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Chapter 1-01

Code Adoption

1-01-010 Adoption.

Pursuant to the provisions of sections 6.10 and 6.11 of the Charter and sections 31-16-201 through 31-16-208, C.R.S., there is hereby adopted the Broomfield Municipal Code as published by Colorado Code Publishing Company, Fort Collins, Colorado. (Ord. 333 §1, 1978; Ord. 1013 §1, 1993)

1-01-020 Title; citation; reference.

This code shall be known as the Broomfield Municipal Code and it shall be sufficient to refer to said code as the Broomfield Municipal Code or B.M.C. in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any portion thereof as B.M.C. Further reference may be had to the titles, chapters, sections, and subsections of the Broomfield Municipal Code or B.M.C., and such references shall apply to that numbered title, chapter, section, or subsection as it appears in the code. References to individual sections of the Broomfield Municipal Code shall be substantially in the following manner: "Section 1-01-010, B.M.C." (Ord. 333 §1, 1978; Ord. 1013 §1, 1993)

1-01-040 Codification authority.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of The City and County of Broomfield, a Colorado municipal corporation and county, codified pursuant to the provisions of sections 6.10 and 6.11 of the Charter and sections 31-16-201 through 31-16-208, C.R.S. (Ord. 333 §1, 1978; Ord. 1594 §1, 2001)

1-01-050 Reference applies to all amendments.

Whenever a reference is made to this code as the Broomfield Municipal Code or B.M.C., or to any portion thereof, or to any ordinance of the City, the reference shall apply to all amendments, corrections, and additions heretofore, now, or hereafter made. (Ord. 333 §1, 1978)

1-01-060 Title, chapter, and section headings.

Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, or section hereof. (Ord. 333 §1, 1978)

1-01-070 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designed by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within the code. (Ord. 333 §1, 1978)

1-01-080 Effect of code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty, at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 333 §1, 1978)

Chapter 1-04

General Provisions

1-04-010 Definitions.

The following words or phrases, whenever used in the ordinances of the City of Broomfield, 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:

(A) *Accomplice* means any person who knowingly and voluntarily unites with the principal offender in the commission of any violation, either as a principal or as an accessory, before, during, or after the fact.

(B) *City* or *City of Broomfield* means The City and County of Broomfield, a Colorado municipal corporation and county, or the area within the territorial limits of The City and County of Broomfield, and such territory outside of the city over which the city has jurisdiction or control by virtue of the city's ownership of such territory, or by virtue of any constitutional or statutory provision.

(C) *Council* means the city council of the City of Broomfield. *All its members* or *all councilmembers* means the total number of councilmembers holding office.

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

(E) *May* is permissive.

(F) *Month* means a calendar month.

(G) *Must* and *shall* are each mandatory.

(H) *Oath* includes 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*.

(I) *Or* may be read *and* and *and* may be read *or* if the sense requires it.

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

(K) *Peace officer*, for the purpose of interpreting or construing any ordinance, resolution, rule, regulation, or Charter provision of the city and every applicable statute and court rule or procedure, means and includes every employee of the city who, as a part of, in the course of, or in connection with his or her duties as such employee, has or shall have any responsibility for or in connection with the execution, administration, or enforcement of all or any part of any city ordinance, resolution, rule, regulation, or Charter provision. *Peace officer* includes but is not limited to police officers of the city and employees of the city who are not police officers. Employees of the city who are peace officers within the meaning as defined in this subsection shall have the power and authority to issue and serve summonses and complaints in the municipal court, without oath, affidavit, or verification, but nothing contained in this subsection shall vest or be taken to vest in persons who are not sworn police officers other powers, duties, rights, and emoluments of sworn police officers of the city not otherwise vested in such employees. Peace officers who are not sworn police officers of the city are not entitled to the retirement, pension, disability, or other benefits to which sworn police officers are entitled by law and shall not have the power to arrest, but shall have those powers of inspection, investigation, search, and seizure conferred by the rule, regulation, Charter provision, resolution, or ordinance, or part thereof, which it is their duty to execute, administer, or enforce.

