

## CHAPTER 1

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**ARTICLE I**

**Code**

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

The published code known as the Fairplay Municipal Code, published by Colorado Code Publishing Company, is enacted as the Town's primary code. This primary code has been promulgated by the Town of Fairplay, Colorado, as a codification of all the ordinances of the Town of Fairplay of a general and permanent nature 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. 11, 2002 §1)

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

This Code constitutes a compilation, revision and codification of all the ordinances of the Town of Fairplay, Colorado, of a general and permanent nature, and shall be known as the *Fairplay Municipal Code*. (Ord. 11, 2002 §1)

**Sec. 1-1-30. Code supersedes prior ordinances.**

This Code shall supersede all other general and permanent ordinances and parts of ordinances passed by the Board of Trustees, except such ordinances as are expressly saved from repeal or continued in force and effect as shall hereafter be set forth by reference. (Ord. 11, 2002 §1)

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

Codes may be adopted by reference, as provided by state law. (Ord. 11, 2002 §1)

**Sec. 1-1-50. Repeal of ordinances not contained in Code.**

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the

adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. 11, 2002 §1)

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

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 of this Code shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed. (Ord. 11, 2002 §1)

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

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, opening, dedicating, vacating or closing specific streets, alleys and other public ways.
- (2) Naming or changing the names of specific streets and other public ways.
- (3) Establishing the grades of specific streets and other public ways.
- (4) Establishing the grades or lines of specific sidewalks.
- (5) Authorizing or relating to specific issuances of general obligation bonds.
- (6) Creating specific sewer and paving districts and other local improvement districts.

(7) Authorizing the issuance of specific local improvement district bonds.

(8) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.

(9) Annexing territory to or excluding territory from the Town.

(10) Dedicating or accepting any specific plat or subdivision.

(11) Calling or providing for a specific election.

(12) Authorizing specific contracts for purchase of beneficial use of water by the Town.

(13) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.

(14) Authorizing a specific lease, sale or purchase of property.

(15) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.

(16) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.

(17) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.

(18) Appropriating money.

(19) Levying a temporary tax or fixing a temporary tax rate.

(20) Relating to salaries.

(21) Amending the Official Zoning Map. (Ord. 11, 2002 §1)

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

In compiling and preparing the ordinances of the Town for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the Board of Trustees that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 11, 2002 §1)

**ARTICLE II**

**Definitions and Usage**

**Sec. 1-2-10. Definitions.**

The following words and phrases, whenever used in the ordinances of the Town of Fairplay and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

*Board of Trustees* means the Board of Trustees of the Town of Fairplay.

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

*County* means the County of Park, Colorado.

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

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

*May* is permissive.

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

*Month* means a calendar month.

*Oath* shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.

*Ordinance* means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

*Owner*, applied to a building, land, motorized vehicle, animal or other real or personal property, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety or any other person with a possessory interest in the whole or a part of said building, land, motor vehicle, animal or other real or personal property.

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

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

*Preceding* and *following* mean next before and next after, respectively.

*Property* includes real and personal property.

*Real property* includes lands, tenements and hereditaments.

*Shall* and *must* are both mandatory.

*Sidewalk* means a pedestrian walkway located between the curbline of a street or other right-of-way and the adjacent property line.

*State* means the State of Colorado.

*Street* includes all streets, highways, avenues, lanes, alleys, courts, 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.

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

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

*Year* means a calendar year. (Ord. 11, 2002 §1)

**Sec. 1-2-20. Computation of time.**

The time within which an act is to be done shall be computed by excluding the first and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. (Ord. 11, 2002 §1)

**Sec. 1-2-30. 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. 11, 2002 §1)

**Sec. 1-2-40. 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. 11, 2002 §1)

**Sec. 1-2-50. Grammatical interpretation.**

The following grammatical rules shall apply to this Code and to Town ordinances:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Ord. 11, 2002 §1)

**ARTICLE III**

**General**

**Sec. 1-3-10. Titles and headings not part of Code.**

Chapter and Article titles, headings, numbers and titles of sections and other divisions in this Code or

in supplements made to this Code are inserted in this Code, may be inserted in supplements to this Code for the convenience of persons using this Code, and are not part of this Code. (Ord. 11, 2002 §1)

**Sec. 1-3-20. Authorized acts.**

When this Code requires an act to be done which may as well be done by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent or representative. (Ord. 11, 2002 §1)

