

ORDINANCE NO. 21

Series 2005

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 17 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING UNCLAIMED PROPERTY

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

Section 1. Chapter 17 of Title 1 of the Breckenridge Town Code, entitled "Unclaimed Property", is repealed and readopted with changes so as to read in its entirety as follows:

CHAPTER 17

UNCLAIMED PROPERTY

SECTION:

- 1-17-1: PURPOSE
- 1-17-2: DISPOSITION OF INTANGIBLE PROPERTY; CONFLICT WITH STATE LAW
- 1-17-3: EXCLUSIONS
- 1-17-4: DEFINITIONS
- 1-17-5: EVIDENCE
- 1-17-6: POLICE CHIEF TO ACT AS CUSTODIAN
- 1-17-7: INVENTORY OF UNCLAIMED PROPERTY
- 1-17-8: NOTICE TO OWNER
- 1-17-9: FORFEITED PROPERTY DEEMED OWNED BY TOWN
- 1-17-10: RESOLUTION OF CLAIMS OF OWNERSHIP
- 1-17-11: DISPOSITION OF FORFEITED PROPERTY
- 1-17-12: PUBLIC SALE OF FORFEITED PROPERTY
- 1-17-13: MANDATORY DESTRUCTION OF CERTAIN PROPERTY
- 1-17-14: DISPOSITION OF CREDIT CARDS AND CHECKS
- 1-17-15: NO ACTION AGAINST TOWN
- 1-17-16: RULES AND REGULATIONS

1-17-1: PURPOSE: The purpose of this Chapter is to provide for the administration and disposal of unclaimed tangible personal property which comes into the possession or control of the Town.

1-17-2: DISPOSITION OF INTANGIBLE PROPERTY; CONFLICT WITH STATE LAW: Except as expressly provided in Section 1-17-14 with respect to credit cards and checks, all unclaimed intangible property which comes into the possession or control of the Town shall be disposed of by the Town in accordance with the provisions of the "Colorado Unclaimed Property Act", Article 13 of Title 38, C.R.S., as amended from time to time. To the extent there is any conflict between the provisions of this Chapter and the Colorado Unclaimed Property Act, the provisions of this Chapter shall control.

1-17-3: EXCLUSIONS: Any tangible person property the disposition of which is governed by other sections of this Code shall be disposed of in accordance with the applicable sections of this Code, and not this Chapter. Municipal Court bond forfeitures are also excluded as said bonds are subject to the provisions of the Colorado Municipal Court Rules.

1-17-4: DEFINITIONS: Unless otherwise required by context or use, words and terms used in this Chapter shall be defined as follows:

FORFEITED PROPERTY: All unclaimed property deemed to be owned by the Town pursuant to Section 11-7-9.

CUSTODIAN: The Police Chief of the Town, or such person's authorized representative.

INTANGIBLE PROPERTY: The term "intangible property" shall have the meaning provided in Section 38-13-102(7), C.R.S. 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; monies unclaimed by developers under cost recovery agreements; monies unclaimed by beneficiaries in a pension fund; uncashed payroll checks; bonds posted with the Town for reasons other than Municipal Court; money or property from police forfeiture or seizure, and uncashed court-ordered restitution payments. Unclaimed credit cards and checks shall be disposed of by the Town pursuant to Section 1-17-14.

**TANGIBLE
PERSONAL
PROPERTY:**

Includes, but is not limited to, lost and found money or tangible personal property turned over to the Town or coming into the Town's possession or control; property left in safekeeping at a Town facility; weapons left with or seized by the police; and items held for evidence in connection with municipal or other court proceedings.

TOWN:

The Town of Breckenridge, Colorado.

**UNCLAIMED
PROPERTY:**

Any lost, abandoned, stolen or confiscated tangible personal property held by or under the control of the Town pursuant to this Chapter.

