

Cherry Hills Village Municipal Code

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ARTICLE I

Code

Sec. 1-1-10. Adoption of Code.

The published code known as the *Cherry Hills Village Municipal Code*, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the City Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the City of Cherry Hills Village, Colorado, as a codification of all the ordinances of the City of Cherry Hills Village of a general and permanent nature through Ordinance No. 9, 2003, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the City. (Ord. 9 §1, 2003)

Sec. 1-1-20. Title and scope.

Upon adoption by the City Council, this Code is hereby declared to be and shall hereafter constitute the official Code of the City of Cherry Hills Village. This Code constitutes a compilation, revision and codification of all the ordinances of the City of Cherry Hills Village, Colorado, of a general and permanent nature, and shall be known and cited as the *Cherry Hills Village Municipal Code*. (Prior code 1-1-1; Ord. 9 §1, 2003)

Sec. 1-1-30. Code supersedes prior ordinances.

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the City Council. (Ord. 9 §1, 2003)

Sec. 1-1-40. Repeal of ordinances not contained in Code.

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. 9 §1, 2003)

Sec. 1-1-50. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-40 of this Code shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed. (Ord. 9 §1, 2003)

Sec. 1-1-60. Ordinances saved from repeal.

(a) All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are included in this Code or are by necessary implication herein reserved from repeal and except the ordinances listed in this Section. The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance.

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(b) Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, opening, dedicating, vacating or closing specific streets, alleys and other public ways.
- (2) Establishing, naming or changing the names of specific streets and other public ways.
- (3) Authorizing or relating to specific issuances of general obligation bonds.
- (4) Creating specific sewer and paving districts and other local improvement districts.
- (5) Authorizing the issuance of specific local improvement district bonds.
- (6) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (7) Annexing territory to or excluding territory from the City.
- (8) Dedicating or accepting any specific plat or subdivision.
- (9) Relating to elections including calling or providing for a specific election.
- (10) Authorizing specific contracts for purchase of beneficial use of water by the City.
- (11) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (12) Authorizing a specific lease, sale or purchase of property by or from the City.
- (13) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (14) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.
- (15) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (16) Appropriating money.
- (17) Levying taxes or fixing tax rates.
- (18) Relating to salaries.
- (19) Amending the Official Zoning Map. (Prior code 1-2-1, 1-2-2; Ord. 9 §1, 2003)

Sec. 1-1-70. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the City for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the City Council that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 9 §1, 2003)

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Sec. 1-1-80. Fee schedule.

The fees, costs, deposits, occupation taxes and other charges as required by this Code shall be set forth in the text of the Code and in Appendix A – Fee Schedule to the Code. In the event of a conflict between the fees, costs, deposits, occupation taxes and other charges listed in the text of any individual section of the Code and Appendix A, the provisions of the applicable section of the Code shall control. (Ord. 7 §36, 2004)

ARTICLE II

Definitions and Usage

Sec. 1-2-10. Definitions.

Whenever the following words or terms are used in the ordinances of the City of Cherry Hills Village and/or this Code, they shall have such meanings herein ascribed to them, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Agent means a person acting on behalf of another.

City means the City of Cherry Hills Village, County of Arapahoe, State of Colorado.

City Council means the City Council of the City of Cherry Hills Village.

City Manager means the chief administrative officer of the City as designated by the City Charter or as further delegated by City ordinance.

Code means the *Cherry Hills Village Municipal Code* as published and subsequently amended, unless the context requires otherwise.

County means the County of Arapahoe, Colorado.

C.R.S. means the *Colorado Revised Statutes*, including all amendments thereto.

Fee means a sum of money charged by the City for the carrying on of a business, profession or occupation.

Law denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

License means the permission granted for the carrying on of a business, profession or occupation.

May is permissive.

Misdemeanor means any offense for which a sentence to a term of imprisonment in other than the state penitentiary for not more than ninety (90) days may be imposed.

Month means a calendar month.

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Nuisance means anything offensive or obnoxious to the health and welfare of the inhabitants of the City; or any act or thing repugnant to, creating a hazard to or having a detrimental effect on the property of another person or to the community.

Oath shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.

Occupant, applied to a building or land, includes any person who occupies the whole or any part of such building or land, whether alone or with others.

Offense means any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

Operator means the person who is in charge of any operation, business or profession.

Ordinance means a law of the City; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

Owner, applied to a building, land, motorized vehicle, animal or other real or personal property, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, lessee or any other person with a possessory interest in the whole or a part of such building, land, motor vehicle, animal or other real or personal property.

Person means a natural person, joint venture, joint stock company, public or private corporation, firm, partnership, association, organization, government, club, company, business, trust, or the manager, lessee, agent, servant, officer or employee of any of them.