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

(M) *Personal property* includes money, goods, chattels, things in action, and evidences of debt.

(N) *Preceding* and *following* mean next before and next after, respectively.

(O) *Property* includes real and personal property.

(P) *Public way* includes all streets, highways, avenues, boulevards, lanes, parkways, alleys, courts, places, squares, curbs, or other public thoroughfares in this city, and the rights-of-way thereof, which are maintained by the city and are open to public use, unless the context of a particular ordinance, resolution, or regulation otherwise

indicates, together with such other public property so designated in any law of this state. The word *street* is equivalent to the term *public way*.

(Q) *Real property* includes lands, tenements, and hereditaments.

(R) *Sidewalk* means that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

(S) *State* means the State of Colorado.

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

(U) *Violation* means failing to comply with any of the mandatory requirements of any ordinance, resolution, rule, regulation, or law of the city, including failure to take affirmative action, or the doing of any act prohibited by any ordinance, resolution, rule, regulation, or law of the city. (Ord. 285 §3, 1977)

(V) *Written* includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

(W) *Year* means a calendar year. (Ord. 284 §2, 1977; Ord. 1013 §1, 1993; Ord. 1594, §2, 2001)

1-04-020 Title of office.

Use of the title of an officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the city, unless otherwise specifically designated. (Ord. 284 §3, 1977)

1-04-030 Interpretation of language.

All words and phrases shall be construed according to the context in which they are used and 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. 284 §4, 1977)

1-04-040 Grammatical interpretation.

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

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

(B) *Singular and Plural*. The singular number includes the plural and the plural includes the singular.

(C) *Tenses*. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

(D) *Use of Words and Phrases*. Words and phrases not specifically defined shall be construed as provided for in section 1-04-030. (Ord. 284 §5, 1977)

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. 284 §6, 1977)

1-04-060 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city 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. 284 §7, 1977)

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. 284 §8, 1977)

1-04-080 Construction.

The provisions of the ordinances of the city and all proceedings under them are to be liberally construed with a view to effect their objectives and to promote justice. (Ord. 284 §9, 1977)

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. 284 §10, 1977)

Chapter 1-08

Right of Entry

1-08-010 Short title.

This chapter is known and may be cited as the "Broomfield Right of Entry Ordinance." Reference to the Broomfield Right of Entry Ordinance shall be sufficient when citing the provisions of this chapter in any legal document, including but not limited to summons, subpoena, pleading, summons and complaint, and memorandum. (Ord. 286 §2, 1977; Ord. 1013 §1, 1993)

1-08-020 Right of entry generally.

Whenever it is necessary to make an inspection for the purpose of enforcing any ordinance, resolution, or regulation of the city, or whenever there is reasonable cause to believe that there exists or there is occurring in any building or upon any premises within the jurisdiction of the city any violation of a city ordinance, resolution, or regulation, any peace officer of the city may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon such peace officer by law; provided that except in emergency situations or when the consent of the owner or occupant or other person having charge or control of such building or premises has been otherwise obtained, the provisions set forth in sections 1-08-020 through 1-08-080 shall be followed. (Ord. 286 §3(part), 1977)

1-08-030 Presentation of credentials required; refusal of entry.

If a building or premises is occupied, the peace officer shall first present proper credentials and request entry. If a building or premises is unoccupied, the peace officer shall first make a reasonable effort to locate the owner or occupant or other person having charge or control of the building or premises and, upon locating the owner or occupant or other person, shall present proper credentials and request entry. If such entry is refused, the peace officer shall give the owner or occupant or person in charge or control of the building or premises a twenty-four-hours' written notice of the peace officer's intention to inspect. (Ord. 286 §3.01, 1977)

1-08-040 Notice of intention to inspect required when.

If the owner or occupant or other person in charge or control of the building or premises cannot be located after a reasonable effort, the peace officer shall leave, at the building or premises, a twenty-four-hours' written notice of the peace officer's intention to inspect. (Ord. 286 §3.02, 1977)

1-08-050 Notice of intention to inspect; contents; search warrant required when.

