable charges for the vehicle's removal and storage. Such requirement should be included in the law providing for the removal and storage of vehicles.\(^{12}\)

Note that storing vehicles can be a costly proposition for municipalities. Frequently, the vehicles that are temporarily abandoned are worth so little that the owner of the vehicle never bothers to claim the vehicle from the storage facility. Because most, although not all, municipalities contract out the towing and storage of vehicles, this can be a substantial cost for the municipality. Each local government should review its towing and storage procedure to minimize the cost to the municipality and should diligently process abandoned vehicles.

Permanently Abandoned Vehicles
Special provisions apply for dealing with vehicles that have been permanently abandoned. Pursuant to Vehicle and Traffic Law § 1224, vehicles are deemed abandoned if they are left:

- Unattended on a highway or other public place:
  a. With no license plates for more than six hours,
  b. For more than 24 hours, except if parking is legally permitted there, or
  c. For more than 48 hours, after the parking of the vehicle becomes illegal;
- Without permission of the owner, on private property for more than 96 hours.

Ownership of abandoned vehicles vests in the local authority having jurisdiction over the location of abandonment. Abandoned vehicles may be disposed of in accordance with the provisions of Vehicle and Traffic Law § 1224.

Real Property
Real property is abandoned for a variety of reasons. Generally, most abandoned property will be foreclosed on for unpaid taxes and sold to a new owner, thereby dealing with the abandonment. In some instances, however, the foreclosure for unpaid taxes does not take place, and real property sits abandoned for years, if not decades. Title to real property that fails because of a "defect of heirs" (the property owner dies and title to the property is not resolved via the probate of a will or intestate succession) "escheats" (passes) to the State and such title can be passed to the State via a proceeding pursuant to Abandoned Property Law Article II.

Another option city and village officials have to resolve the problem of abandoned real property is New York State Real Property Actions and Proceedings Law ("RPAPL") Article 19-A, which allows local governments to initiate judicial proceedings vesting title to abandoned real property in the local government. RPAPL Article 19-A has significant limitations, however; namely it is applicable only to residential property, but not to one- or two-family dwellings that are occupied by the owners. Despite these restrictions, RPAPL Article 19-A can be used to clear title to real property that has been abandoned.

Abandoned Property v. Donated Property
The distinction between property that is donated to a local government and abandoned property that comes into the possession of the local government is the intention of the property owner. State law expressly authorizes local governments to accept donations. If property is donated, the property owner offers to give the municipality the property. Local governments are not obligated to accept donations and generally the city council or village board of trustees must vote to accept the donation.

In contrast, an individual who abandons their property has not evidenced any intent to transfer the ownership rights in the property to the municipality. Consequently, the ownership of abandoned property must be handled pursuant to State law.
Conclusion
Dealing with lost and abandoned property is a responsibility local governments may not want, but it is a responsibility that they have. The obligations are even greater for municipalities with police departments. Consequently, local officials should periodically review their programs for handling lost and abandoned property with all of the relevant stakeholders, which may include county and State officials. City or village officials who have questions about handling lost and abandoned property may contact NYCOM General Counsel Wade Beltramo at (518) 463-1185 or by email at wade@nycom.org.

Endnotes
3. PPL § 251.
4. Section 251(1) exempts (a) “instruments” as defined in PPL § 251(2), (b) animals, (c) wrecks governed by the provisions of the NYS Navigation Law, (d) logs and other property governed by NYS Town Law § 323, and (e) vehicles governed by the NYS Vehicle and Traffic Law.
5. Lost instruments (e.g. a check, promissory note, stock certificate, etc. (see PPL § 251(2))) are governed by PPL § 252(2) and disposition of lost instruments are governed by PPL § 255.
6. PPL § 253(1). If the lost property is an instrument, the must notify each person whose name and address appears upon the instrument or whose name so appears and whose address is known to the police.
7. In a 1968 opinion, the Office of the New York State Comptroller opined that “‘[s]alvage value’ may mean an amount estimated as expected to be realized or actually realized upon the safe of an asset at the end of its useful life; something extracted as valuable or having further usefulness.” 24 Op.State Compt. 445, 1968.
8. PPL § 253.
9. PPL § 257.
10. PPL § 256(2).