**Sec. 1-3-30. Prohibited acts.**

Whenever in this Code or any Town ordinances any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 11, 2002 §1)

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

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Ord. 11, 2002 §1)

**Sec. 1-3-50. 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. 11, 2002 §1)

**Sec. 1-3-60. 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 of general circulation 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 and 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. 11, 2002 §1)

#### **Sec. 1-3-70. Amendments to Code.**

Ordinances and parts of ordinances of a permanent and general nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to this Code or without specific reference to this Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to this Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby shall be inserted and made in this Code as provided in Section 1-3-80 hereof. (Ord. 11, 2002 §1)

#### **Sec. 1-3-80. Supplementation of Code.**

(a) The Board of Trustees shall cause supplementation of this Code to be prepared and printed from time to time as it may see fit. All substantive, permanent and general parts of ordinances passed by the Board of Trustees or adopted by initiative and referendum, and all amendments and changes in temporary and special ordinances or other measures included in this Code prior to the supplementation and since the previous supplementation, shall be included.

(b) It shall be the duty of the Town Clerk, or someone authorized and directed by the Town Clerk, to keep up to date the one (1) certified copy of the book containing this Code required to be filed in the office of the Town Clerk for the use of the public. (Ord. 11, 2002 §1)

#### **Sec. 1-3-90. Examination of Code.**

The Mayor and Town Clerk shall carefully examine the Code to see that it is true and correct. Similarly, after each supplement has been prepared, printed and inserted in this Code, the Mayor and Town Clerk shall carefully examine this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the Town and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 11, 2002 §1)

#### **Sec. 1-3-100. Copy of Code on file.**

At least one (1) copy of this Code so certified and sealed most recently shall be kept in the office of the Town Clerk at all times, and such Code may be inspected by any interested person at any time during regular office hours, but may not be removed from the Town Clerk's office except upon proper order of a court of law. (Ord. 11, 2002 §1)

#### **Sec. 1-3-110. Sale of Code books.**

Copies of this Code book may be purchased from the Town Clerk upon the payment of a fee to be set by resolution of the Board of Trustees. (Ord. 11, 2002 §1)

#### **Sec. 1-3-120. 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. 11, 2002 §1)

**ARTICLE IV**

**General Penalty**

**Sec. 1-4-10. Violations.**

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code. When reference is made in this Code to "the general penalty provisions of this Code," such reference shall be to the provisions of this Article. (Ord. 11, 2002 §1)

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

(a) Any person who shall violate or fail to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30 below. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.

(b) The limitation on municipal fines set forth in Subsection (a) above shall be adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter. As used in this Subsection, *inflation* means the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder, All Items, or its successor index. (Ord. 11, 2002 §1; Ord. 2013-5 §1)

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently found

liable, convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. (Ord. 11, 2002 §1)

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

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Article, or who shall alter or tamper with this Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby, shall, upon conviction thereof, be punishable as set forth in the general penalty provisions of this Code. (Ord. 11, 2002 §1)

**Sec. 1-4-50. 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 this Code by a supplement, shall, upon conviction thereof, be punishable as set forth in the general penalty provisions of this Code unless another penalty is specifically provided for the violation. (Ord. 11, 2002 §1)

**Sec. 1-4-60. Interpretation of unlawful acts.**

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful. (Ord. 11, 2002 §1)

**ARTICLE V**

**Inspections**

**Sec. 1-5-10. Entry.**

(a) Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the Town, any public inspector of the Town may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance. In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the public inspector is unable to obtain permission of such occupant or owner to enter such building or premises, the public inspector is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(b) It is unlawful for any person, knowing that a public inspector is legally authorized to inspect property, to refuse to produce or make available the property for inspection at a reasonable hour, or, if the property is available for inspection, he or she refuses to permit the inspection at a reasonable hour. (Ord. 7, 1984 §131; Ord. 11, 2002 §1)

**Sec. 1-5-20. 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 of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency. (Ord. 11, 2002 §1)

**Sec. 1-5-30. Announcement of purpose and authority to enter premises.**

Unauthorized entry pursuant to Section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry. (Ord. 11, 2002 §1)

**ARTICLE VI**

**Seal**

**Sec. 1-6-10. Corporate seal.**

A seal, the impression of which shall contain in the center the word "Seal" and around the outer edge the words "Town of Fairplay, Colorado," shall be and hereby is declared to be the Seal of the Town. (Ord. 11, 2002 §1)