1-17-5: EVIDENCE: The Custodian shall keep in his custody all articles of tangible personal property seized or held by the Breckenridge Police Department as evidence for use in any pending or prospective trial, unless otherwise ordered by the court having jurisdiction or upon the proper authorization of the Town Attorney or other prosecuting attorney. Such property shall be held by the Custodian until a final non-appealable judgment has been entered in the case for which the evidence is held. Thereafter, unless ordered to the contrary by the court having jurisdiction, the Custodian shall dispose of the evidence in accordance with the provisions of this Chapter.

1-17-6: POLICE CHIEF TO ACT AS CUSTODIAN: The Police Chief is designated as the official custodian of each and every article or object of unclaimed property which comes into the custody or control of the Town. Any Town employee finding an object of unclaimed property shall deliver such property to the Custodian for disposition in accordance with the provisions of this Chapter.

1-17-7: INVENTORY OF UNCLAIMED PROPERTY: The Custodian shall maintain an inventory of all unclaimed property which comes into his possession pursuant to this Chapter. Such inventory shall include: (i) the date when the unclaimed property came into the possession of the Town; (ii) a description of the unclaimed property; (iii) if the unclaimed property is believed to be lost or abandoned property, the place where such property was found, together with the address and telephone number of the finder of such unclaimed property; and (iv) and the date and method of disposal of the unclaimed property.

1-17-8: NOTICE TO OWNER:

A. Prior to disposing of any unclaimed property, the Custodian shall send a written notice by certified mail, return receipt requested, to the last known address of the owner of the unclaimed property if the name and last known address of the owner can be determined by the Custodian. The notice shall include a description of the property and the amount or estimated value of the property. The notice shall state where the owner may make inquiry about or claim the property. The notice shall also state that if the owner fails to provide the Custodian with a written claim for the return of the property within 60 days of the date of the mailing of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

B. If the Custodian cannot determine the owner of unclaimed property, or the owner's last known address, then prior to disposing of any such unclaimed

property the Custodian shall cause a notice to be published once in a newspaper of general circulation in the Town. The notice shall include a description of the property and the amount or estimated value of the property. The notice shall state where the owner may make inquiry about or claim the property. The notice shall also state that if the owner fails to provide the Custodian with a written claim for the return of the property within 60 days of the date of the publication of the notice, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.

C. No notice shall be required prior to the Custodian disposing of any item of unclaimed property which the Custodian has determined, after investigation, to be of insubstantial commercial value, and the Custodian may dispose of any such item as provided in Section 1-17-11.

1-17-9 FORFEITED PROPERTY DEEMED OWNED BY TOWN: If the Custodian receives no written claim of ownership of an item of unclaimed property within the applicable 60 day claim period described in Section 1-17-8, such item of unclaimed property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.

1-17-10: RESOLUTION OF CLAIMS OF OWNERSHIP:

A. If the Custodian receives a written claim the applicable 60 day claim period described in Section 1-17-8, the Custodian shall evaluate the claim and give written notice to the claimant within 90 days of the Custodian's receipt of the written claim that the claim has either been accepted or denied, in whole or in part. Within such 90 day period, the Custodian may request further supporting documentation from the claimant.

B. An aggrieved party may appeal the decision of the Custodian with respect to the ownership of any item of unclaimed property pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Any such action shall be filed within 30 days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Custodian pursuant to the order of the court having jurisdiction over such claim.

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

D. In the event all claims filed are denied, the property shall become the sole property of the Town and any claim of the owner of such property shall be deemed forfeited. The forfeited property shall then be disposed of by the Custodian pursuant to Section 1-17-11.

1-17-11: DISPOSITION OF FORFEITED PROPERTY:

A. The Custodian may periodically cause any forfeited property, other than money, to be sold at public sale in accordance with Section 1-17-12.

B. If the Custodian determines after investigation that any forfeited property has insubstantial commercial value, the Custodian may destroy, exchange, donate, transfer or otherwise dispose of the property. No notice shall be required in connection with the disposition of any such property.

C. All of the proceeds of the disposition of forfeited property shall be paid by the Custodian to the Finance Director for deposit into the General Fund of the Town.

