

CHAPTER 1

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ARTICLE I

Code

Sec. 1-1. Adoption of Code.

The published code known as the Superior Municipal Code, 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 Superior, Colorado, as a codification of all the ordinances of the Town of Superior of a general and permanent nature through Ordinance No. 96-O-4 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. 96-O-4 §1, 1996)

Sec. 1-2. Purpose.

The Board of Trustees finds, determines and declares that the ordinance codified in this Chapter is necessary for the general health, safety and welfare of the community. (Ord. 96-O-4 §1, 1996)

Sec. 1-3. Title and scope.

This Code shall be known as the *Superior Municipal Code*. This Code constitutes the adoption, compilation, revision and codification of all the ordinances of the Town of Superior, of a general and permanent nature, except for ordinances governing annexation, land use, zoning and subdivision. (Ord. 96-O-4 §1, 1996)

Sec. 1-4. Adoption of codes by reference.

Secondary codes may be adopted by reference, as provided by state law. (Ord. 96-O-4 §1, 1996)

Sec. 1-5. Repeal of ordinances not contained in Code.

This Code contains all ordinances and portions of ordinances of general legislation which are of a permanent nature, except for ordinances governing annexation, land use, zoning and subdivision. All other ordinances of a general nature which are not included in this Code and portions of ordinances inconsistent with any provision of this Code to the extent of such inconsistency are hereby repealed as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. 96-O-4 §1, 1996)

Sec. 1-6. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-5 above 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incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.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. 96-O-4 §1, 1996)

Sec. 1-7. 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 the 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) Annexing territory to or excluding territory from the Town.
- (6) Dedicating or accepting any specific plat or subdivision.
- (7) Calling or providing for a specific election.
- (8) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (9) Approving or authorizing specific contracts with the State, the County or the Superior Metropolitan Districts with other governmental bodies or with others.
- (10) Authorizing a specific lease, sale or purchase of property.
- (11) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (12) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (13) Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.
- (14) Appropriating money.
- (15) Levying a temporary tax or fixing a temporary tax rate.
- (16) Relating to salaries.
- (17) Amending the Official Zoning Map. (Ord. 96-O-4 §1, 1996)

Sec. 1-8. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Town for adoption and revision as part of the Code, certain grammatical changes and other changes were made in existing ordinances. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 96-O-4 §1, 1996)

Secs. 1-9—1-20. Reserved.

ARTICLE II

Definitions and Usage

Sec. 1-21. Definitions.

The following words and phrases, whenever used in the ordinances of the Town of Superior 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 Adjustment means the Board of Adjustment of the Town of Superior.

Board of Trustees or *Board* means the Board of Trustees of the Town of Superior.

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

Engineer means the Town Engineer of the Town of Superior.

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

Manager means the Town Manager of the Town of Superior.

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.

Must and *shall* are both mandatory.

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 includes any person who alone, jointly or severally with others or as agent, executor, trustee or other representative capacity has legal or equitable title to any property.

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

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

Planning Commission means the Planning Commission of the Town of Superior.

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.

Statute mean Colorado Revised Statutes, including all amendments thereto.

Street includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the 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.

Superior Metropolitan Districts mean the districts formed within the Town of Superior in March 1988, with the approval of the Town. Superior Metropolitan District No. 1 (SMD No. 1) is responsible for providing water and sewer facilities to all or a portion of the Town; Superior Metropolitan District No. 2 (SMD No. 2) is responsible for providing street and park and recreation improvements within the Town of Superior generally north of Coalton Road but excluding the Original Town; and Superior Metropolitan District No. 3 (SMD No. 3) is responsible for providing street and park and recreation improvements south of Coalton Road within the Town.

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 Superior, Colorado, or the area within the territorial limits of the Town of Superior, 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, photocopied or a facsimile, mimeographed or multigraphed, or otherwise reproduced in permanent visible form.

Year means a calendar year. (Ord. 96-O-4 §1, 1996)

Sec. 1-22. 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. When the time for an act of less than seven (7) days, Saturday, Sunday and legal holidays shall be excluded. (Ord. 96-O-4 §1, 1996)

Sec. 1-23. 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. 96-O-4 §1, 1996)

Sec. 1-24. 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. 96-O-4 §1, 1996)

Sec. 1-25. Grammatical interpretation.