The written notice of intention to inspect given to the owner or occupant or other person in charge or control or left at the building or premises as set forth in sections 1-08-020 and 1-08-030 shall state that the property owner or occupant or person in charge or control of the building or premises has the right to refuse entry and in the event such entry is refused, inspection may be made only upon the issuance of a search warrant by a magistrate having applicable jurisdiction. (Ord. 286 §3.03, 1977)

1-08-060 Search warrant; issuance.

After the expiration of the twenty-four-hour period from the giving or leaving of such notice, the peace officer may appear before any municipal judge of the city or any other judge having applicable jurisdiction and, upon a showing of sufficient cause, which shall be made in writing and under oath, shall obtain a search warrant entitling the peace officer to enter into the building or upon the premises. (Ord. 286 §3.04, 1977; Ord. 1013 §1, 1993)

1-08-070 Search warrant; entrance permitted on presentation.

Upon presentation of the search warrant and proper credentials, or possession of the search warrant and proper credentials in the case of an unoccupied building or premises, the peace officer may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry therein. (Ord. 286 §3.05, 1977)

1-08-080 Search warrant; basis of probable cause.

For the purposes of sections 1-08-020 through 1-08-080, a determination of *sufficient cause* will be based upon reasonableness as the ultimate standard and, if a valid public interest justifies the entry contemplated, then there is sufficient cause to issue a search warrant. The standard necessary to issue a search warrant is whether the evidence establishes facts sufficient to show the neutral magistrate a suspected violation is likely to exist. (Ord. 286 §3.06, 1977; Ord. 1013 §1, 1993)

1-08-090 Search warrant; return; inventory of property taken required.

After a search or inspection under authority of any search warrant issued from the municipal court or from any other court of competent jurisdiction, the return of such search warrant shall be made promptly and within ten days after the date of the warrant. It shall be accompanied by a verified written inventory of any property taken under the warrant, which may consist of a true copy of the receipt referred to in section 1-08-130. If a copy of such receipt is returned to the court as the inventory, it shall be verified by the peace officer who made the search or inspection and seizure. (Ord. 286 §8, 1977)

1-08-100 Search warrant; issuance authority.

Any municipal judge of the city, or any other judge of any court of applicable jurisdiction, shall have power to issue a search warrant, upon a showing of probable cause for the implementation of the inspection as provided for in sections 1-08-020 through 1-08-080. (Ord. 286 §6, 1977)

1-08-110 Applicability of notice requirement.

The right of entry provisions of any city ordinance or codes heretofore or hereafter adopted by the city are not repealed by this chapter. However, the notice provisions of sections 1-08-020 through 1-08-080 of this chapter are specifically made applicable to all such right of entry provisions in all cases not involving emergencies or where the consent of the owner or occupant, or other person in charge or control of the building or premises, has not been obtained, and except those cases involving title 9 or other criminal statutes. It is the specific intent of this chapter that all entries of peace officers be subject to the notice provisions of sections 1-08-020 through 1-08-080, except as aforesaid. (Ord. 286 §4, 1977; Ord. 1013 §1, 1993)

1-08-120 Emergency entry.

Whenever an emergency situation exists in relation to the enforcement of any of the provisions of any city ordinance, resolution, or regulation, a peace officer of the city may enter into any building or upon any premises within the jurisdiction of the city, upon a presentation of proper credentials in the case of an occupied building or premises, or possession of the proper credentials in the case of an unoccupied building or premises. In an emergency situation, the peace officer may use such reasonable force as may be necessary to gain entry into any building or upon any premises. For the purposes of this section, an emergency situation includes but is not limited to any situation where there is imminent danger of loss of life, limb, or property caused by explosive materials, disease, fire, structural weakness, or any other condition which could cause such imminent danger, whether similar or dissimilar. (Ord. 286 §5, 1977)

1-08-130 Seizure of property; requirements.

