

ABJ053

ORDINANCE 10 SERIES 2002

May 7, 2002: Introduced as Council Bill 03 Series of 2001 by Bonnie Blum, seconded by Cathy Pomeroy, and considered by the title only on first reading. Passed unanimously.

May 21, 2002: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 10, Series 2002.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 11, OF TITLE 1, OF THE CITY CODE RELATING TO DISPOSITION OF UNCLAIMED PROPERTY

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation organized in accordance with article XX of the Colorado Constitution; and

WHEREAS, the City of Cherry Hills Village is authorized pursuant to its home rule powers to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the City; and

WHEREAS, it is necessary to clarify certain provisions of Chapter 11, Title 1, relating to the disposition of tangible and intangible property; and

WHEREAS, it is necessary to change the length of time the City must retain the property, change criteria related to the value of the retained property, and set forth a mechanism for disposing of the unclaimed property,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Chapter 11, Title 1, of the City code of the City of Cherry Hills Village is repealed and reenacted to read as follows:

CHAPTER 11

DISPOSITION OF UNCLAIMED PROPERTY

1-11-1: **PURPOSE:** The purpose of this Chapter is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the City.

1-11-2: **DEFINITIONS:** Unless otherwise required by context or use, words and terms shall be defined as follows:

CHIEF: The Chief of Police of the City of Cherry Hills Village or designee thereof.

CITY: The City of Cherry Hills Village, Colorado.

INTANGIBLE PROPERTY:

- A. Moneys, checks, drafts, deposits, interest, dividends, and income;
- B. Credit balances, customer overpayments, gift certificates, refunds, credit memos, and unidentified remittances;



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- C. Stocks and other intangible ownership interests in business associations;
 - D. Moneys deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
 - E. Security deposits, unpaid wages, and unused airline tickets;
 - F. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits;
 - G. Amounts due and payable under the terms of insurance policies;
 - H. On and after October 1, 2002, any amount due and payable as a refund of Colorado income tax.
 - I. "Intangible property" does not include unclaimed capital credit payments held by cooperative electric associations and telephone cooperatives.
 - J. Deposits or collateral for any City service or program, such as Municipal court cash bonds, refundable developer deposit accounts, and similar funds.

OWNER: 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.

UNCLAIMED PROPERTY: Any lost, stolen, confiscated or abandoned tangible or intangible property which has been in possession of the City for a period of time as set forth in this Chapter.

1-11-3: CUSTODIAN OF PROPERTY.

The Chief of Police is designated the official custodian of all unclaimed property coming into possession of the police or the City. Nothing in this Chapter shall be held to require the Chief of Police to take possession of or make a disposition of any property, the disposition or possession of which is otherwise provided for in this Chapter.

1-11-4: DISPOSITION GENERALLY.

All unclaimed tangible property that has been delivered to the Chief of Police for care, custody, and control, not being held pending disposition of charges pursuant to Section 1-11-12 of this Chapter, shall be subject to disposition according to the provisions of this Chapter, unless otherwise ordered by any court or otherwise provided for in this Chapter.



1-11-5: **NOTIFICATION OF OWNER.**

The Chief of Police shall examine any unclaimed tangible property, and if the identity of the owner appears from such examination, or if the identity of the owner is readily available to the custodian from public records available to him, or otherwise known to him, the Chief of Police shall notify the apparent owner by letter, mailed by first class United States mail, postage prepaid to the last known address of such apparent owner, mailed within a reasonable time after identification of the apparent owner, describing the property and stating that the same is held by the City and may be sold or otherwise disposed of unless claimed within thirty days of mailing of such notice.

1-11-6: **DISPOSAL OF UNCLAIMED PROPERTY.**

If any unclaimed tangible property remains unclaimed sixty days after the same is no longer required to be held as evidence pursuant to Section 1-11-11 of this Chapter, or sixty days after the same has come into the possession of the Chief of Police, or thirty days after the mailing of any letter of notice provided for in Section 1-11-5, such property shall be disposed of as follows:

- A. The Chief of Police shall cause to be published in a newspaper of general circulation in the City a public notice describing generally by category or classification those articles of property of an estimated current retail value of less than one hundred dollars. Those articles of property of an estimated current retail value of one hundred dollars or more shall be described specifically. Such public notice shall state that any person who claims to be an owner of or claims any interest in any such property may appear at a location designated by the Chief of Police and reclaim such property upon presentation of satisfactory proof of identity and ownership.
- B. Any such property may be sold at public sale; provided, that the Chief of Police shall cause to be published in a newspaper of general circulation in the City, a public notice setting forth the time, date and place of sale.
- C. Bicycles, tricycles, articles made for use by children, or clothing may be sold at public sale, or may, in the alternative, be given to poor, needy, or institutionalized persons, as the Chief of Police may order, by making the same available for distribution to religious, charitable, civic, or other organizations or institutions.
- D. Such property that consists of jewelry, gems, watches, precious metals, or other property having a unique value, or which in the judgment of the Chief of Police may bring a higher price if sold on sealed bids, may, in the discretion of the Chief of Police, be sold either at a public sale as herein provided, or to the highest bidder after solicitation of sealed bids from at least three regular dealers in the particular type of property. Any person desiring to submit a sealed bid may do so. Such bids shall be opened and the property sold to the highest bidder at the time and place specified in such notice, provided, however, that the right to reject any and all bids shall be reserved, and any and all bids may be rejected if deemed too low, or for any other reason.

