

ORDINANCE NO. 15

Series 1992

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE
ADMINISTRATION AND DISPOSITION OF UNCLAIMED
PROPERTY HELD BY OR UNDER THE CONTROL OF THE
TOWN OF BRECKENRIDGE

WHEREAS, certain property held by or under the control of the Town of Breckenridge which is owned by an individual or entity may be unclaimed by the owner; and

WHEREAS, the Town Council desires to establish an administrative procedure for notification and, where possible, transfer of unclaimed property to the owner; and

WHEREAS, the Town Council desires to dispose of unclaimed property after notification has been provided; and

WHEREAS, the Town Council desires to enact an ordinance providing a local procedure for administration and disposition of unclaimed property.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. There is hereby added to the Breckenridge Town Code a new Chapter 17 of Title 1, to be entitled "Unclaimed Property", which shall read in its entirety as follows:

Section:

- 1-17-1 Purpose.
- 1-17-2 Definitions.
- 1-17-3 Notice of Unclaimed Property.
- 1-17-4 Procedure for Disposal Of Property.
- 1-17-5 Sale Of Unclaimed Property.
- 1-17-6 Mandatory Of Destruction Of Certain Property.
- 1-17-7 Promulgation Of Procedural Regulations.

1-17-1: PURPOSE. The purpose of this Ordinance is to provide for the administration and disposal of unclaimed property which is in the possession of or under the control of the Town of Breckenridge.

1-17-2: DEFINITIONS. Unless otherwise required by context or use, words and terms used in this Chapter shall be defined as follows:

A. "Town manager" shall mean the Town Manager of the Town of Breckenridge or designee thereof.

B. "Unclaimed property" means any tangible or intangible property, including any income or in increment derived therefrom, less any lawful charges, held by or under the control of the municipality and which has not been claimed by its owner for a period of more than one (1) year after it became payable or distributable; provided, however, that lost and found clothing left in any municipal facility, lost and found clothing turned into the municipality, or lost and found clothing found by any Town employee shall be deemed to be unclaimed property sixty (60) days after possession of such clothing is delivered to the Town Manager. Unclaimed, abandoned or seized motor vehicles are excluded from this Chapter as such property is governed by existing sections of the Breckenridge Town Code. Municipal court bond forfeitures are also excluded as said bonds are subject to the provisions of the Colorado Municipal Court Rules.

C. In addition to the property included in the definition of "intangible property" in Section 38-13-102(7), C.R.S., the term "intangible property" shall also include, but shall not be limited to, the following: deposits for water service provided by the Town; street cut permit deposits; overpayment on water service provided by the Town; developer cost recovery agreements; monies unclaimed by beneficiaries in a pension fund; uncashed payroll checks; bonds posted for reasons other than municipal court; money or property from police forfeiture or seizure, and uncashed court-ordered restitution payments.

D. "Tangible property" shall include, but shall not be limited to, property left in safekeeping at a municipal facility; weapons left with or seized by the police; items held for evidence in connection with municipal or other court proceedings; lost and found money or personal property turned into the municipality; and lost and found money or personal property found by any Town employee.

E. "Municipality" means the Town of Breckenridge, Colorado.

F. "Owner" means a person or entity, including a corporation, partnership, association, governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the municipality.

1-17-3: NOTICE OF UNCLAIMED PROPERTY.

A. Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the Town Manager shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the municipality of any of its departments, or as determined by the Town Manager. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Manager with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

B. Subject to the provisions of Subsection C of this Section, prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00) or having no last known address of the owner, the Town Manager shall cause a notice to be published in a newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Manager with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

C. No notice shall be required prior to the disposition of any item which the Town Manager has determined, after investigation, to be of insubstantial commercial value, and the Town Manager may dispose of any such item as provided in Section 1-17-4(G).

1-17-4: PROCEDURE FOR DISPOSITION OF PROPERTY.

A. If the Town manager receives no written claim within the above sixty (60) day claim period, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

B. If the Town Manager receives a written claim within the above sixty (60) day claim period, the Town Manager shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The Town Manager may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

C. Any legal action filed challenging a decision of the Town Manager shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town Manager pursuant to the order of the Court having jurisdiction over such claim.

D. In the event there is more than one claimant for the same property, the Town Manager may, in the Town Manager's sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

E. In the event all claims filed are denied, the property shall become the sole property of the municipality and any claim of the owner of such property shall be deemed forfeited.