D. The Custodian may return any forfeited property consisting of lost and found money or personal property to the person who turned such money or property into the Town; provided, that no such lost and found money or personal property turned into the Town by a Town employee shall be returned to such employee. If the person who turned in such lost and found money or personal property to the Town is under the age of 18 years, such money or property shall be delivered to such person's parent or legal guardian.

1-17-12: PUBLIC SALE OF FORFEITED PROPERTY

A. Any public sale of forfeited property shall be preceded by a single publication of notice of sale. Such notice shall be published at least 2 weeks in advance of sale in a newspaper of general circulation within the limits of the Town. The notice of sale shall describe the forfeited property and shall state where and when the sale shall take place.

B. Forfeited property sold at public sale shall be sold to the highest bidder for cash. However, the Custodian may decline the highest bid and reoffer the property for sale if, in the judgment of the Custodian, the bid is insufficient.

C. The purchaser of forfeited property at any public sale conducted by the Custodian pursuant to this Section shall take the property free of all claims of the owner or previous owner thereof, and all persons claiming through or under them, including lienholders. However, the Town shall make no warranties or representations with respect to the title to the forfeited property, and the Town shall have no liability if title to the forfeited property is not marketable. The Custodian shall execute all documents necessary to complete the transfer of ownership.

1-17-13: 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 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, or statues; any poisonous, noxious or deleterious solid or liquid; any other property which might foreseeably 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. Notice shall not be required prior to the destruction of any property which is subject to the provisions of this Section.

1-17-14: CREDIT CARDS AND CHECKS: Notwithstanding any other provision of this Chapter, unclaimed property consisting of credit cards and checks shall be disposed of by the Custodian as follows:

A. The Custodian shall contact the issuer of the credit card, and follow the instructions provided by the issuer with respect to the disposition of the credit card.

B. The Custodian shall attempt to contact the owner of the deposit account on which the checks may be drawn, and shall follow the instructions provided by the owner of the deposit account with respect to the handling of the checks. If the owner of the deposit account cannot be located after reasonable effort, the Custodian shall destroy the checks.

1-17-15: NO ACTION AGAINST TOWN: Except as provided in Section 1-17-10(B), no action or proceeding may be maintained against the Town or any officer or employee for or on account of any action taken by the Custodian pursuant to the provisions of this Chapter.

1-17-16: RULES AND REGULATIONS: The Custodian shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Chapter. Such regulations shall be adopted in accordance with the procedures established by Title 1, Chapter 18 of this Code.

Section 2. 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 3. 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, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

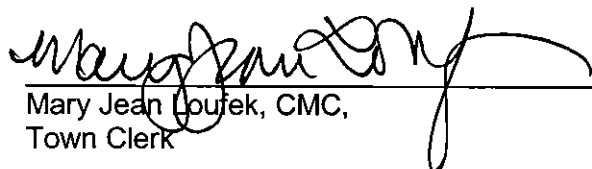
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Section 38-12-134 C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 5. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this 28th day of June, 2005. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 12th day of July, 2005, 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, CMC,
Town Clerk


Ernie Blake, Mayor

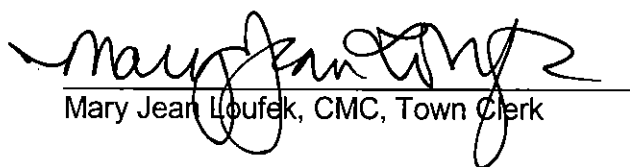
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 8, 2005.

The public hearing on this ordinance was held on July 12, 2005.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE
ONLY, this 12th day of July, 2005. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

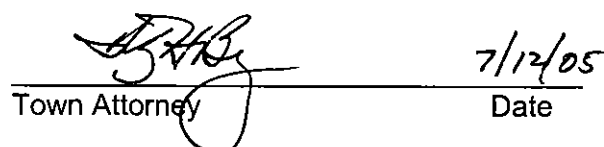
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

7/12/05
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 22, 2005.