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- E. The City may retain for its own use and benefit that property not claimed. Property of little or no apparent value may be destroyed by the sales agent. When any property is retained by the City as provided for in this section, it shall be added to the City's capital assets inventory in accordance with adopted City policies.

1-11-7: **PROCEEDS OF SALE.**

All proceeds of sale shall be paid to the City Treasurer who shall deposit the same in the general fund of the City.

1-11-8: **FAILURE TO CLAIM PROPERTY.**

Failure to make claim of ownership within the time limits prescribed in this Chapter, and before sale or donation of any article, shall forever bar the owner or any person claiming ownership by, through, or under the owner from making any subsequent claim of ownership.

1-11-9: **RIGHTS OF FINDER.**

Notwithstanding any other provision of this Chapter, whenever any item of tangible or intangible property has been found and delivered to the Chief of Police for care, custody, and control, such property shall be returned to the original finder whenever claim has been made by the finder and the following conditions have been met:

- A. The claimant is a person who originally found the lost or abandoned property;
- B. The claimant, after surrendering the property to the custodian, has served written notice to the Chief of Police of his intention to make a claim on that item within sixty days of surrender of the item;
- C. Lost or abandoned property has remained unclaimed by the owner or person having a right to the tangible property for sixty days after surrender of the same to the Chief of Police or, in the case of intangible property, has remained unclaimed for one year;
- D. The lost or abandoned property is not stolen or confiscated property, nor property held under the exceptions outlined in Sections 1-11-10 through 1-11-12;
- E. Any tangible or intangible property found within the City by a City employee during his working hours shall be delivered to the Chief of Police and shall be processed in accordance with the provisions of this Chapter. Any such employee shall have no rights of a finder under this section.

1-11-10: **EXCEPTIONS GENERALLY.**

Notwithstanding the foregoing provisions of this Chapter, objects and articles of property as described in Section 1-11-12 may be kept, held, or disposed of as provided for in this Chapter. The provisions of this Chapter shall not apply to the sale of abandoned automobiles; the disposition of lost or stray animals; or to the disposition of any property which is governed by the terms of any specific ordinance or applicable state statute.



1-11-11: PROPERTY HELD AS EVIDENCE.

The Chief of Police shall keep in his custody all articles of tangible or intangible property seized or held as evidence, which property has been delivered for use in any pending or prospective court proceeding, unless otherwise ordered by a court having jurisdiction, or upon proper authorization of a prosecuting attorney, until final disposition of any pending charges, including appeals or the lapse of time for filing an appeal. Thereafter, unless ordered to the contrary by the court having jurisdiction, the Chief of Police shall dispose of such property in accordance with the provisions of this Chapter.

1-11-12: DISPOSITION OF WEAPONS AND CONTRABAND.

- A. Unless ordered to the contrary by a court of competent jurisdiction, or otherwise required by state or national law, firearms and other weapons which may not lawfully be kept, possessed, or retained by the owner or person otherwise entitled to possession thereof, or which may not otherwise lawfully be returned to the owner thereof, or which are unclaimed after notice to the owner, or the owner of which is not known, may be kept and retained by the Police Department for use in its training programs or otherwise disposed of pursuant to the provisions of this section, except that antique or unique firearms, as determined by the Chief, may be disposed of pursuant to the provisions of this Chapter.
- B. The Chief of Police may destroy each and every article of the following described property: burglary tools; firearms; cartridges; explosives; armor or bulletproof clothing; dangerous weapons; gambling apparatus; medicines; 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 or noxious solids or liquids; or any other property which reasonably might result in injury to the health or safety of the public or be the subject of unlawful use.

1-11-13: INTANGIBLE PROPERTY.

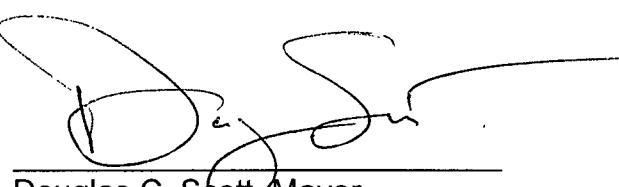
- A. The Chief of Police is the custodian of intangible unclaimed property except for intangible property which is being held pursuant to the provisions of Section 1-11-11 and shall keep a record of such property.
- B. All intangible unclaimed property in the custody and control of the Chief of Police shall be deemed abandoned one year after the date upon which it became payable or distributable. The Chief of Police shall examine any such intangible property which has been deemed to be abandoned and, if the owner is readily ascertainable from public records available to him, or otherwise known to him, the Chief of Police shall notify the apparent owner by letter, mailed by first class United States mail, postage prepaid to the last known address of such apparent owner, mailed within a reasonable time after identification of the apparent owner, describing the intangible property and stating that the same is being held by the Chief of Police and may be disposed of unless claimed within thirty days of mailing of such notice.



C. All intangible unclaimed property presumed abandoned in the custody of the Chief of Police shall be disposed of or shall escheat to the city in the same manner and under the same procedures as tangible property under the provisions of this chapter.

Section 2. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable.

Adopted as Ordinance No. 10 Series 2002, by the City Council of the City of Cherry Hills Village, Colorado this 21ST day of May, 2002.



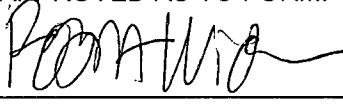
Douglas C. Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Robert Widner, City Attorney

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