F. The Town Manager, may periodically cause any unclaimed property, other than money, to be sold, at public sale or otherwise, or he may otherwise dispose of it, in the discretion of the Town Manager, with the money collected to be paid into the general fund of the municipality. Without limiting the generality of the foregoing, the Town Manager may return any lost and found money or personal property to the person who turned such money or property into the municipality; provided, that no lost and found money or personal property turned into the municipality by a Town Employee shall be returned to such employee. If the person who turned such money or property into the Town is under the age of eighteen (18) years, such money or property shall be delivered to such person's parent or legal guardian.

G. If the Town Manager determines after investigation that any forfeited unclaimed property has insubstantial commercial value, the Town Manager may destroy, exchange, transfer or otherwise dispose of the property.

H. No action or proceeding may be maintained against the municipality or any officer or employee for or on account of any action taken by the Town Manager pursuant to the provisions of this Chapter.

1-17-5: SALE OF UNCLAIMED PROPERTY.

A. Any public sale of unclaimed property must be preceded by a single publication of notice at least three (3) weeks in advance of sale, in a newspaper of general circulation within the limits of the municipality. Said notice of sale describe the property and state where and when the sale shall take place.

B. Property sold at public sale shall be sold to the highest bidder for cash, however, the Town Manager may decline the highest bid and reoffer the property for sale if in the judgment of the Town Manager the bid is insufficient.

C. The purchaser of property at any public sale conducted pursuant to this section takes the property free of all claims of the owner or previous holder thereof and all person claiming through or under them. The Town Manager shall execute all documents necessary to complete the transfer of ownership.

1-17-6: MANDATORY DESTRUCTION OF CERTAIN PROPERTY.

Notwithstanding any provision of this Chapter to the contrary, the following items of personal property shall be destroyed by the Town Manager, or other lawful custodian, and shall not be subject to the provisions of this Chapter: burglary tools of any description; explosives; armored or bulletproof clothing; dangerous weapons; gambling apparatus; beer, wine, spirituous liquors or fermented malt beverages; soiled, bloody or unsanitary clothing; solids or liquids of unknown or uncertain composition; drugs, or hallucinogenic substances; hypodermic syringes and needles; obscene pictures; prints, effigies, statues any poisonous, noxious or deleterious solids or liquids; and any other property which reasonably might result in injury to the health or safety of the public, or which might be subject to unlawful use; or any item of personal property which is ordered to be destroyed by a court of competent jurisdiction. Items held as evidence in any court proceeding shall not be destroyed until such item is no longer needed as evidence. Notice shall not be required prior to the destruction of any property which is subject to the provisions of this Section.

1-17-7: PROMULGATION OF PROCEDURAL REGULATIONS.

The Town Manager may promulgate reasonable procedural rules and regulations for the administration and disposition of unclaimed property consistent with this ordinance, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

Section 2. Chapter 1 of Title 6 of the Breckenridge Town Code is hereby repealed in its entirety.

Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 4. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

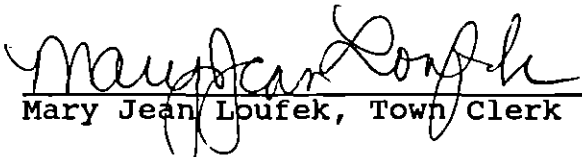
Section 5. The Town of Breckenridge hereby finds, determines and declares that it has the power to adopt this Ordinance under the provisions of Part 1 of Article 13 of Title 38, C.R.S., as amended, and the general powers granted to home rule municipalities in Colorado.


Section 6. This Ordinance shall be published as provided by law, and shall become effective July 1, 1992.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 26th day of May, 1992. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 9th day of June, 1992 at 7:30 p.m. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, Town Clerk


Stephen C. West, Mayor

This Ordinance was published in full in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on June 4, 1992.

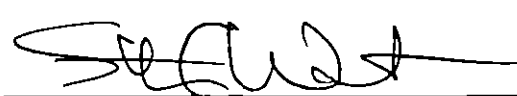
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 9th day of June, 1992.

A copy of this Ordinance is available for inspection in the office of the Town Clerk.


ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM


Town Attorney

6/9/92
Date

This Ordinance was published by title in the Breckenridge Journal, a newspaper of general circulation within the Town of Breckenridge, on June 18, 1992.