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CHAPTER 1.01

Code Adoption

1.01.010 Code adopted.

The *Municipal Code of the Town of Avon*, as promulgated by the Town of Avon, Colorado, is hereby adopted and enacted by reference. The purpose of this Code is to codify the ordinances of the Town which are of a general and permanent nature. (Ord. 82-4 §1)

1.01.020 Secondary code.

The following secondary code as adopted by reference in the Municipal Code of the Town of Avon is hereby adopted and enacted by reference: Articles I to XXVI of the *Model Traffic Code for Colorado Municipalities, 1977 Edition*, promulgated and adopted by the Colorado State Department of Highways, 4201 East Arkansas, Denver, Colorado. (Ord. 82-4 §2)

1.01.030 Intervening ordinances adopting codes.

Ordinance Nos. 13 through 19, Series of 1981, and the secondary codes as amended therein, are hereby readopted by reference thereto and made a part of the code as Title 15 thereof. Said ordinances adopt by reference the following secondary codes:

(1) *The ICBO Plumbing Code, 1979 Edition*, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California;

(2) *The Uniform Building Code, 1979 Edition*, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California;

(3) *The Uniform Mechanical Code, 1979 Edition*, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California;

(4) *The Uniform Fire Code, 1979 Edition*, published by the International Conference of Building Officials and the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California and the *National Fire Code, 1979 Edition*, including the *National Life Safety Code*, as contained in the *National Fire Code, 1976 Edition*, published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts;

(5) *The National Electrical Code, 1981 Edition*, published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts;

(6) *The Colorado Model Energy Efficiency Construction and Renovation Standards for Non-residential Buildings*, adopted November 1977, and published March, 1978, by the State of Colorado, Office of Energy Conservation, 1600 Downing, Second Floor, Denver, Colorado 80218, and *The Colorado Recommended Energy Conservation Performance Code for New Construction and Renovation of Residential Buildings*, adopted November, 1977, and published March, 1978, and amended in 1979 by the State of Colorado, Division of Housing State Housing Board, 1313 Sherman Street, Denver, Colorado 80203. (Ord. 82-4 §3)

1.01.040 Repeal of prior ordinances.

All ordinances of the Town, of a general and permanent nature, which were finally adopted on or before December 31, 1980, whether or not in legal effect at that date, are hereby repealed, except as hereinafter provided, and except as the Municipal Code of the Town of Avon expressly saves any ordinance or part thereof from repeal. (Ord. 82-4 §4)

1.01.050 Ordinances passed prior to adoption of Code.

The last ordinance included in the original code is Ordinance 80-25, passed October 21, 1980. All ordinances passed subsequent to Ordinance 80-25, but prior to adoption of this Code, are hereby adopted and made a part of this Code, excepting only Ordinance Nos. 81-11, 81-20, 81-23, 81-25, 81-27, 81-29, 81-31, 81-32, 81-33, 81-34, 81-35, 81-37 and 81-38. (Ord. 82-4 §5)

1.01.060 Matters not affected by repeal.

The repeal of ordinances of a permanent or general nature by Section 1.01.040 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 when said ordinances and parts of ordinances are repealed. (Ord. 82-4 §6)

1.01.070 Ordinances saved from repeal.

The repeal of ordinances of a general and permanent nature by Section 1.01.040 shall not repeal any ordinance or part thereof saved from repeal specifically by the Municipal Code of the Town of Avon; nor shall such repeal affect any ordinance:

- (1) Promising, guaranteeing or authorizing the payment of money by or for the Town;
- (2) Authorizing or relating to specific issuances of bonds or other evidences of indebtedness;
- (3) Granting a franchise;
- (4) Establishing the compensation of Town officers or employees;
- (5) Levying taxes, making appropriations or adopting a budget;
- (6) Creating specific local improvement districts;
- (7) Making special assessments for local improvements;
- (8) Vacating, accepting, establishing, locating, relocating or opening any street or public way;
- (9) Affecting the corporate limits of the Town or adopting a Town plat;
- (10) Which is of a special or temporary nature;
- (11) Establishing the Avon Center Mall or amending the agreement in regard thereto;
- (12) Creating any trust fund. (Ord. 82-4 §7)

