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GENERAL PROVISIONS¹

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¹ **Charter reference**—Ordinances adopting general codification of existing ordinances, excepted from adoption procedures, § 4.10; authority of City to have ordinances codified and maintained in current form, § 4.12.

Chapter 1.04

GENERAL PROVISIONS

Sec. 1.04.010. How Code designated and cited.

The ordinances embraced in this and the following chapters and Sections shall constitute and be designated the "Municipal Code of the City of Aspen, Colorado" and may be so cited. (Code 1971, § 1-1)

State law reference—Adopting Code of Ordinances, Section 31-16-201, C.R.S., et seq.

Sec. 1.04.020. Definitions and rules of construction generally.

In the construction of this Code and of all ordinances and resolutions passed by the City Council, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

City. The words "the City" or "this City" or "municipality" shall mean the City of Aspen, in the County of Pitkin and State of Colorado. Such words shall extend to and include its several officers, agents and employees.

Code. The words "this Code" shall mean the "Municipal Code of the City of Aspen, Colorado" as designated in Section 1.04.010 above.

Computation of time. In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. As used in this Section, "legal holiday" includes New Year's Day, Lincoln's birthday, Washington's birthday, Memorial Day, Independence Day, Colorado Day, Labor Day, Columbus Day, General Election Day, Veterans Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by the President or the Congress of the United States or pursuant to Colorado Statute.

State law reference—Similar provisions, C.R.S., Rules of Civil Procedure, Rule 6(a).

Council. Whenever the words Council, this Council, the Council or City Council are used, they shall mean the City Council of the City of Aspen, Colorado.

County. The words *county*, *the county* or *this County* shall mean Pitkin County, Colorado.

C.R.S. The initials *C.R.S.*, wherever used throughout this Code shall mean Colorado Revised Statutes.

Day. The word *day* shall be any twenty-four-hour period from midnight to midnight.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Highway. The term *highway* shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the City, dedicated or devoted to public use.

Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Land real estate and real property. The terms land, *real estate* and *real property* include lands, tenements, hereditaments, water rights, possessory rights and claims.

Month. The word *month* shall mean a calendar month.

Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. The word *oath* shall be construed to include an affirmation 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*. Every mode of oral statement under oath or affirmation is embraced in the term *testify* and every written one in the term *depose*.

Official time. Whenever the term *official time* or *time* is used it shall mean standard time or daylight saving time as may be in current use within the City.

Officers, boards, etc. Whenever reference is made to any officer, board or commission, the same shall be construed as if followed by the words *of the City of Aspen*" Reference to such officer, board or commission shall be deemed to include his or her authorized deputies, agents or representatives.

Or/and. *Or* may be read *and* and *and* may be read *or*, if the sense requires it.

Owner. The word *owner* applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

Person. The word *person* shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

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

Preceding, prior, following, subsequent. The word *preceding* or *prior* means next before and the word *following* or *subsequent* means next after.

Prohibitions. Words prohibiting anything being done, except in accordance with a license or permit or authority from an officer of the City authorized by ordinance or the Charter shall be construed as expressly giving such officer power to license or permit or authorize such thing to be done.

Property. The word *property* includes both real and personal property. The words public way or public thoroughfare shall include streets, alleys, lanes, courts, boulevards, public square, mall, public places and sidewalks.

Quarter. The word *quarter* shall mean any three-month period ending with the last day of March, June, September and December.

Roadway. The word *roadway* shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

Sidewalk. The word *sidewalk* shall include any portion of the street between the curb or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

Signature or subscription. The word *signature or subscription* shall include a mark when a person cannot write.

State. The words *the state* or *this state* shall be construed to mean the State of Colorado.

Street. The term *street* shall include any highway, alley, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway in the City, dedicated or devoted to public use.

Tenant or occupant. The word *tenant or occupant* applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written or in writing. The words *written* or *in writing* shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word *year* shall mean a calendar year. (Code 1962, §§ 1-1-4, 1-1-7; Code 1971, § 1-2)

Charter reference—Definition and interpretation for words used in Charter, §§ 13.11 and 13.12.

Sec. 1.04.030. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of the following:

- (1) Any ordinance promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness;
- (2) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget or prescribing salaries for City officers and employees;
- (3) Any ordinance annexing territory to the City or discontinuing territory as a part of the City;
- (4) Any ordinance granting any franchise; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. (Code 1971, § 1-3)

Charter reference—Franchises generally, § 11.1 et seq.

