

CHAPTER I
GENERAL PROVISIONS

Article 1-1 General Provisions

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1-1-1 Title

The provisions embraced in this and the following chapters, articles and sections shall constitute and be designated as the Code of the Town of Hotchkiss, Colorado, and may be so cited. This Code may also be cited as the Hotchkiss Municipal Code.

1-1-2 Definitions

The following definitions shall be observed in the interpretation and construction of this Code unless expressly provided otherwise in any chapter, article or section of this Code, or unless inconsistent with the manifest intent of any provision of this Code, or unless the context clearly requires otherwise:

- (a) "Town". The word "Town" or "this Town" shall mean the Town of Hotchkiss, Colorado.
- (b) "Board of Trustees". The word "Board" or "Trustees" shall mean the Board of Trustees of the Town of Hotchkiss.
- (c) "Code". The term "Code" shall be deemed to mean "The Code of the Town of Hotchkiss" as published and subsequently amended, unless the context requires otherwise.
- (d) "Person". The word "person" shall include a firm, partnership, corporation, association, or other organization acting as a group or unit as well as an individual.
- (e) "County". The words "the county" shall mean the County of Delta, Colorado.

- (f) "Day". A day is the period of time between any midnight and the midnight following.
- (g) "Daytime, Nighttime". "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.
- (h) "In the Town". The words "in the Town" shall mean and include all territory over which the Town now has, or shall hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory powers.
- (i) "Month". The word "month" shall mean a calendar month.
- (j) "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".
- (k) "Owner". The word "owner" applied to a building or land, shall include 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.
- (l) "Preceding, Following". The words "preceding" and "following" shall mean next before and next after, respectively.
- (m) "Property". The word "property" shall include real, tangible, and intangible personal property.
- (n) "Real Property". Real property shall include lands, tenements, and hereditaments.
- (o) "Public Way". The words "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
- (p) "Street". The word "street" shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.
- (q) "Sidewalk". The word "sidewalk" shall mean the portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians.
- (r) "Tenant"- The word "tenant" or "occupant" applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.
- (s) "Year". The word "year" shall mean a calendar year unless otherwise expressed.
- (t) "State". The words "the State" shall be construed to mean the State of Colorado.

Rules of Construction

- (a) "Words and Phrases". 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 the law shall be construed and understood according to such peculiar and appropriate meaning.
- (b) "Agency". When an ordinance requires an act to be done which may as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.
- (c) "Computation of Time". In computing any period of time prescribed within 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 Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Sunday or a legal holiday.
- (d) "Gender". Every word in any ordinance importing the masculine gender shall extend to and be applied to females as well as males, and associations and bodies corporate as well as individuals, shall be included.
- (e) "Shall and May". "Shall" is mandatory and "may" is permissive.
- (f) "Section Titles". The title of any section or subsection of this Code shall not be deemed to in any way restrict, qualify or to limit the effect of the provisions set forth and contained in such section or subsection.
- (g) "Number". Any word importing the singular shall include the plural and any word importing the plural shall include the singular.
- (h) "Tenses". Words used in the present tense include the past and future tenses. Words used in a future tense include the present and past tenses. Words used in the past tense include the future and the present tenses.
- (i) "Title of Office". The use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Town of Hotchkiss, Colorado.
- (j) Town Marshal - Chief of Police - the terms Town Marshal and Chief of Police shall be interchangeable and shall denote the ranking member of the Town of Hotchkiss Police force.

1-1-4

Amendments to This Code

- (a) All ordinances adopted 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, article, section, subsection or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances amending it are re-adopted as a new Code.

- (b) Amendments to any of the provisions of this Code shall be made by amending such provision's by specific reference to this Code in the following language:
“That _____ of the Code of the Town of Hotchkiss, Colorado, is hereby amended to read as follows:” The new provisions shall then be set out in full. In the event of a new chapter, article or section not heretofore existing in the Code is to be added, the following language shall be used: “That the Code of the Town of Hotchkiss, Colorado, is hereby amended by adding _____, to be numbered, which shall read as follows:” The new provisions shall then be set out in full as desired.

- (c) All sections, articles or chapters desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

1-1-5

Severability

The provisions of this Code are hereby declared to be severable, and if any chapter, article, section, provision or part thereof is held to be 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.

1-1-6 Saving Clause

The repeal of any ordinance or part thereof by the adoption of this Code shall not affect, deny, abridge or impair any right, action or cause of action occurring or arising under the ordinance or section so repealed, and such right, action, or cause of action may be prosecuted to a final determination notwithstanding such repeal. No offense committed and no fine, forfeiture or penalty incurred before any ordinance or part thereof is repealed by this Code, shall be affected, released or in any way discharged by such repeal; but the trial, conviction and punishment for any such offense and the recovery of fines, forfeitures and penalties shall be had in all respects as if the repealed provisions had remained in force.

1-1-7 Altering Code

It shall be unlawful for any person other than the Board of Trustees by official action to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Hotchkiss to be misrepresented thereby.

1-1-8 Repeal

All ordinances and parts of ordinances of a general and permanent nature adopted by the Town of Hotchkiss before the effective date of this Code, except as may be herein expressly excluded, are hereby repealed; provided however, that any ordinances establishing salaries, establishing any contract right, authorizing the issuance of any bonds or evidence of indebtedness of the Town of Hotchkiss, relating to the annual appropriation of the annual tax levy relating to any sales or use tax and the imposition and collection thereof, granting any franchise, annexing territory to the Town of Hotchkiss, naming streets or alleys, creating or assessing any local improvement district, or authorizing the sale, purchase or lease of property by the Town of Hotchkiss, shall not be considered to be ordinances of a general and permanent nature and the same are not hereby repealed; provided further, however, that Ordinance 1-1974, wherein the Town adopted, by reference, the 1973 edition of the Model Traffic Code for Colorado Municipalities, including, by way of reference and not limitation, all traffic and parking restrictions and all traffic control schedules contained therein, is hereby expressly excluded from repeal by this provision, as said Ordinance 1-1974 shall not be hereby repealed or superseded.

1-1-9

Effect of Repealing Ordinances

The repeal of any provision of this Code shall not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceedings as commenced under or by virtue of the provision repealed, nor the tenure of an office of any person holding office at the time when such repeal shall take effect. The repeal of any provision of this Code shall not revive any provision or any ordinance theretofore repealed or superseded.

1-1-10

General Penalty; Continuing Violations

- (a) Whenever in this Code or any other ordinance or resolution of the Town or any rule or regulation promulgated under the provisions of this Code any act is prohibited or declared to be unlawful or an offense or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefore, Any person pleading guilty, found guilty or convicted of violating a municipal ordinance or the Code of the Town of Hotchkiss, Colorado, may be incarcerated for a period not to exceed one (1) year or fined an amount not to exceed one thousand (\$1,000.00) dollars, or both.

- (b) Every day any violation of this Code or any other ordinance or resolution of the Town or any rule or regulation promulgated under the provisions of this Code shall constitute a separate offense.