1.01.080 Severability of ordinance provisions.

Each section of the ordinance codified in this Chapter and Chapter 1.08 is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof. (Ord. 82-4 §8)

1.01.090 Severability of Code provisions.

If any sections, section, subsection or provision of this Code of ordinances or the application thereof to any person or circumstances is declared unconstitutional or otherwise invalid by any competent court, such invalidity shall not affect the other sections, subsections, provisions or application of this Code if they can be given effect without the invalid sections, section, subsection, provision or application. (Ord. 82-4 §9)

1.01.100 Codes kept on file.

(a) At least three (3) copies of the *Municipal Code of Avon*, and of each secondary code adopted therein, shall be kept on file in the office of the Town Clerk available for public inspection. One (1) copy of each such code may be kept in the office of the chief enforcement officer thereof.

(b) The Town Clerk shall prepare and publish revised sheets of every looseleaf page in need of revision by reason of amendment, addition or repeal. The Town Clerk shall distribute said revised looseleaf sheets for such fee as the Town Council may direct.

(c) In addition to those copies of this Code specified in Subsection (a) of this Section a copy of this Code shall be kept on file in the office of the Town Clerk, in which it shall be the express duty of the Town Clerk to insert in their designated places all amendments or ordinances which are intended to become a part of this Municipal Code of the Town of Avon, when the same have been printed or reprinted in page form and to extract from such code all provisions which may from time to time be repealed. This copy of the Municipal Code of the Town of Avon shall be available to all persons desiring to examine it and shall be considered the official Municipal Code of the Town. (Ord. 82-4 §10)

1.01.110 Sale of Code copies.

The Town Clerk shall maintain a reasonable supply of copies of this Code and of all secondary codes incorporated in it by reference to be available for purchase by the public at a moderate price. (Ord. 82-44 §11)

CHAPTER 1.04

General Provisions

1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the Town, shall be construed as defined in this Section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Building official or building administrator means the building administrator of the Town of Avon.

Clerk or *Town Clerk* means the Town Clerk of the Town of Avon.

Council means the Town Council of the Town of Avon. *All its Members* or *all Council Members* means the total number of Council Members holding office.

County means the County of Eagle, State of Colorado.

DRB or *Design Review Board* means the Design Review Board of the Town of Avon.

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

Manager or *Town Manager* means the person holding office as Town Manager of the Town of Avon or, until such office is filled by appointment, the Mayor of the Town of Avon.

May is permissive.

Month means a calendar month.

Must and *shall* are each mandatory.

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

Owner, applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

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

Personal property includes money, goods, chattels, things in action and evidence of debt.

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

Property includes real and personal property.

Real property includes lands, tenements and hereditaments.

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.

Street includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this Town 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 and occupant, applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

Town means the Town of Avon, Colorado, or the area within the territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

Written includes printed, typewritten, mimeographed, multigraphed or otherwise reproduced in permanent visible form.

Year means a calendar year. (Ord. 80-25 §1)

1.04.020 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 Town. (Ord. 80-25 §2)

1.04.030 Interpretation of language.

All words and phrases shall be construed 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 the law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 80-25 §3)

1.04.040 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the Town, unless it is apparent from the context that a different construction is intended:

(1) Gender. Each gender includes the masculine, feminine and neuter genders.