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

- (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. (Ord. 96-O-4 §1, 1996)

Secs. 1-26—1-40. Reserved.

ARTICLE III

General

Sec. 1-41. Titles and headings not part of Code.

Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code, may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the Code. (Ord. 96-O-4 §1, 1996)

Sec. 1-42. Authorized acts by agents, representatives.

When an act is required by this Code or an ordinance, the same being such that it may be done as well by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed by any authorized agent or representative. (Ord. 96-O-4 §1, 1996)

Sec. 1-43. Construction of Code.

The provisions of this Code, and all proceedings under it, are to be construed with a view to effect their objectives and to promote justice. (Ord. 96-O-4 §1, 1996)

Sec. 1-44. Repeal of ordinances.

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 96-O-4 §1, 1996)

Sec. 1-45. Publication of ordinances.

All ordinances, as soon as may be after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor and Town Clerk. All ordinances of a general or permanent nature, and those imposing any fine or forfeiture, shall be published. Such ordinances shall not take effect until thirty (30) days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health and safety and containing the reasons making the same necessary in a separate section. The excepted ordinances shall take effect upon their final passage, adoption and the approval and signature of the Mayor, if they are adopted by an affirmative vote of three-fourths ($\frac{3}{4}$) of the members of the Board of Trustees. (Ord. 96-O-4 §1, 1996)

Sec. 1-46. 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 the Code adopted with or without specific reference to the Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to the Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby in the Code shall be inserted and made in the Code as provided in Section 1-49 hereof. (Ord. 96-O-4 §1, 1996)

Sec. 1-47. Copy of Code on file.

At least one (1) copy of the Code 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. 96-O-4 §1, 1996)

Sec. 1-48. Examination of Code.

The copy of the 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. 96-O-4 §1, 1996)

Sec. 1-49. Supplementation of Code.

(a) The Town Clerk shall cause supplementation of the Code to be prepared and printed from time to time as the Clerk sees 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 ordinances or other measures included in the Code prior to the supplementation and since the previous supplementation, shall be included.

(b) It shall be the duty of the Town Clerk to keep up to date the copy of the book containing the Code required to be filed in the office of the Town Clerk for the use of the public. (Ord. 96-O-4 §1, 1996)

Sec. 1-50. Altering or tampering with Code; penalties for violation.

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 the 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 1-72. (Ord. 96-O-4 §1, 1996)

Sec. 1-51. 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. (Ord. 96-O-4 §1, 1996)

Secs. 1-52—1-70. Reserved.

ARTICLE IV

General Penalty

Sec. 1-71. 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. 96-O-4 §1, 1996)

Sec. 1-72. General penalty for violation.

(a) No person shall violate any of the provisions of the ordinances of the Town or of this Code. Except in cases where a different punishment is prescribed by any ordinance of this Town or this Code, any person who violates any of the provisions of the ordinances of the Town or of this Code shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed one hundred eighty (180) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-73; and provided further that no indigent person shall be punished by

imprisonment unless he or she has been given the opportunity to be represented by counsel. In addition, such person shall pay all court costs imposed by the court.

(b) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the Town or of this Code is committed, continued or permitted by any such person and shall be punished accordingly. (Ord. 96-O-4 §1, 1996; Ord. 99-O-9 §1, 1999)

Sec. 1-73. 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 Chapter, shall be punished by a fine of not more than five hundred dollars (\$500.00) per violation or count. (Ord. 96-O-4 §1, 1996)

Sec. 1-74. Fines and penalties; plea of guilty or nolo contendere.

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. (Ord. 96-O-4 §1, 1996)

Sec. 1-75. 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 the Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-72 or 1-73, unless another penalty is specifically provided for the violation. (Ord. 96-O-4 §1, 1996)

Sec. 1-76. 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. 96-O-4 §1, 1996)

Sec. 1-77. Authority to suspend fines; assess court costs.

The Municipal Judge shall have the authority to suspend all or any portion of any fine upon finding of good cause therefor. The Municipal Judge shall assess court costs as the Judge determines are reasonable. (Ord. O-1 §1, 2001)

Sec. 1-78. Collection of unpaid Municipal Court assessments.

