

CHAPTER 1

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ARTICLE I

Code

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

The published code known as the *Bennett Municipal Code*, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the Town 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 Town of Bennett, Colorado, as a codification of all the ordinances of the Town of Bennett of a general and permanent nature through Ordinance ___ 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 Town. (Ord. 526 §1, 2005)

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

The ordinances embraced in this Code constitute a compilation, revision and codification of all the ordinances of the Town of Bennett, Colorado, of a general and permanent nature, and shall be known as the *Bennett Municipal Code* and may be so cited. (Prior code 1-1-1; Ord. 526 §1, 2005)

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 Board of Trustees. (Ord. 526 §1, 2005)

Sec. 1-1-40. Adoption of codes by reference.

Codes may be adopted by reference, as provided by state law. (Ord. 526 §1, 2005)

Sec. 1-1-50. 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general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided.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. 526 §1, 2005)

Sec. 1-1-60. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 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incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.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. 526 §1, 2005)

Sec. 1-1-70. Ordinances saved from repeal.

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. 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) Naming or changing the names of specific streets and other public ways.
- (3) Establishing the grades of specific streets and other public ways.
- (4) Establishing the grades or lines of specific sidewalks.
- (5) Authorizing or relating to specific issuances of general obligation bonds.
- (6) Creating specific sewer and paving districts and other local improvement districts.
- (7) Authorizing the issuance of specific local improvement district bonds.
- (8) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (9) Annexing territory to or excluding territory from the Town.
- (10) Dedicating or accepting any specific plat or subdivision.
- (11) Calling or providing for a specific election.
- (12) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (13) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (14) Authorizing a specific lease, sale or purchase of property.
- (15) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (16) 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.
- (17) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (18) Appropriating money.
- (19) Levying a temporary tax or fixing a temporary tax rate.
- (20) Relating to salaries.

(21) Amending the Official Zoning Map. (Ord. 526 §1, 2005)

Sec. 1-1-80. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Town 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 Board of Trustees 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. 526 §1, 2005)

ARTICLE II

Definitions and Usage

Sec. 1-2-10. Definitions.

The following words and phrases, whenever used in the ordinances of the Town and/or any codification of the same, shall be construed as defined in this Section, 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:

Board of Trustees means the Board of Trustees of the Town of Bennett.

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

County means Adams County and/or Arapahoe County, Colorado, as applicable.

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

Day means the period of time between any midnight and the midnight following.

Daytime means the period of time between sunrise and sunset. *Nighttime* means the period of time between sunset and sunrise.

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

May is permissive.

Misdemeanor means and is to be construed as meaning violation and is not intended to mean crime or criminal conduct.

Month means a calendar month.

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*.

Ordinance means a law of the Town; 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 or tenant by the entirety or any other person with a possessory interest in the whole or a part of said building, land, motor vehicle, animal or other real or personal property.

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

Personal property includes money, goods, chattels, things in action and evidences 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.

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.

Street includes any public way, highway, street, avenue, boulevard, parkway, lane, alley, court, place, square, curb or other public thoroughfare in the Town which has been or may hereafter be dedicated and open to public use, or such other public property so designated by any state law.

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

Town means the Town of Bennett, Colorado, or the area within the territorial limits of the Town of Bennett, Colorado, and such 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, unless otherwise expressed. (Prior code 1-1-2; Ord. 526 §1, 2005)

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. (Prior code 1-1-2; Ord. 526 §1, 2005)

Sec. 1-2-30. Timely performance.

In all cases where any ordinance shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice. (Prior code 1-1-2)

Sec. 1-2-40. 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, or his or her designated representative. (Ord. 526 §1, 2005)

Sec. 1-2-50. 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. (Prior code 1-1-2)

Sec. 1-2-60. Grammatical interpretation.

The following grammatical rules shall apply to this Code and to Town 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.
- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Prior code 1-1-2; Ord. 526 §1, 2005)

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 that 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. (Prior code 1-1-2; Ord. 526 §1, 2005)

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. (Prior code 1-1-2; Ord. 526 §1, 2005)

Sec. 1-3-30. Prohibited acts.

Whenever in this Code or any Town ordinances 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. 526 §1, 2005)

Sec. 1-3-40. Purpose of Code.

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Ord. 526 §1, 2005)

Sec. 1-3-50. Repeal of ordinances.