If any property is seized incident to or as a result of an entry or search under this chapter, the peace officer taking the property shall give to the person from whom or from whose premises the property was taken a copy of the search warrant issued and a receipt for the property taken, specifically describing the property. If the premises are unoccupied at the time of search or inspection, the peace officer shall leave such copy and receipt at the place from which the property was taken, posted, or left in a conspicuous place within or upon the premises searched or inspected. If the person from whose possession or premises property is taken is present at the time of the seizure, the receipt shall be filled out in the presence of such person; provided, however, that if for any reason the receipt cannot be filled out in the presence of such person, or if the premises are unoccupied, then the receipt shall be filled

out in the presence of at least one other peace officer other than the peace officer who is the applicant for the warrant. (Ord. 286 §7, 1977)

1-08-140 Violation; penalty.

The penalty for violation of this chapter shall be as prescribed in chapter 1-12, B.M.C. (Ord. 286 §9(1), 1977; Ord. 1013 §1, 1993)

Chapter 1-12

General Penalty

1-12-010 Short title.

This chapter is known and may be cited as "chapter 1-12, B.M.C., the Broomfield Penalty Ordinance." Reference to chapter 1-12, B.M.C., the Broomfield Penalty Ordinance shall be sufficient when citing the provisions of this chapter in any legal document, including but not limited to summons, subpoena, pleading, summons and complaint, and memorandum. (Ord. 285 §2, 1977; Ord. 1013 §1, 1993)

1-12-020 Penalties designated.

Whenever in any provision of the B.M.C. or in any provisions of a code adopted herein by reference, the doing of any act is required, prohibited, or declared to be unlawful, any person who is convicted of a violation of any such provision shall, for each offense, be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding one year, or by both such fine and imprisonment, except where a different penalty is specifically prescribed by any ordinance of the city, and provided that no person under the age of eighteen years as of the date of the violation for which he or she is convicted shall be subject to the imposition of a jail sentence, except in the case of a conviction of a traffic offense or as otherwise provided by the Colorado Children's Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by such person, and shall be punished accordingly. It is the intent of this chapter that the general penalties set forth in this section shall apply wherever no specific penalty has been otherwise provided in any ordinance of the city. The suspension or revocation of any license, certificate evidencing accord of inspection services, or other privilege conferred by the city shall not be regarded as a penalty for the purposes of this chapter. (Ord. 337 §1, 1978; Ord. 914 §1, 1991; Ord. 1013 §1, 1993; Ord. 1196 §18, 1996; Ord. 1568 §17, 2001; Ord. 1778 §5, 2004)

1-12-030 Violators designated.

Every person who commits, attempts to commit, conspires to commit, or aids or abets a commission of any act declared to be in violation of any ordinance, resolution, rule, regulation, or law of this municipality, whether individually or in connection with one or more persons, as a principal or accomplice, is guilty of such offense and subject to penalty or penalties therefor; and every person who fraudulently or willfully induces, causes, coerces, requires, or directs another to violate any provision of any ordinance, resolution, rule, regulation, or law of this city is likewise guilty of such offense and subject to the penalties therefor. (Ord. 285 §5, 1977)

1-12-040 Liability of corporations generally; agent and high managerial agent defined.

A corporation is guilty of an offense if the conduct constituting the offense consists of an omission to discharge a specific duty or affirmative performance imposed on corporations by law; or the conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his or her employment or in behalf of the corporation.

As used in this section, *agent* means any director, officer, or employee of a corporation, or any other person who is authorized to act in behalf of the corporation, and *high managerial agent* means an officer of a corporation or any other agent in a position of authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees. (Ord. 285 §6, 1977)

1-12-050 Liability of individual for corporate conduct.

A person is criminally liable for conduct constituting an offense which he or she performs or causes to occur in the name of or in behalf of a corporation, to the same extent as if such conduct were performed or caused by him or her in his or her own name and behalf. (Ord. 285 §7, 1977)