(2) Singular and plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 80-25 §4)

1.04.050 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 80-25 §5)

1.04.060 Prohibited acts include causing and permitting.

Whenever in the ordinances of the Town, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 80-25 §6)

1.04.070 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 80-25 §7)

1.04.080 Construction.

The provisions of the ordinances of the Town, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice. (Ord. 80-25 §8)

1.04.090 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 80-25 §9)

CHAPTER 1.08

General Penalty

1.08.010 Designated.

With the exception of violations of those sections of this Code designated therein as civil infractions, whenever in any section of this Code or in any section of a rule or regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful, any person who shall be convicted of, or plead guilty or no contest to, a violation of such section shall be fined in the sum of not more than one thousand dollars (\$1,000.00) or imprisoned not to exceed one (1) year, or both such fine and imprisonment. Each day an offense continues shall constitute a separate offense. (Ord. 07-03 §1; Ord. 02-08 §1; Ord. 94-5 §1; Ord. 88-12 §1; Ord. 82-4 §12(part))

1.08.020 Public work.

In lieu of the penalties provided in Section 1.08.010, the Municipal Judge may require any person convicted of any offense to engage in public works for the Town or for any charity, the terms and conditions thereof to be set forth by the Municipal Judge. (Ord. 82-4 §12(part))

1.08.030 Minors.

Any provision hereof to the contrary notwithstanding, any person who is convicted of a violation hereof and who has not attained the age of eighteen (18) years at the time of such conviction shall not be imprisoned, provided, a child under the age of eighteen (18) years may be confined as provided in Section 13-10-113, C.R.S. (1973), as amended. (Ord. 82-4 §12(part); Ord. 04-05 §1)

CHAPTER 1.09

Civil Infractions

1.09.010 Prosecution.

(a) Where authorized in specific titles, chapters or sections within this Code, a violation may be prosecuted as a civil infraction.

(b) Civil infractions may be consolidated with other civil infractions involving the same piece of property.

(c) Prosecution of a civil infraction shall be commenced by providing the defendant with a charging document, whether denoted as a complaint, summons, citation, penalty assessment notice or other document charging the person with the commission of an infraction or infractions.

(d) The charging document may be served upon a defendant via hand delivery, certified mail, posting upon the premises (only if the charge is being brought against an occupant of property for a civil infraction involving the property), or by any process established in the Colorado Rules of Civil Procedure.

(e) Neither party must, but either party may, be represented by an attorney. Civil infractions may be prosecuted by the Town Attorney's office, by police officers of the Town or those code enforcement personnel authorized to do so by the Director of Community Development. The Director of Community Development shall ensure that any code enforcement personnel authorized to prosecute civil infractions have received appropriate training.

(f) A defendant brought to trial solely upon a civil infraction or infractions shall have no right to a trial by jury as contemplated by Section 12-10-114, C.R.S., and trial of civil infractions shall be to the Municipal Court. No defendant found civilly liable for a civil infraction shall be punished by imprisonment for said infraction.

(g) The Municipal Court may designate those civil infractions which may be paid without an appearance by a penalty assessment notice. The Municipal Court Clerk shall accept payment of a penalty assessment notice if payment is made within the period following the issuance of the charging document and ending at the time scheduled for the first hearing, provided that the Court Clerk has a copy of the charging document.

(1) At the time of payment, the defendant shall sign a waiver of rights and acknowledgment of guilt or liability or tender a no contest plea upon a form approved by the Municipal Court.

(2) This procedure shall constitute an entry and satisfaction of judgment.

(h) If all elements of a civil infraction are proven by a preponderance of the evidence, the Court shall find the defendant guilty or liable and enter appropriate judgment.

(i) If any element of a civil infraction is not proven by a preponderance of the evidence, the Court shall dismiss the charge and enter appropriate judgment. If the defendant is found guilty or liable, the Court shall assess the appropriate penalty as set forth in this Code.

(j) The parties to an action under this Chapter may voluntarily stipulate to restraining orders, seizures, closures, judgments, liens and other remedies, whether temporary or permanent, that are different from those specific remedies set forth in this Code. Approval of the Municipal Court to all stipulations is required.

