

PROPERTY, ABANDONED AND UNCLAIMED

Chapter 141

PROPERTY, ABANDONED AND UNCLAIMED

Chapter 141 [Added 4-3-01 by Ord. 01-03]

- § 141-1. Purpose.
- § 141-2. Definitions.
- § 141-3. Procedure for Disposition of Sums Payable on a Check.
- § 141-4. Procedure for the Disposition of Unclaimed Property.
- § 141-5. Withholding Costs.
- § 141-6. Destruction of Unclaimed Property Having Insubstantial Commercial Value; Immunity from Liability.
- § 141-7. Administrative Procedures.
- 141-1. Purpose.

The purpose of this chapter is to provide for the administration and disposition of unclaimed property which unless otherwise provided herein is presumed abandoned.

**§ 141-2. Definitions. [Amended 2-13-07, Ord. 07-05]**

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

*Chief of Police* means the Town chief of police or designee thereof.

*Clerk* means the Town clerk or designee thereof.

*Owner* means a person or entity, including a corporation, partnership, association, a governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of the same, that owns unclaimed property or who the Town believes is the owner of unclaimed property.

*Unclaimed Property* means any tangible or intangible property, including any income or increment derived there from, less any lawful charges that is held by or under the control of the Town and that has not been claimed by its owner for a period of more than sixty (60) days after it became payable or distributable. The term "unclaimed property" shall not include abandoned motor vehicles, confiscated weapons or items of evidence acquired by the Town related to its law enforcement activities, or any property acquired in accordance with any federal or state contraband forfeiture laws, or unclaimed bond payments.

**§ 141-3. Procedure for Disposition of Sums Payable on a Check.**

Notwithstanding any other provision of this chapter to the contrary, any sum payable on a check on which the Town is liable, that has been outstanding for a period of at least one year after it was payable or after its issuance if payable on demand is deemed abandoned and without providing notice the Town may write off the amount of such check.

**§ 141-4. Procedure for the Disposition of Unclaimed Property. [Amended 2-13-07, Ord. 07-05]**

## PROPERTY, ABANDONED AND UNCLAIMED

- A. Notice-Value Fifty Dollars (\$50.00) or More and Owner Known or Suspected. Prior to the disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more and for which the identity of the owner is known or suspected, the chief of police shall provide the clerk with an identification of such property, and the clerk shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any known or suspected 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 town department or agency holding the property. 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 also 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 clerk with a written claim for the return of the property within thirty (30) days of the date 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. Notice-Value Less than Fifty Dollars (\$50.00) or no Known or Suspected Identity of the Owner or no Last Known Address. Prior to the disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00), or for which there is no known or suspected identity of the owner, or for which there is no last known address of the owner, the chief of police shall provide the clerk with an identification of such property, and the clerk shall cause a notice to be published in a newspaper of general circulation in the Town. 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 clerk with a written claim for the return of the property within thirty (30) days of the date of the publication of the notice, the unclaimed property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.
- C. Forfeiture. If the clerk receives no written claim within the above thirty (30) day claim period, the unclaimed property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.
- D. Written Claims. If the clerk receives a written claim within the above thirty (30) day claim period, the chief of police 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 chief of police may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the unclaimed property.
- E. Multiple Claimants. In the event that there is more than one claimant for the same unclaimed property, the chief of police may, in the chief of police's sole discretion, resolve any claim as the chief of police sees fit, or may resolve such claims by depositing the disputed unclaimed property with the registry of the court having jurisdiction over such claims in an interpleaded action.

## PROPERTY, ABANDONED AND UNCLAIMED

- F. Denial of Claims. In the event that all claims filed are denied, the unclaimed property shall become the sole property of the Town, and any claim of the owner of such property shall be deemed forfeited.
- G. Appeal. Any legal action filed challenging a decision of the chief of police 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 chief of police pursuant to the order of the court having jurisdiction over such claim.
- H. Disposal at Chief of Police's Discretion. At any time after any deemed forfeiture under subsection C above, and not less than thirty (30) days after the chief of police's final decision determining the Town's sole ownership to any unclaimed property described in this chapter, the chief of police in his discretion is hereby authorized to dispose of the unclaimed property in any manner in which the chief of police determines, including without limitation retaining the property for use by the Town, selling the property as provided for herein, giving the property to the finder thereof or donating the property to any person or organization.
- I. Sale of Unclaimed Property. If the chief of police determines that any unclaimed property should be sold, then at any time after any deemed forfeiture under subsection C above and not less than thirty (30) days after the chief of police's final decision determining the Town's sole ownership to any unclaimed property described in this chapter, the chief of police shall publicly sell or arrange for the public sale of all such unclaimed property for the highest and best price the same will bring in cash, which sale may be accomplished through any reasonable means, including but not limited to contracting with a third party for live or on-line auction services.
- J. Sale of Perishable, Bulky, etc., Property. Notwithstanding any other provision in this chapter, if any unclaimed property is of a perishable nature or so bulky or of such a nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in this chapter, the chief of police, upon setting forth reasons why such property should not be retained for the fixed period before selling or disposing of the same, may cause the unclaimed property to be advertised forthwith in a newspaper legally qualified for municipal publications and sell or dispose of such property at a public sale at any time after three (3) days have elapsed from the time the Town acquires the unclaimed property.

### **§ 141-5. Withholding Costs.**

Prior to the return of any unclaimed property, the Town may assess carrying costs against the owner thereof or pass on any costs incurred by the Town as a result of holding the unclaimed property to the recipient of any unclaimed property, if the chief of police determines that the assessment of such costs is warranted. Any amount assessed under this chapter shall be paid to the Town prior to release of the unclaimed property.

### **§ 141-6. Destruction of Unclaimed Property Having Insubstantial Commercial Value; Immunity from Liability.**

Notwithstanding any other provision of this chapter to the contrary, if the chief of police determines after investigation that any unclaimed property has insubstantial commercial value,

## PROPERTY, ABANDONED AND UNCLAIMED

the chief of police may direct the destruction or disposal of such property at any time and without notice. No action or proceeding may be maintained against the Town or any officer or employee for or on account of any action taken under this Section 141-6.

### **§ 141-7. Administrative Procedures.**

The chief of police and/or the clerk are authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this chapter, including compliance requirements for other Town officers and employees in the identification and disposition of such property.