

**TOWN OF LOCHBUIE  
COUNTIES OF WELD AND ADAMS, COLORADO**

**ORDINANCE NO. 2020-664**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF  
LOCHBUIE, COLORADO, AMENDING ARTICLE VI OF CHAPTER 2  
OF THE TOWN CODE CONCERNING THE DISPOSITION OF  
UNCLAIMED INTANGIBLE PROPERTY**

WHEREAS, the Town of Lochbuie (the “Town”) is a statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, the Town is authorized pursuant to C.R.S § 38-13-1504 to regulate the disposition of unclaimed property; and

WHEREAS, Article VI of Chapter 2 of the Municipal Code sets forth the Town’s procedures for the disposition of unclaimed property; and

WHEREAS, in 2019 the Colorado General Assembly enacted revisions to the Uniform Unclaimed Property Act located at C.R.S. § 38-13-101 *et seq.*, which require municipalities to adopt certain changes to their code provisions if the municipality desires to remain exempt from the 2019 Revised Uniform Unclaimed Property Act (the “Act”); and

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

WHEREAS, the Town previously held unclaimed property for a period of sixty (60) days after the property became payable, demandable, or returnable; and

WHEREAS, in order for the Town to maintain an exemption consistent with C.R.S. § 38-13-1504, the Town must hold unclaimed property for a period of five (5) years subsequent to the property becoming “abandoned” pursuant to state law for a total of six (6) years from the time in which the property became payable or distributable; and

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

WHEREAS, the Board of Trustees desires that the Town maintain an exemption from the Act consistent with the requirements listed in C.R.S. § 38-13-1504; and

WHEREAS, the Board of Trustees hereby determines that these proposed amendments to update the Town's Code concerning the disposition of unclaimed intangible property are desirable and in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:**

**Section 1. Amendment of Article VI of Chapter 2.** Article VI of Chapter 2 of the Town Code, entitled Unclaimed Property, shall be repealed and replaced in its entirety to read in full as follows:

Sec. 2-6-10. - Purpose.

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the Town.

Sec. 2-6-20. - Definitions.

*Director* means the Director of the Town's Department of Finance, or such individual's designated representative.

*Intangible property* includes:

- (1) Moneys, checks, drafts, deposits, interest, dividends and income;
- (2) Credit balances, overpayments, refunds, and unidentified remittances;
- (3) Moneys deposited with the Town to secure the completion of public improvements;  
and
- (4) Unpaid wages.

*Last known address* means a description of the location of the apparent owner sufficient for the purpose of delivery by mail by the United States Postal Service.

*Owner* means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant or payee in the case of other intangible property or a person having a legal or equitable interest in unclaimed property held by the Town or such person's legal representative.

*Person* means an individual, business association, state or other government, governmental subdivision or agency other than the Town, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

*Unclaimed 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 (1) year after it became payable or distributable. Unclaimed property, for the purposes of this Article, shall not include unclaimed evidence held by the Police Department or any unclaimed tangible property held by other Town departments.

*Verified* means the signing of an instrument, which signing constitutes the affirmation or acknowledgment of the person signing the instrument, under penalties of perjury, that the facts stated in the instrument are true and which signing is made before a person who is a notary public or who is authorized by the law of the place of execution to take acknowledgments or to administer oaths.

Sec. 2-6-30. - Procedure for disposition of property.

- (a) Prior to disposition of any unclaimed property having an estimated value of one hundred and one dollars (\$101.00) or more, the Director shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property at the following times: Once within six (6) months of the property becoming unclaimed property and once no less than four (4) years from the time the property became unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the department 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 state where and how the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Director with a written claim for the return of the property within five (5) years of the date the property became unclaimed property, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.
- (b) When a last known address of the owner is not known to the Town, the Director shall cause a notice to be published on the Town's official website or in a newspaper of general circulation in the Town. The notice shall include a description of the property, the name of 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 and how the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Director with a written claim for the return of the property within five (5) years of the date the property became unclaimed property, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.
- (c) All claims to unclaimed property filed with the Director pursuant to this Article shall be made in writing and shall be accompanied by a written verification that the claimant is the lawful owner and shall include an agreement to indemnify and hold the Town harmless for subsequent claims made by another person to the claimed property if such property is returned to the claimant. Any written claims filed with the Director shall also include the social security number or federal employer identification number, whichever is applicable, of the claimant. The Director may

waive the requirement that the claimant verify the claim where the value of the property claimed is less than one hundred dollars (\$100.00).

