

ORDINANCE NO. 2017 - 01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF RIDGWAY, COLORADO, AMENDING CERTAIN SECTIONS OF THE TOWN OF RIDGWAY MUNICIPAL CODE AND REMOVING IMPRISONMENT PROVISIONS

RECITALS:

- A.** The Town of Ridgway (the “Town”), in the County of Ouray and State of Colorado, is a home rule municipality duly organized and existing under the laws of the State of Colorado and the Town Charter.
- B.** Pursuant to Article III, Section 3.7 of the Town Charter the Town Council has the power to enact ordinances that promote the common good of the Town. Under the Town Charter, the Town Council shall exercise its legislative power to prescribe reasonable fines, jail sentences, and other sanctions for violations of such ordinances.
- C.** Article XX, Section § 6 (h) of the Colorado Constitution grants home rule municipalities the enumerated power necessary, requisite or proper for the government and administration of its local and municipal matters, including power to legislate upon, provide, regulate, conduct and control the imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of its charter, or of any ordinance adopted in pursuance of its charter.
- D.** The Town Council determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to amend the Town Code as provided for herein.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF RIDGWAY, COLORADO, AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Amendment of Town Code.

The following Sections of the Town Code shall be amended as reflected on **Exhibit A**, attached hereto and incorporated herein:

Chapter 1 – Section 1 - General Provisions

1-1-6 GENERAL PENALTY

Chapter 2 – Section 4 – Administrative Enforcement of the Ridgway Municipal Code

- 2-4-3 AUTHORITY
- 2-4-9 FAILURE TO OBEY SUBPOENA
- 2-4-12 FAILURE TO COMPLY WITH ADMINISTRATIVE ENFORCEMENT ORDER OR COMPLIANCE AGREEMENT

Chapter 3 – Section 1 – Telephone Utility Occupation Tax

- 3-1-4 PENALTY

Chapter 3 – Section 2 – Sales Tax

- 3-2-23 PENALTIES AND REMEDIES

Chapter 3 – Section 3 - Lodging Occupation Tax

- 3-3-4 ENFORCEMENT

Chapter 3 – Section 4 - Development Excise Tax

- 3-4-4 COLLECTION AND ENFORCEMENT

Chapter 5 – Section 1 - Municipal Court

- 5-1-3 JUDICIAL POWERS
- 5-1-4 SENTENCING
- 5-1-5 ENFORCEMENT OF FINES

Chapter 6 – Section 1 - Building Regulations

- 6-1-8 VIOLATIONS AND PENALTIES

Chapter 6 – Section 2 - Flood Plain Management Regulations

- 6-2-8 ENFORCEMENT

Chapter 6 – Section 3 - Regulations for Mobile Homes, Travel Homes, and Other Factory Manufactured Structures

- 6-3-4 ADMINISTRATION AND ENFORCEMENT

Chapter 6 – Section 6 - Single Family Home Design Standards

- 6-6-6 ENFORCEMENT AND ADMINISTRATION

Chapter 7 – Section 3 - Zoning Regulations

7-3-19 ENFORCEMENT AND ADMINISTRATION

Chapter 8 – Section 1 - Mobile Home Park and Travel Home Park Regulations

8-1-8 ADMINISTRATION AND ENFORCEMENT

Chapter 8 – Section 2 - Outdoor Concerts

8-2-4 VIOLATIONS

Chapter 10 – Section 2 - Nuisances

10-2-2 ABATEMENT OF NUISANCES

Chapter 11 – Section 1 - Animals

11-1-14 PENALTY

Chapter 14 – Section 5 - Excavation In and Encroachment f Town Property

14-5-21 ADMINISTRATION AND ENFORCEMENT

Chapter 15 – Section 1 – Traffic Regulations

15-1-13 PENALTIES

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5. Safety Clause.

The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare of the citizens of the Town.

Section 6. Effective Date.

This Ordinance shall take effect_____.

Section 7. Public Hearing.

A public hearing on this Ordinance was held on the 8TH day of March, 2017, in the Town Council Chambers, 201 N. Railroad Street, Ridgway, CO 81432

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Ridgway, Colorado on the 8th day of March 2017.

TOWN OF RIDGWAY, COLORADO, A HOME-RULE MUNICIPALITY

By: _____
JOHN CLARK, Mayor

ATTEST:

PAM KRAFT, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Ridgway, Colorado, this 12th day of April 2017.