Personal property includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

Preceding and *following* mean next before and next after, respectively.

Property includes real and personal property.

Real property includes lands, tenements and hereditaments.

Retailer, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities directly to the consumer.

Right-of-way means the privilege of the immediate use of the roadway or other property.

Shall and *must* are both mandatory.

Sidewalk means that portion of a street between the curblines and the adjacent property line intended for the use of pedestrians.

State means the State of Colorado.

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Street includes all streets, highways, avenues, alleys, lanes, courts, boulevards, ways, squares, places, sidewalks, curbs or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

Tenant or *occupant*, applied to a building or land, includes any person who occupies the whole or any part of such building or land, whether alone or with others.

Wholesaler and *wholesale dealer*, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale.

Written or *in writing* may include printing and any other mode of representing or reproducing words and letters in permanent visible form; however, when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

Year means a calendar year. (Prior code 1-3-2; Ord. 9 §1, 2003)

Sec. 1-2-20. Computation of time.

The time within which an act is to be done shall be computed by excluding the first and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. (Ord. 9 §1, 2003)

Sec. 1-2-30. Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City, or his designated representative. (Prior code 1-3-2; Ord. 9 §1, 2003)

Sec. 1-2-40. Usage of terms.

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 9 §1, 2003)

Sec. 1-2-50. Grammatical interpretation.

The following grammatical rules shall apply to this Code and to City ordinances:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

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(4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

(5) The word *ordinance* contained in the ordinances of the City has been changed in the content of this Code to *Chapter, Article, Section* and/or *Subsection*, or words of like import for organizational and clarification purposes only. Such change to the City's ordinances is not meant to amend the passage and effective dates of such original ordinances. (Prior code 1-3-1; Ord. 9 §1, 2003)

ARTICLE III

General

Sec. 1-3-10. Titles and headings not part of Code.

Chapter and Article titles, headings, numbers and titles of sections and other divisions in this Code or in supplements made to this Code are intended as mere catchwords to indicate the content of the Section, are inserted in this Code, may be inserted in supplements to this Code for the convenience of persons using this Code, and are not part of this Code (1980 Code; prior code 1-3-3; Ord. 9 §1, 2003)

Sec. 1-3-20. Authorized acts.

When this Code requires an act to be done which may as well be done by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent or representative. (Ord. 9 §1, 2003)

Sec. 1-3-30. Prohibited acts.

Whenever in this Code or any City ordinance any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 9 §1, 2003)

Sec. 1-3-40. Repeal of ordinances.

Unless the context clearly appears to the contrary, the repeal of any ordinance or provision thereof shall not affect any right which has accrued, any duty imposed, any penalty incurred or any action or proceedings commenced under or by virtue of the provisions repealed or during the tenure of office of any person holding office at the time when such repeal shall take effect. The repeal of any ordinance or provision thereof shall not repeal the repealing clause of such ordinance or revive any provision or any ordinance theretofore repealed or superseded. (Prior code 1-2-3; Ord. 9 §1, 2003)

Sec. 1-3-50. Amendments to Code.

Any ordinance amending this Code shall set forth the chapter, article and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Code. All such ordinances and parts of ordinances shall be deemed amendments to this Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby shall be inserted and made in this Code as provided in Section 1-3-60 hereof. (Prior code 1-1-3; Ord. 9 §1, 2003)

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Sec. 1-3-60. Supplementation of Code.

All amendments or revisions by ordinance to this Code shall be immediately forwarded to the codifiers, and said material shall be prepared for insertion in its proper place in each copy of this Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code. (Prior code 1-1-3; Ord. 9 §1, 2003)

Sec. 1-3-70. Examination of Code.

The Mayor and City Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the Mayor and City Clerk shall carefully examine at least one (1) copy of this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the City and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 9 §1, 2003)

Sec. 1-3-80. Copy of Code on file; accepted by courts.

(a) At least one (1) copy of this Code so certified and sealed most recently shall be kept in the office of the City Clerk at all times, and such Code may be inspected by any interested person at any time during regular office hours, but may not be removed from the City Clerk's office except upon proper order of a court of law.

(b) This Code shall hereafter be received without further proof in all courts and in all administrative tribunals of the State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in Section 1-1-60 of this Chapter. (Prior code 1-1-2; Ord. 9 §1, 2003)

Sec. 1-3-90. Severability.

(a) The provisions of this Code are declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby.

(b) Pursuant to Section 4.7 of the City Charter, unless an ordinance shall expressly provide to the contrary, if any portion of any ordinance or the application thereof to any person or circumstance is found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided that such remaining portions or applications are not determined by the court to be inoperable; and to this end each ordinance is declared to be severable. Severability shall so apply to each ordinance in the same manner as if a separate severability clause were contained in each ordinance. (Ord. 20, 1968; prior code 1-2-4; Ord. 9 §1, 2003)

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ARTICLE IV

General Penalty

Sec. 1-4-10. Violations.

