

TOWN OF WINDSOR

ORDINANCE NO. 2020-1612

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE IV OF THE *WINDSOR MUNICIPAL CODE* TO INCREASE THE TIME FOR WHICH THE TOWN OF WINDSOR RETAINS UNCLAIMED INTANGIBLE PROPERTY AND OTHER NECESSARY AMENDMENTS CONSISTENT WITH THE *REVISED UNIFORM UNCLAIMED PROPERTY ACT*

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority provided by law; and

WHEREAS, Chapter 4, Article 4 of the *Windsor Municipal Code* contains the Town’s adopted policy with respect to the disposition of unclaimed intangible property; and

WHEREAS, adoption of Chapter 4, Article IV of the *Windsor Municipal Code* serves to exempt the Town from the remaining requirements of the *Uniform Unclaimed Property Act* codified at C.R.S. §38-13-101 *et seq.*, (“Act”); and

WHEREAS, in 2019 the Colorado General Assembly enacted substantial revisions to the Act, which requires home rule municipalities to adopt certain changes to their ordinances if the municipality desires to remain exempt from the Act as revised; and

WHEREAS, the principal change to the *Windsor Municipal Code*, consistent with the exemption requirements located at C.R.S. § 38-13-1504, concerns the length of time unclaimed intangible property must be held by the Town; and

WHEREAS, prior to recent amendments to the Act, the Town previously was required to hold unclaimed intangible property for a period of sixty days after the property became legally “abandoned”; and

WHEREAS, in order for the Town to maintain an exemption consistent with the Act, the Town must now retain unclaimed intangible property for a period of five years after the property becomes legally “abandoned”; and

WHEREAS, the Act also requires the Town to provide certain owner data to the Colorado State Treasurer, such that the State may provide for a central location for Colorado residents to discover unclaimed intangible property; and

WHEREAS, the Town Board desires that the Town maintain its exempt status under the Act consistent with the requirements listed in §1504; and

WHEREAS, the Town Board has determined that these proposed amendments to the *Windsor Municipal Code* promote the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

**Section 1.** Section 4-4-20 of the *Windsor Municipal Code* is hereby repealed, amended and re-adopted to read as follows:

**Sec. 4-4-20. Definitions.**

As used in this Article, the following words and phrases are defined as follows:

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

*Town* means the Town of Windsor, Colorado.

*Unclaimed intangible property* means intangible property, including, but not limited to, moneys, checks, drafts, deposits, utility deposits, credit balances, customer overpayments, gift certificates, refunds, security deposits, unpaid wages, amounts distributable from a trust or custodial fund established under an employee benefit plan, and including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the Town and which has become abandoned consistent with C.R.S. § 38-13-201(1)(j) because the property has not been claimed by its owner for a period of one year after it became payable or distributable. *Unclaimed intangible property* does not include abandoned motor vehicles.

**Section 2.** Section 4-4-40 of the *Windsor Municipal Code* is hereby repealed, amended and re-adopted to read as follows:

**Sec. 4-4-40. Procedure for disposition of intangible property.**

- (1) After property becomes unclaimed intangible property as defined at Section 4-4-20, but prior to disposition, the Town Manager or designee shall send notice by U.S. mail to the last known address, if any, of any owner of unclaimed intangible property at the following times:
  - (a) once within six months of the property becoming unclaimed intangible property; and
  - (b) once no less than four years from the time the property became unclaimed intangible 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 and such other address as may be readily available to the Town Clerk's office by accessing its files and the Town of Windsor telephone directory. In the event the Town does not possess a last known address, the Town shall cause the first notice to be published in a newspaper of general circulation.

- (2) The notice required in this Section shall include the following:
- (a) A description of the property;
  - (b) The amount or estimated value of the property;
  - (c) The purpose for which the property was deposited or otherwise held, when available;
  - (d) The location of where the owner may make inquiry of or claim the property; and
  - (e) An advisement that if the owner fails to provide the Town Clerk with a written claim for the return of the property within five years of the date the property became unclaimed intangible property, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.
- (3) If the Town Manager or designee receives no written claim within the above five-year claim period, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited. The property or the proceeds of the sale thereof shall be placed in the general fund of the Town.
- (4) If the Town Manager or designee receives a written claim within the five-year claim period, the Town Manager shall evaluate the claim and present a written determination of the claim to the claimant within sixty days thereof that the claim has been accepted or denied in whole or in part. Failure of the Town Manager to present a written determination shall be considered a denial of the claim. The Town Manager may investigate the validity of a claim and may request further supporting documentation from the claimant prior to issuing a determination with respect to the property. If the claim is denied in whole or in part by the Town Manager, the claimant may request and receive a hearing before a hearing officer appointed by the Presiding Municipal Judge, providing such request for hearing is made in writing to the Town Manager within fifteen days of mailing of the Town Manager's denial to claimant or within seventy-five days of submittal of the claim to the Town Manager in the event the Town Manager fails to present a written determination in a timely manner. Failure of claimant to timely request such a hearing shall bar claimant's recovery.
- (5) In the event that there is more than one claimant for the same property, the Town may, in its sole discretion, resolve said claims as set forth herein, or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action. The Town may withhold actual disbursement of the property until after the expiration of the appeal period set forth in subsection (4) of this Section.
- (6) In the event that 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.

(7) Prior to disbursement of any property, the Town Manager or designee shall require the owner to reimburse the Town's notice and publication costs, if applicable.

(8) Any legal action filed challenging any determination made under this Article shall be commenced pursuant to Rule 106 of the Colorado Rules of Civil Procedure within twenty-eight days of such determination or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town Manager or designee pursuant to the final, non-appealable order of the court having jurisdiction over such claim.

**Section 3.** Chapter 4, Article IV of the Windsor Municipal Code is hereby amended by the addition of a new Section 4-4-50, to read as follows:

**Sec. 4-4-50. State Notification.**

The Town shall, consistent with the Revised Uniform Unclaimed Property Act, C.R.S. § 38-13-101 *et seq.*, or as it may be amended from time to time, provide the Colorado State Treasurer with an electronically-formatted alphabetical list of owners from whom the Town holds property that becomes abandoned and is thus unclaimed intangible property as defined at Section 4-4-20 and consistent with C.R.S. § 38-13-1504, or as it may be amended from time to time. The Town shall include within the alphabetical list the stated value of the unclaimed intangible property, associated with the owner, as defined Section 4-4-20.

Introduced and passed on first reading and ordered published this 27<sup>th</sup> day of July, 2020.

TOWN OF WINDSOR, COLORADO

  
\_\_\_\_\_  
Paul Rennemeyer, Mayor

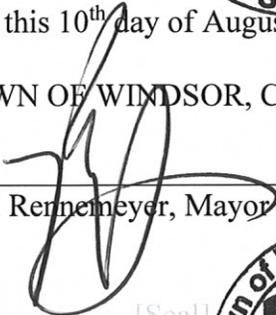
ATTEST:

  
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Karen Frawley, Town Clerk

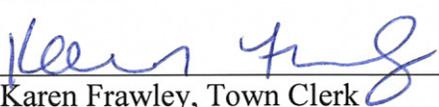


Passed on second reading, and ordered published this 10<sup>th</sup> day of August, 2020.

TOWN OF WINDSOR, COLORADO

  
\_\_\_\_\_  
Paul Rennemeyer, Mayor

ATTEST:

  
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Karen Frawley, Town Clerk