TOWN OF RIDGWAY, COLORADO, A HOME-RULE MUNICIPALITY

By: _____
JOHN CLARK, Mayor

ATTEST:

PAM KRAFT, Town Clerk

Approved As To Form:

BO JAMES NERLIN, Town Attorney

EXHIBIT A

CHAPTER 1

SECTION 1

General Provisions

Subsections:

1-1-6 General Penalty.

1-1-6 GENERAL PENALTY.

(A) It shall be unlawful to violate any provision of any ordinance of the Town of Ridgway, or provision of the Ridgway Municipal Code. Any person convicted of a violation of any provision of any Town ordinance or the Ridgway Municipal Code, may be punished by a fine in an amount not to exceed \$300., ~~or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment, unless a lower maximum sentence is specified.~~

(B) Notwithstanding ~~the provisions of Paragraph (A), or~~ any other provision of a Town ordinance, or of the Ridgway Municipal Code, no person ~~under the age of 18 years~~ may be sentenced to any period of imprisonment, ~~except for conviction of a violation of a traffic ordinance.~~

EXHIBIT A

CHAPTER 2

SECTION 4

Administrative Enforcement of the Ridgway Municipal Code

Subsections:

- 2-4-3 Authority.
- 2-4-9 Failure to Obey Subpoena.
- 2-4-12 Failure to Comply with Administrative Enforcement Order or Compliance Agreement.

2-4-3 AUTHORITY.

(E) Enforcement actions are intended to be cumulative in nature. The Town may pursue one or more civil, ~~criminal,~~ and/or administrative actions, fees, fines, sentence, penalties, judgments, and remedies, and may do so simultaneously or in succession.

2-4-9 FAILURE TO OBEY SUBPOENA.

It shall be unlawful for any person to refuse to obey a subpoena issued by an AHO. Failure to obey a subpoena constitutes contempt ~~and may be criminally prosecuted.~~

2-4-12 FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER.

(A) It shall be unlawful for a responsible party who has been served with a copy of the final administrative enforcement order to fail to comply with the order, or to comply with the terms of a compliance agreement. ~~Failure to comply with a final administrative enforcement order or compliance agreement may be criminally prosecuted~~

EXHIBIT A

CHAPTER 3

SECTION 1

Telephone Utility Occupation Tax

Subsections:

3-1-4 Penalty.

3-1-4 PENALTY.

It shall be unlawful for any telephone utility company or any officer, agent or manager of such company to fail, neglect or refuse to make payments of the tax levied herein or to violate any of the provisions of this Section; and upon conviction of a violation of any provision of this Section, such company or person may be punished by a fine of not more than \$300, ~~or by a jail sentence of not more than 90 days, or by both said fine and imprisonment.~~

EXHIBIT A

CHAPTER 3

SECTION 2

Sales Tax

Subsections:

3-2-23 Penalty and Remedies.

3-2-23 PENALTY AND REMEDIES.

(B) Any person convicted of such a violation may be punished by a fine of up to \$300., ~~or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, no person under the age of eighteen (18) years shall be subject to any term of imprisonment in excess of 10 days.~~

EXHIBIT A

CHAPTER 3

SECTION 3

Lodging Tax

Subsections:

3-3-4 Enforcement.

3-3-4 ENFORCEMENT.

(F) Any person convicted by violation of any provision of this Section may be sentenced to a fine not to exceed \$300 ~~or imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of eighteen may be sentenced to any term of imprisonment.~~

EXHIBIT A

CHAPTER 3

SECTION 3

Development and Excise Tax

Subsections:

3-4-4 Collection and Enforcement.

3-4-4 COLLECTION AND ENFORCEMENT.

(A) It shall be unlawful to violate any provision of this Section or to fail to pay tax imposed hereby. The Municipal Court, as a condition of any conviction, may enter orders requiring the payment of any such tax. Any person convicted of such a violation may be ~~sentenced to a jail sentence of up to ninety (90) days or a fine~~ of up to \$300, ~~or both such fine and jail sentence~~. Each day that a violation continues shall be considered a separate violation. ~~Provided, however, no person under the age of eighteen (18) may be sentenced to any term of imprisonment in excess of ten (10) days.~~

EXHIBIT A

CHAPTER 5

SECTION 1

Municipal Court

Subsections:

- 5-1-3** Judicial Powers.
5-1-4 Sentencing.
5-1-5 Enforcement of Fines.