Cross reference—Code does not effect ordinances regulating traffic on specific streets, § 24.04.010.

Sec. 1.04.040. Code does not affect prior offenses, contracts, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code. (Code 1971, § 1-4)

Sec. 1.04.050. Catch-lines of Sections.

The catch-lines of the several Sections of this Code, printed in boldface type, are intended as mere catchwords to indicate the contents of the Section and shall not be deemed or taken to be titles of such Sections, nor as any part of the Section, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catch-lines, are amended or reenacted. (Code 1971, § 1-5)

Sec. 1.04.060. Amendments or additions to Code.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, Section or Subsection or any portion thereof, such repealed portion may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the City Council.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the Section number of this Code in the following language: "That Section _____ (or Section _____, Subsection _____) of the Municipal Code of the City of Aspen, Colorado, is hereby amended to read as follows: "The new provisions shall then be set out in full as desired."

(c) In the event a new Section not heretofore existing in the Code is to be added, the following language shall be used: "That the Municipal Code of the City of Aspen, Colorado, is hereby amended by adding a Section (or chapter) which said Section (or chapter) reads as follows: "The new Section shall then be set out in full as desired." (Code 1971, § 1-6)

Charter reference—Form of ordinances, § 4.9.

Sec. 1.04.070. Severability of parts of Code.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section. (Code 1971, § 1-7)

Sec. 1.04.080. General penalty for violations of Code; continuing violations; default.

(a) Whenever in this Code or in any ordinance of the City an act is prohibited, is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of an act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding two thousand six hundred fifty dollars (\$2,650.00) or imprisonment for a period of up to one (1) year or both such fine and imprisonment at the discretion of the court. Each day of any violation of this Code or of any ordinance shall constitute a separate offense, unless otherwise provided. The limitation on municipal court fines set forth shall be adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter; inflation means the annual percentage change in the United State Department of Labor, Bureau of labor Statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(b) The Municipal Judge is empowered in his discretion to assess court costs in an amount of up to fifty dollars (\$50.00) against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

(c) The Municipal Judge is empowered to order a child under the age of eighteen (18) years of age confined in a juvenile detention facility operated by the State Department of Human Services or a temporary holding facility operated by or under contract with the City for failure to comply with a lawful order of the Court, including an order to pay a fine. Any confinement of a child for contempt of Municipal Court shall not exceed forty-eight (48) hours.

(d) A child under the age of eighteen (18), arrested for an alleged violation of a municipal ordinance or provision of this Code, convicted of violating a municipal ordinance or provision of this Code or probation condition imposed by the Municipal Court or found in contempt of Court in connection with a violation or alleged violation of a municipal ordinance or provision of this Code shall not be confined in a jail, lockup or other place used for the confinement of adult offenders, but may be held in a juvenile detention facility operated by or under contract with the State Department of Human Services or a temporary holding facility operated or under contract with the City which shall receive and provide care for such child. The Municipal Court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance or provision of this Code may confine a juvenile pursuant to Section 19-2-204, C.R.S., for up to forty-eight (48) hours in a juvenile detention facility operated by or under contract with the State Department of Human Services.

(e) Whenever the judge of the Municipal Court imposes a fine for a nonviolent offense of a municipal ordinance or provision of this Code, if the person who committed the offense is unable to pay the fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the Municipal Judge may compel collection of the fine by:

(1) Requiring the person to post sufficient bond or collateral; or

(2) Requiring the person to post one (1) or more post dated checks, drafts or orders for the amount of the fine and court costs, if any; or

(3) Entering a judgment in favor of the City and execute a lien based on such judgment on any chattels, lands, tenements, moneys and real estate of the person in accordance with Article 52 of Title 13, C.R.S., for the purpose of collecting said fine and the costs incurred in collecting said fine.

For purposes of this Subsection, *nonviolent offense* means a municipal ordinance or Code offense which does not involve the use or threat of physical force on or to a person in the commission of the offense. (Code 1971, § 1-8; Ord. No. 15-76, § 1; Ord. No. 12-1996, § 1; Ord. No. 29-2013§1)

State constitutional reference—Authority of home rule city to impose fines and penalties, Art. XX, Sec. 6H.

Sec. 1.04.090. Commitment for failure to pay fine.