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code. (Ord. 9 §1, 2003)

Sec. 1-4-20. General penalty for violation.

(a) Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the City or County jail for a period of not more than one (1) year or by both such fine and imprisonment, except as provided in Section 1-4-30 below. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

(b) Each day such violation continues shall be considered a separate offense. (1980 Code; prior code 1-4-1; Ord. 5, 1996; Ord. 9 §1, 2003)

Sec. 1-4-30. Application of penalties to juveniles.

(a) Notwithstanding any provision of this Code to the contrary, any person who is at least ten (10) years of age but under the age of eighteen (18) years of age as of the date of the violation shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count and shall not be subject to imprisonment in a jail, lock-up or other place used for the confinement of adult offenders, but may be held in a juvenile detention facility operated or contracted by the Department of Institutions or a temporary holding facility operated by or under contract with the City, which shall receive and provide care for such child, unless such imprisonment is for failure to comply with the lawful order of the court or for contempt of court.

(b) Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

(c) In no event shall the confinement of the person under eighteen (18) years of age for failure to comply with the lawful order of the court or for contempt of court exceed forty-eight (48) hours. (Prior code 1-4-1; Ord. 7, 1990; Ord. 9 §1, 2003)

Sec. 1-4-40. Altering or tampering with Code; penalty.

(a) It is unlawful for any person to alter, change, replace or deface in any way any section or any page of this City Code in such a manner that the meaning of any phrase or order may be changed or omitted. The Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the City Clerk when directed so to do by order of the City Council.

(b) Any person who shall alter, change or amend this Code, except in the manner prescribed in this Article, or who shall alter or tamper with this Code in any manner so as to cause the ordinances of the

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City to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 hereof. (1980 Code; prior code 1-1-4; Ord. 9 §1, 2003)

Sec. 1-4-50. Penalty for violations of ordinances adopted after adoption of Code.

Any person who shall violate any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 unless another penalty is specifically provided for the violation. (Ord. 9 §1, 2003)

Sec. 1-4-60. Interpretation of unlawful acts.

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful. (Ord. 9 §1, 2003)

Sec. 1-4-70. Application of provisions.

(a) The penalty provided in this Article shall be applicable to every section of this Code the same as though it were a part of each and every separate section unless otherwise indicated. Any person convicted of a violation of any section of this Code where a duty is prescribed or obligation imposed, or where any action which is of a continuing nature is forbidden or is declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Code.

(b) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense; provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(c) Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this Article shall apply. (1980 Code; prior code 1-4-2)

Sec. 1-4-80. Liability of officers.

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intent of the City Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (1980 Code; prior code 1-4-3)

ARTICLE V

Inspections

Sec. 1-5-10. Entry.

Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or

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upon any premises within the jurisdiction of the City, any public inspector of the City may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance. In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the public inspector is unable to obtain permission of such occupant or owner to enter such building or premises, the public inspector is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 9 §1, 2003)

Sec. 1-5-20. Authority to enter premises under emergency.

Law enforcement officers certified with the State, members of the Fire Department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the City, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the City without invitation from the occupant of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency. (Ord. 9 §1, 2003)

Sec. 1-5-30. Announcement of purpose and authority to enter premises.

Unauthorized entry pursuant to Section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry. (Ord. 9 §1, 2003)

ARTICLE VI

City Records and Seal

Sec. 1-6-10. Location of City offices, records.

The office of the City shall be located in the Cherry Hills Village Center at 2450 East Quincy Avenue, Cherry Hills Village, Arapahoe County, Colorado. All books and records of the City shall be kept in said office. (Ord. 20, 1968; prior code 1-5-5)

Sec. 1-6-20. Corporate seal.

A seal, the impression of which is as follows: in the center the words "Corporate Seal" and around the outer edge the words "Cherry Hills Village, Colorado," shall be and hereby is declared to be the corporate seal of the City. (Prior code 1-5-4)

ARTICLE VII

Disposition of Unclaimed Property

Sec. 1-7-10. 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 City. (Prior code 1-11-1; Ord. 10, 1992; Ord. 10, 2002)

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Sec. 1-7-20. Definitions.

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

Chief means the Chief of Police of the City or designee thereof.

Intangible property means the following:

- a. Monies, checks, drafts, deposits, interest, dividends and income.
- b. Credit balances, customer overpayments, gift certificates, refunds, credit memos and unidentified remittances.
- c. Stocks and other intangible ownership interests in business associations.
- d. Monies 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. Deposits or collateral for any City service or program, such as Municipal Court cash bonds, refundable developer deposit accounts and similar funds.

Intangible property does not include unclaimed capital credit payments held by cooperative electric associations and telephone cooperatives.