(k) Actions under this Chapter for civil infractions must be commenced no later than three hundred sixty-five (365) days after the last in the series of acts comprising the civil infraction. This limitation period shall not be construed to limit the introduction of evidence of infractions that occurred more than three hundred sixty-five (365) days before the filing of the complaint when relevant for any purpose. (Ord. 07-03 §2)

1.09.020 Each date of commission of a violation is a separate offense infraction.

Each person is guilty of a separate infraction for each and every day or any portion thereof during which any violation of any provision of this Code is committed, continued or permitted by any such person, and he or she shall be punished accordingly. Multiple days of infractions may be charged in one (1) charging document or may be proved at trial. (Ord. 07-03 §2)

1.09.030 Minimum civil penalties.

(a) Any person found responsible for a violation of this Code authorized to be prosecuted as a civil infraction shall pay a civil fine of not more than one thousand dollars (\$1,000.00) plus costs, damages and expenses, the amount of the fine and the charging of costs, damages and expenses to be in the discretion of the Court except as follows:

(1) Any person found guilty, after trial or settlement, of any provisions of this Code designated as a civil infraction, when the date of the offense is within three hundred sixty-five (365) days of the date of a prior violation of the Code, shall be fined not less than three hundred dollars (\$300.00), plus any additional penalties assessed under this Chapter.

(2) Any person found guilty, after trial or settlement, of any provision of this Code designated as a civil infraction for a third or subsequent time, when the date of the offense is within three hundred sixty-five (365) days of the date of the prior violation of this Code, shall be fined not less than six hundred dollars (\$600.00), plus any additional penalties assessed under this Chapter.

(b) A person found responsible by the Municipal Court for any violation of this Code charged as a civil infraction shall pay the fine and costs assessed, which may include all costs, direct and indirect, which the Town has proved were incurred in connection with the civil infraction. It shall be unlawful under this Code to fail to pay such fines and costs as require by the Court. Any such failure may be criminally prosecuted, subject to the general penalties set out in Chapter 1.08 of this Title.

(c) The Municipal Court may enter an order for injunctive relief or any other civil remedy authorized by law, which may include restitution to any victim.

(d) The Municipal Court may issue any orders necessary to abate the infraction.

(1) The Court shall develop appropriate rules and regulations or issue appropriate orders to enforce an abatement order.

(2) The Court's orders may include a civil warrant for abatement or any other order to the Town to enter upon the defendant's premises to abate the infraction.

(e) If a defendant fails to answer a citation for a civil infraction or notice to appear in Court for such infraction, a default judgment shall enter in the amount of the civil penalty plus all costs, expenses and damages. In the event a defendant fails to pay a civil fine, costs, damages or expenses within thirty (30) days after the payment is due or fails to pay a default judgment, the Town may pursue any legal means for collection and, in addition, where the civil infraction involved property and the owner of the property is the defendant, the Town may obtain a lien against the property that was the subject of the violation.

(f) The Municipal Court may waive all or a portion of the civil infraction penalty if the Court determines mitigating circumstances to exist. (Ord. 07-03 §2)

CHAPTER 1.12

Uniform Election Code

1.12.010 Uniform Election Code adopted.

In accordance with the provisions of Section 31-10-102.7, C.R.S., the Town adopts the Uniform Election Code of 1992 in lieu of the Colorado Municipal Election Code of 1965 for the purpose of participating in any coordinated election in Eagle County which is conducted by the County Clerk and Recorder. (Ord. 95-14 §1)

1.12.020 Town Clerk duties.

The Town Clerk is directed to work with the Eagle County Clerk and Recorder and other designated election officials and to take all necessary actions to implement Avon's portion of the coordinated election in accordance with Article 20 of Title X of the Colorado Constitution, the Uniform Election Code of 1992 and all other appropriate statutes. (Ord. 95-14 §2)

1.12.030 Regular municipal elections.

Nothing in this Chapter shall prohibit the Town from conducting a regular municipal election which is not a part of a coordinated election or a special municipal election on a ballot question. Such elections shall be conducted in accordance with the Colorado Municipal Election Code of 1965. (Ord. 95-14 §3)