

CHAPTER 1

General Provisions

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ARTICLE I

Code

Sec. 1-1. Adoption of Code.

The published code known as the Kersey 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 Kersey, Colorado, as a codification of all the ordinances of the Town of Kersey of a general and permanent nature through Ordinance No. 195 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. 195 §1, 1993)

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. 195 §1, 1993)

Sec. 1-3. Title and scope.

This Code shall be known as the Kersey Municipal Code. This Code constitutes the adoption, compilation, revision and codification of all the ordinances of the Town of Kersey, of a general and permanent nature. (Ord. 195 §1, 1993)

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

Secondary codes may be adopted by reference, as provided by state law. (Ord. 195 §1, 1993)

Sec. 1-5. 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inconsistent with any ordinance included in the adoption of this Code, to the extent of such inconsistency, are hereby repealed as of the effective date of the ordinance adopting this Code, except as hereinafter provided.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. 195 §1, 1993)

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incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.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. 195 §1, 1993)

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) Authorizing or relating to specific issuances of general obligation or special revenue 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) Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.
- (19) Appropriating money.

- (20) Levying a temporary tax or fixing a temporary tax rate.
- (21) Relating to salaries.
- (22) Amending the Official Zoning Map. (Ord. 195 §1, 1993)

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. 195 §1, 1993)

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 Kersey 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:

- (1) *Board of Trustees* means the Board of Trustees of the Town of Kersey.
- (2) *County* means the county of Weld, Colorado.
- (3) *C.R.S.* means Colorado Revised Statutes, including all amendments thereto.
- (4) *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.
- (5) *May* is permissive.
- (6) *Misdemeanor* means and is to be construed as meaning a violation of this Code and is not intended to mean a crime or criminal conduct.
- (7) *Month* means a calendar month.
- (8) *Must* and *shall* are both mandatory.

(9) *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.

(10) *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.

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

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

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

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

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

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

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

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

(19) *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.

(20) *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.

(21) *Town* means the Town of Kersey, Colorado, or the area within the territorial limits of the Town of Kersey, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

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

(23) *Year* means a calendar year. (Ord. 195 §1, 1993)

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. (Ord. 195 §1, 1993)

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. 195 §1, 1993)

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. 195 §1, 1993)

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. 195 §1, 1993)

Secs. 1-26—1-40. Reserved.

ARTICLE III

General

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

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 ordinances. (Ord. 195 §1, 1993)

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. 195 §1, 1993)

Sec. 1-43. Prohibited acts.

Whenever in this Code 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. 195 §1, 1993)

Sec. 1-44. Purpose of ordinances.

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. 195 §1, 1993)

Sec. 1-45. 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. 195 §1, 1993)

Sec. 1-46. 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 in a newspaper published within the Town. 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 (¾) of the members of the Board of Trustees. (Ord. 195 §1, 1993)

Sec. 1-47. 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. 195 §1, 1993)

Sec. 1-48. 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 1-51 hereof. (Ord. 195 §1, 1993)

Sec. 1-49. 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. 195 §1, 1993)

Sec. 1-50. Examination of Code.

The Mayor and Town Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of the Code. Similarly, after each supplement has been prepared, printed and inserted in the Code, the Mayor and Town Clerk shall carefully examine at least one (1) copy of the Code as supplemented. 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. 195 §1, 1993)

Sec. 1-51. Supplementation of Code.

(a) The Town Clerk shall cause supplementation of the Code to be prepared and printed from time to time as he or she 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 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, or someone authorized and directed by 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. 195 §1, 1993)

Sec. 1-52. Sale of Code books.

Copies of the 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. 195 §1, 1993)

Sec. 1-53. 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. 195 §1, 1993)

Secs. 1-54—1-70. Reserved.

ARTICLE IV

General Penalty

Sec. 1-71. Violations.

It shall be unlawful for any person, firm, corporation or other entity to violate any of the provisions of this Code and all of the secondary codes therein. (Ord. 195 §1, 1993)

Sec. 1-72. General penalty for violation.

Any person violating any of the provisions of this Code shall be deemed guilty of a misdemeanor and each such person upon conviction of any violation of this Code or any secondary codes shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than ninety (90) days or both such fine and imprisonment for each offense. When a violation of any Section of this Code or any part of the adopted codes occurs and continues for more than one (1) day, each day such violation occurs or continues shall constitute a separate offense. (Ord. 195 §1, 1993)

Sec. 1-73. Application of penalties to juveniles.

The violation of any Section of this Code by a person not having attained the age of eighteen (18) years at the time of the commission of the violation, shall be a misdemeanor, however, such conviction shall be punishable by a fine only, not exceeding one thousand dollars (\$1,000.00), or useful public service or such other penalty excluding imprisonment as may be appropriate. Notwithstanding this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by Colorado law may be imposed in the discretion of the Municipal Judge. (Ord. 195 §1, 1993)

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. 195 §1, 1993)

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. 195 §1, 1993)

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. 195 §1, 1993)

Secs. 1-77—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. 195 §1, 1993)

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. 195 §1, 1993)

Secs. 1-93—1-110. Reserved.

ARTICLE VI

Seal

Sec. 1-111. Corporate seal.

A seal, the impression of which is as follows: the words "Corporate Seal," surrounded by the words "Town of Kersey, Colorado," shall be and is hereby declared to be the official seal of the Town. (Ord. 3, §1, 1912)

Secs. 1-112—1-130. Reserved.