Owner means a person or governmental entity other than the City, or a duly authorized legal representative or successor in interest of the same, which owns unclaimed property held by the City.

Unclaimed property means 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 Article. (Prior code 1-11-2; Ord. 10, 1992; Ord. 10, 2002; Ord. 9 §1, 2003)

Sec. 1-7-30. Custodian of property.

The Chief is designated the official custodian of all unclaimed property coming into possession of the police or the City. Nothing in this Article shall be held to require the Chief to take possession of or make a disposition of any property, the disposition or possession of which is otherwise provided for in this Article. (Ord. 10, 2002)

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Sec. 1-7-40. Disposition generally.

All unclaimed tangible property that has been delivered to the Chief for care, custody and control, not being held pending disposition of charges pursuant to Section 1-7-120 of this Article, shall be subject to disposition according to the provisions of this Article, unless otherwise ordered by any court or otherwise provided for in this Article. (Ord. 10, 2002)

Sec. 1-7-50. Notification of owner.

The Chief 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 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, 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 (30) days of mailing of such notice. (Ord. 10, 2002)

Sec. 1-7-60. Disposal of unclaimed property.

If any unclaimed tangible property remains unclaimed sixty (60) days after the same is no longer required to be held as evidence pursuant to Section 1-7-110 below, sixty (60) days after the same has come into the possession of the Chief or thirty (30) days after the mailing of any letter of notice provided for in Section 1-7-50 above, such property shall be disposed of as follows:

(1) The Chief 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 (\$100.00). Those articles of property of an estimated current retail value of one hundred dollars (\$100.00) 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 and reclaim such property upon presentation of satisfactory proof of identity and ownership.

(2) Any such property may be sold at public sale, provided that the Chief 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.

(3) 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 may order, by making the same available for distribution to religious, charitable, civic or other organizations or institutions.

(4) Such property that consists of jewelry, gems, watches, precious metals or other property having a unique value or that, in the judgment of the Chief, may bring a higher price if sold on sealed bids, may, in the discretion of the Chief, be sold either at a public sale as herein provided or to the highest bidder after solicitation of sealed bids from at least three (3) 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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(5) 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. (Prior code 1-11-3; Ord. 10, 1992; Ord. 10, 2002)

Sec. 1-7-70. 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. (Ord. 10, 2002)

Sec. 1-7-80. Failure to claim property.

Failure to make claim of ownership within the time limits prescribed in this Article and before the 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. (Ord. 10, 2002)

Sec. 1-7-90. Rights of finder.

Notwithstanding any other provision of this Article, whenever any item of tangible or intangible property has been found and delivered to the Chief 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:

- (1) The claimant is a person who originally found the lost or abandoned property.
- (2) The claimant, after surrendering the property to the custodian, has served written notice to the Chief of his intention to make a claim on that item within sixty (60) days of surrender of the item;
- (3) Lost or abandoned property has remained unclaimed by the owner or person having a right to the tangible property for sixty (60) days after surrender of the same to the Chief or, in the case of intangible property, has remained unclaimed for one (1) year;
- (4) The lost or abandoned property is not stolen or confiscated property, or property held under the exceptions outlined in Sections 1-7-100 through 1-7-120; and
- (5) Any tangible or intangible property found within the City by a City employee during his working hours shall be delivered to the Chief and shall be processed in accordance with the provisions of this Article. Any such employee shall have no rights of a finder under this Section. (Ord. 10, 2002)

Sec. 1-7-100. Exceptions generally.

Notwithstanding the foregoing provisions of this Article, objects and articles of property as described in Section 1-7-120 may be kept, held or disposed of as provided for in this Article. The provisions of this Article shall not apply to the sale of abandoned automobiles; the disposition of lost or stray animals; or the disposition of any property which is governed by the terms of any specific ordinance or applicable state statute. (Ord. 10, 2002)

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Sec. 1-7-110. Property held as evidence.

The Chief 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 shall dispose of such property in accordance with the provisions of this Article. (Ord. 10, 2002)

Sec. 1-7-120. 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, which may not otherwise lawfully be returned to the owner thereof, 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 Article.

(b) The Chief 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. (Ord. 10, 2002)

Sec. 1-7-130. Intangible property.

(a) The Chief is the custodian of intangible unclaimed property, except for intangible property which is being held pursuant to the provisions of Section 1-7-110, and shall keep a record of such property.

(b) All intangible unclaimed property in the custody and control of the Chief shall be deemed abandoned one (1) year after the date upon which it became payable or distributable. The Chief 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 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, 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 and may be disposed of unless claimed within thirty (30) days of mailing of such notice.

(c) All intangible unclaimed property presumed abandoned in the custody of the Chief 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 Article. (Ord. 10, 2002)