The repeal of any provision of this Code shall not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceedings as commenced under or by virtue of the provision repealed, nor the tenure of an office of any person holding office at the time when such appeal shall take effect. The repeal of any provision of this Code shall not revive any provision or any ordinance theretofore repealed or superceded. (Prior code 1-1-6; Ord. 526 §1, 2005)

Sec. 1-3-60. Amendments to Code.

Ordinances and parts of ordinances of a permanent and general nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to this Code or without specific reference to this Code. However, in either case, 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 1-3-70 hereof. (Prior code 1-1-3; Ord. 526 §1, 2005)

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

(a) The Board of Trustees shall cause supplementation of this Code to be prepared and printed from time to time as it may see fit. All substantive, permanent and general parts of ordinances passed

by the Board of Trustees or adopted by initiative and referendum, and all amendments and changes in temporary and special ordinances or other measures included in this Code prior to the supplementation and since the previous supplementation, shall be included.

(b) It shall be the duty of the Town Clerk, or someone authorized and directed by the Town Clerk, to keep up to date the one (1) certified copy of the book containing this Code required to be filed in the office of the Town Clerk for the use of the public. (Ord. 526 §1, 2005)

Sec. 1-3-80. Examination of Code.

The Mayor, Town Clerk and Town Attorney shall carefully examine at least one (1) copy of this Code 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, Town Clerk and Town Attorney 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 Town and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 526 §1, 2005)

Sec. 1-3-90. Copy of Code on file.

At least one (1) copy of this Code so certified and sealed most recently shall be kept in the office of the Town 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 Town Clerk's office except upon proper order of a court of law. (Ord. 526 §1, 2005)

Sec. 1-3-100. Sale of Code books.

Copies of this Code book may be purchased from the Town Clerk upon the payment of a fee to be set by resolution of the Board of Trustees. (Ord. 526 §1, 2005)

Sec. 1-3-110. Severability.

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. (Prior code 1-1-4; Ord. 526 §1, 2005)

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. 526 §1, 2005)

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

(a) Unless otherwise provided in this Code or by ordinance, whenever in this Code or any other ordinance, resolution or rule of the Town the doing of any act is required, prohibited or declared to be unlawful or an offense or a misdemeanor, and no definite fine or specific penalty is provided for a violation thereof, any person who shall be convicted of or plead guilty or no contest to a violation of any such provision of this Code or other ordinance, resolution or rule of the Town, whether now in existence or hereinafter enacted, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Every day such violation continues shall constitute a separate offense.

(b) Whenever in this Code or any ordinance of the Town a minimum but not a maximum fine or penalty is imposed, the Court may, in its discretion, fine the offender any sum exceeding the minimum fine or penalty so imposed, but not exceeding the amount of one thousand dollars (\$1,000.00).

(c) The suspension or revocation of any license, permit or other privilege conferred by the Town shall not be regarded as a penalty for the purposes of this Code.

(d) All penalties in codes adopted by reference in this Code are hereby superceded by this Section. (Ord. 407 §1, 2000; Ord. 526 §1, 2005)

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. 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. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. (Ord. 526 §1, 2005)

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

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 Town to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 hereof. (Ord. 526 §1, 2005)

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

Any person who violates 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. 526 §1, 2005)

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. 526 §1, 2005)

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 upon any premises within the jurisdiction of the Town, any public inspector of the Town 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 or her 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. 526 §1, 2005)

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 Town, 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 Town 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. 526 §1, 2005)

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. 526 §1, 2005)

ARTICLE VI

Seal

Sec. 1-6-10. Corporate seal.

A circular seal, the impression of which shall contain in the center the word "Seal" and around the outer edge the words "Town of Bennett, Colorado," shall be and is hereby declared to be the seal of the Town. (Prior code 2-1-17; Ord. 526 §1, 2005)

Sec. 1-6-20. Custodian of seal.

Said seal shall be kept in the office of the Town Clerk, who shall be the custodian thereof. It shall be the duty of the Town Clerk to affix said seal to all instruments hereinafter mentioned; provided, however, that any other person who shall have been specifically directed so to do by resolution of the Board of Trustees may affix said seal to any such instrument. (Prior code 2-1-17.1)

Sec. 1-6-30. Purpose.

Said seal shall be affixed to all transcripts, orders or certificates which it may be necessary or proper to authenticate under the provisions of state statute or any ordinance of the Town; and said seal shall be affixed to every contract or other instrument requiring the seal of the Town, under any state law or any ordinance of the Town. (Prior code 2-1-17.2; Ord. 526 §1, 2005)