The Town Manager, or his or her designee, is authorized to use any lawful method of collecting fines, fees, default judgments, personal recognizance bond forfeitures, civil penalties or any other unpaid amounts due from any person assessed such sums by the Municipal court, including the reasonable costs of collection. Reasonable costs of collection shall include without limitation, the fees and costs of the Town Attorney, of private counsel, or of a collection agency, but such fees and costs shall not exceed twenty-five percent (25%) of the unpaid amount. (Ord. O-10 §1, 2009)

Secs. 1-79—1-90. Reserved.

ARTICLE V

Inspections

Sec. 1-91. Entry.

Whenever necessary to make an inspection to enforce 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 official 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 official is unable to obtain permission of such occupant or owner to enter such building or premises, the public official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 96-O-4 §1, 1996)

Sec. 1-92. Authority to enter premises under emergency.

Law enforcement officers, 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 or occupants 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 or occupants of such premises are incapable of consenting to the entry because of such medical emergency. (Ord. 96-O-4 §1, 1996)

Secs. 1-93—1-110. Reserved.

ARTICLE VI

Seal

Sec. 1-111. Seal description.

The common seal of the Town shall be of circular shape in the center of which shall be the word "Seal" and with the words "The Town of Superior, Colorado" surrounding the word "Seal," and said seal above described is hereby established and declared to be the seal of the Town. (Ord. 1 §1, 1904)

Sec. 1-112. Town Clerk to be 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. (Ord. 1 §2, 1904)

Sec. 1-113. Seal to be affixed where.

Said seal shall be affixed to all transcripts, orders or certificates which it may be necessary or proper to authenticate, under the provisions of the statutes in such cases made and provided, 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 law of the State, or any ordinance of the Town. (Ord. 1 §3, 1904)

Secs. 1-114—1-130. Reserved.

ARTICLE VII

Unclaimed Property

Sec. 1-131. Purpose.

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the Town. (Ord. 952 §1, 1992)

Sec. 1-132. Definitions.

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

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

Unclaimed property means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the Town and which has not been claimed by its owner for a period of more than two (2) years after it became payable or distributable. (Ord. 952 §2, 1992; Ord. 96-O-4 §1, 1996)

Sec. 1-133. Procedure for disposition of property.

(a) Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the Town shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the Town department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00) or having no last known address of the owner, the Town shall cause a notice to be published in a newspaper of general circulation in the Town. The notice shall include a description of the property, if known, the owner of the property, the amount or estimated value of the property and,

when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(c) If the Town receives no written claim within the above sixty-day claim period, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(d) If the Town receives a written claim within the sixty-day claim period, the Town Manager shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The Town Manager may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event that there is more than one (1) claimant for the same property, the Town may, in the Town Manager's sole discretion, resolve said claims or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the Town and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the Town shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town pursuant to the order of the Court having jurisdiction over such claim.

(h) The Town Manager is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property. (Ord. 952 §3, 1992)

Secs. 1-134—1-150. Reserved.

ARTICLE VIII

Liens

Sec. 1-151. Unpaid charges a lien.

Failure to pay any fees and charges due the Town shall be a lien upon the property for which any services or benefit was provided by the Town, giving rise to such charge. The owner of every building, premises, lot or house shall be liable for all fees and charges due the Town, which lien or liability may be enforced by the Town by action at law or suit to enforce the lien, and the owner thereof shall not be relieved of such obligations and lien for services provided to a tenant in possession of any premises or building and the Town shall not be required to look to any person

whatsoever other than the owner for the payment of any charges. No change of ownership or occupation shall affect the application of this Article and the failure of any owner to learn that he or she purchased property against which a lien exists shall in no way affect his or her liability for such payment in full. The amount due and in default shall, in addition to said right of enforcement by disconnection of service, become a lien of the property and premises so served to the amount of the charges from the date the same accrued and became due and payable; and said delinquent payments shall be enforced by assessment upon the property and premises so served and certification thereof to the County Treasurer for collection in the same manner as though they were part of the taxes. (Ord. 96-O-4 §1, 1996)

Sec. 1-152. Interest on unpaid balances.

The Town shall charge interest at the rate of eighteen percent (18%) per year (one and one half percent [1.5%] per month) on the balance due of any fees owed to the Town pursuant to this Code or any other applicable law, which have not been paid within thirty (30) days of a statement for such fees from the Town. (Ord. O-17 §1, 2004)

Secs. 1-153—1-170. Reserved.