- (d) If the Director receives no written and properly verified claim within five (5) years of the date the property became unclaimed property, the property shall become the sole property of the Town, and any claim of the owner to such property shall be deemed forfeited.
- (e) If the Director receives a written and properly verified claim within the five (5) year claim period, the Director shall evaluate the claim and give written notice to the claimant within ninety (90) days after receipt that the claim has been accepted or denied in whole or in part. Failure of the Director to give written notice shall be considered a denial of the claim. Each such claim shall be accompanied by proof sufficient to establish the claimant as the owner of the property. The Director may investigate the validity of any claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property in whole or in part. The Director's written notice to the claimant may be given by mailing it to the last-known address, if any, stated in the claim. If no address for notice is stated in the claim, the notice may be mailed to the last-known address, if any, of the claimant as set forth in Section 2-6-30(a). No notice of denial need be given by the Director if the claim fails to state the current address of the claimant and the Town has no information pertaining to the last known address of the owner of the unclaimed property.
- (f) In the event that there is more than one claimant for the same property, the Director may, in the Director's sole discretion, resolve such claims or may direct the Town Attorney to deposit the disputed property with the registry of the District Court in an interpleader action.
- (g) In the event that all claims filed are denied with respect to any unclaimed property, such property shall become the sole property for the Town, and any claim of the owner of such property shall be deemed forfeited.
- (h) Any legal action filed challenging a decision of the Director shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within twenty-eight (28) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Director pursuant to the order of the court having jurisdiction over such claim.
- (i) The Director is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance and reporting requirements for Town departments and employees in the identification and disposition of such property, and the recovery of administrative costs pursuant to Section 2-6-50(b).

Sec. 2-6-40. – State notification.

The Town shall, consistent with the Revised Uniform Unclaimed Property Act under 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 property as defined in Section 2-6-20 and consistent with C.R.S. § 38-13-1504, or as it may be amended from time to time. The Town shall also include, within the alphabetical list, the value of the unclaimed property associated with the owner.

Sec. 2-6-50. – Unclaimed property account.

- (a) There is created a special account within the treasury of the Town to be known as the unclaimed property account. Moneys deposited into said account or otherwise collected under this Article, including the proceeds from the sale of unclaimed property, shall be credited to this account and may be appropriated for the payment of claims as provided in this Article. There shall be maintained in this account at all times the lesser of the amount of all moneys collected under this Article or fifteen thousand dollars (\$15,000.00) for the prompt payment of all claims. Moneys received in excess of this amount may be credited to the general fund of the Town or the Town's capital improvement fund for the Town's use and benefit. Before crediting any moneys to the account, the Director shall record the name and last known address of each owner of unclaimed property, if known, the amount and date on which the funds were credited to the account, and the date or dates on which the notice by certified mail or publication was completed in accordance with the applicable provisions of Section 2-6-30.
- (b) If a claim is upheld with respect to any unclaimed property, the claimant shall, as a prerequisite to recovering possession, reimburse the Town for reasonable administrative costs including, but not limited to, expenses incurred in handling or storing the property, transmitting written notice to the claimant and publication of notice in a newspaper of general circulation in the Town .

**Section 2. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 3. Safety Clause.** The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public

convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

**Section 4. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 5. Effective Date.** This Ordinance shall take effect thirty (30) days after publication, as provided by C.R.S. § 31-16-105 and Sections 1-3-60 and 2-2-110 of the Lochbuie Municipal Code.

ADOPTED by a vote of 7 in favor, 0 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 15th day of December 2020.

TOWN OF LOCHBUIE, COLORADO



Michael Mahoney, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of December 15, 2020, and ordered published by title only one time by *The Brighton Daily* newspaper on December 30, 2020.

[SEAL]



Linda Blackston, MMC  
Town Clerk