

ORDINANCE NO. 672

AN ORDINANCE CONCERNING THE DISPOSITION OF UNCLAIMED PROPERTY HELD BY THE TOWN OF BERTHOUD, LARIMER COUNTY, COLORADO.

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

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

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

WHEREAS, the town desires to enact a local law providing a procedure for administration and disposition of unclaimed property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER COUNTY, COLORADO:

Section 1. Purpose. The purpose of this ordinance is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the municipality.

Section 2. Definitions. Unless otherwise required by context or use, words and terms shall be defined as follows:

(a) "Unclaimed Property" means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the municipality and which has not been claimed by its owner for a period of more than five (5) years in the case of intangible property and one (1) year in the case of tangible property after it became payable or distributable.

(b) "Intangible Property" includes: Moneys, checks, drafts, deposits, interest, dividends and income; credit balances, customer overpayments, gift certificates, refunds, credit memos and unidentified remittances; stocks and other intangible ownership interests in business associations; moneys deposited to redeem stocks, bonds, coupons and other securities or to make distributions; 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; and, amounts due and payable under the terms of insurance policies.

(c) "Municipality" means the Town of Berthoud, Colorado.

(d) "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.

(e) "Administrator" shall mean the Administrator of the Town of Berthoud or designee thereof.

Section 3. Procedure for Disposition of Property.

(a) Prior to disposition of any unclaimed property having an estimated value of \$50.00 or more, the Administrator 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 municipal 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 that if the owner fails to provide the Administrator 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) Prior to disposition of any unclaimed property having an estimated value of less than \$50.00 or having no last known address of the owner, the Administrator 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 that if the owner fails to provide the Administrator 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) If the Administrator 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.

(d) If the Administrator receives a written claim within the sixty (60) day claim period, the Administrator 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 Administrator 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.

(e) In the event that there is more than one claimant for the same property, the Administrator may, in the Administrator'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.

(f) In the event that 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.

(g) Any legal action filed challenging a decision of the Administrator 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 Administrator pursuant to the order of the court having jurisdiction over such claim.

(h) The Administrator is authorized to establish and administer procedures 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 4. Sale of Unclaimed Property. The Administrator is authorized to sell or dispose of unclaimed property in the manner which is believed will provide the best net return to the municipality. The Administrator may, when appropriate, follow the procedure specified in Title 38, Article 113 of the Colorado Revised Statutes.

Section 5. Repeal. All other ordinances in effect prior to the enactment of this ordinance shall remain in effect with respect to all terms in conflict with this ordinance and the provisions of this ordinance shall be used to supplement those preexisting ordinances as to issues where there is no conflict.

Section 6. Emergency Clause. The Board of Trustees has determined that the fiscal status of the municipality will be negatively

affected to a significant degree if the anticipated unclaimed assets are transferred to the state and therefore an emergency exists.

Section 7. Effective Date. This ordinance shall take effect and be in force upon adoption by a 3/4 majority of the Board of Trustees.

TOWN OF BERTHOUD:



Richard D. Strachan - Mayor

ATTEST:



Orahbelle Dunker
Orahbelle Dunker
Town Clerk