Every person against whom any fine or penalty shall be assessed under the laws of the City, who shall refuse or neglect to pay the same when demanded upon execution may be committed in default thereof to the City or county jail or such other suitable place or enclosure as shall be provided by the City, under the direction of the proper officer until such fine or penalty is fully paid and satisfied, the satisfaction to be allowed at the rate of ten dollars (\$10.00) per day of twenty-four (24) hours. Any such person may be required to do any reasonable work. Provided, however, that in the discretion of the Municipal Judge a stay of execution may be granted by the Municipal Judge to enable the defendant to pay the fine or penalty at a later date or in installments. In case the defendant shall not have met the terms

of the stay of execution, then the execution shall issue and the defendant shall be placed in jail until the judgment is satisfied. (Code 1962, § 1-17-16; Code 1971, § 1-9)

Sec. 1.04.100. Working of prisoners.

Any person imprisoned under the provisions of this Chapter may be put to work for the benefit of the City for the term of his imprisonment. No prisoner shall be required to work on Sunday. (Code 1962, § 1-6-3; Code 1971, § 1-10)

Sec. 1.04.110. Double fee for failure to obtain required licenses.

When work or activity for which a permit or license is required by this Code or any code adopted herein is commenced without first having acquired such permit or license, the specified fee shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with all the requirements of this Code or any code adopted herein, nor from any other prescribed penalties. Payment of such double fee or any unpaid portion thereof may be compelled by civil action in any court of competent jurisdiction. The acceptance of any portion less than the entire amount of such double fee by any officer or employee of the City shall not constitute a waiver or release of the balance thereof. (Code 1962, § 1-6-5; Code 1971, § 1-11)

Sec. 1.04.120. Penalties not to excuse abatement of prohibited conditions.

The application of any penalty under this Chapter shall not constitute the condoning or legalizing of any prohibited condition or prevent the abatement or enforced removal of such condition by any lawful means available to the City. (Code 1962, § 1-6-6; Code 1971, § 1-12)

Sec. 1.04.130. Presumption of responsibility for certain violations.

The occupant of any premises upon which a violation of any provision of this Code or of any Code adopted hereby is apparent and the owner of any object or material placed or remaining anywhere in violation of any provision of this Code or of any Code adopted hereby shall be deemed prima facie responsible for the violation so evidenced and subject to the penalty provided therefor. (Code 1962, § 1-6-7; Code 1971, § 1-13)

Sec. 1.04.140. Application of Code by City officers or employees.

Whenever in this Code or in any Code adopted herein it is provided that anything must be done to the approval or permission of or subject to the direction of, any administrative officer or employee of the City, this shall be construed to give such officer or employee only the discretion of determining whether the rules and standards established by this Code or by any Code adopted herein have been complied with; and no such provision shall be construed as giving any administrative officer or employee discretionary powers as to what such regulations or standards shall be or power to require conditions not prescribed by this Code or by any Code adopted herein or to enforce the provisions thereof in an arbitrary or discriminatory manner. (Code 1962, § 1-1-7; Code 1971, § 1-14)

Sec. 1.04.150. Failure to appear in answer to summons.

It shall be unlawful for any person upon whom a summons has been served for a violation of a municipal ordinance to fail to appear in person or by counsel at the time and place specified therein. Such failure to appear shall constitute a separate offense and shall be punished by a fine of not exceeding three hundred dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both such fine and imprisonment at the discretion of the court. (Code 1971, § 1-15; Ord. No. 33-1973, § 1)

Sec. 1.04.160. Limitation of actions.

Except as otherwise provided by ordinance applicable to specific offenses or circumstances, no person shall be prosecuted, tried or punished for any criminal offense proscribed by this Code unless the action is commenced within one year from the time the offense is committed. The time limitation imposed by this Section shall be tolled if the offender is absent from the City and the duration of such absence, not to exceed two (2) years, shall be excluded from the computation of time within which any prosecution may be initiated. When an offense is based on a series of acts performed at different times or is a continuing offense, the period of limitation starts at the time when the last act is committed or the continuing offense is abated. (Code 1971, § 1-16; Ord. No. 31-1975, § 1)

Sec. 1.04.170. Certification of delinquent charges.

The City Clerk may cause any or all delinquent charges, assessments or taxes made or levied by the City, pursuant to the terms of this Code or otherwise, to be certified to the treasurer of the County to be collected and paid over by the Treasurer of the County in the same manner as taxes are authorized to be by statute. (Code 1971, § 1-17; Ord. No. 29-1994, § 1)