5-1-3 JUDICIAL POWERS.

(A) The Municipal Judge shall have all judicial powers relating to the operation of the Municipal Court, including the power to impose Punishment for contempt of court. Notwithstanding these judicial powers, the Municipal Judge shall not have the authority to use imprison when imposing punishment for contempt of court violations.

(B) In addition to any other acts which may be deemed contempt of court, the Municipal Judge shall have the authority to punish the following as contempt of court in accordance with the provisions of Rule 107 of the Colorado Rules of Civil Procedure, except the ability to detain or imprison:

(1) Failure to obey a subpoena properly served without adequate excuse.

(2) Failure to obey a summons for jury duty or to respond to inquiry from the Court requesting information necessary to chose a jury panel without adequate excuse.

(3) Failure of an attorney of record or party to appear before the Court at a scheduled appearance date without adequate excuse.

~~(C) If any person is determined to be indigent and is not appointed legal counsel after request, they may not be sentenced to any term of imprisonment.~~

5-1-4 SENTENCING.

(A) Any person convicted of a violation of any provision of a Town ordinance shall be sentenced in accordance with provisions of this Section, or in any other lawful manner not in conflict with this Section.

EXHIBIT A

(B) The minimum fine ~~or term of imprisonment~~ imposed shall not be less than that specified by the applicable ordinance provision, and the maximum fine ~~or term of imprisonment~~ shall not exceed that specified by the applicable ordinance provision.

(C) Plea discussions and plea agreements may be entered into by the prosecution and approved by the Municipal Judge in accordance with the provisions of Part 3, Article 7 of Title 16, Colorado Revised Statutes, 1973, as amended, including deferred prosecution and deferred sentencing as provided in Part 4, Article 7 of Title 16, Colorado Revised Statutes, 1973, as amended.

(D) The Court may place the defendant upon probation, supervised or unsupervised, for such period and on such conditions as the Court may determine.

(E) The Court may suspend a sentence or a portion of it upon such conditions as the Court may determine.

(F) ~~Prisoners may be put to work for the public benefit.~~

5-1-5 ENFORCEMENT OF FINES.

A sentence imposing a fine shall be enforceable by the Town in the same manner as a civil judgment or as other delinquent charges due the Town. ~~Further, if the defendant fails to pay the fine in accordance with the direction of the Court, the defendant shall be imprisoned until the fine is satisfied or the defendant has served 15 days in jail. Serving a term of imprisonment does not discharge the obligation to pay the fine.~~ A warrant for the arrest of any defendant failing to pay a fine in accordance with the Court's order may be issued.

EXHIBIT A

CHAPTER 6

SECTION 1

Building Regulations

Subsections:

6-1-8 Violations and Penalties.

6-1-8 VIOLATIONS AND PENALTIES.

(A) It shall be unlawful to violate any provision of this Chapter, the State Electrical Code, the Colorado Plumbing Code, any of the Codes adopted by reference herein, or any notice, stop order, permit, certificate or other order issued by the Town pursuant to said Codes or this Chapter. Any person convicted of such a violation shall be punished by a fine of not more than \$300 ~~or imprisonment for not more than ninety days or by both fine and imprisonment; provided, however, no person under the age of eighteen years shall be sentenced to any term of imprisonment in excess of ten days, except for contempt of Court.~~ Each day during which any violation is committed or permitted to continue shall be considered as a separate offense. As part of any sentence the Municipal Court may order restitution of the Town's cost of enforcement including reasonable attorney's fees.

EXHIBIT A

CHAPTER 6

SECTION 2

Flood Plain Management Regulations

Subsections:

6-2-8 Enforcement.

6-2-8 ENFORCEMENT.

(A) It shall be unlawful for any person to violate any of the provisions of this Section. Any person convicted of such a violation may be punished by a fine of up to \$300, ~~or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years shall be subject to any term of imprisonment except for contempt of court.~~ Each day any violation continues shall be considered a separate offense.

EXHIBIT A

CHAPTER 6

SECTION 3

Regulations for Mobile Homes, Travel homes, and Other Factory Manufactured Structures

Subsections:

6-3-4 Administration and Enforcement.

6-3-4 ADMINISTRATION AND ENFORCEMENT.

(C) Any person convicted of a violation of any of the provisions of this Section shall be punished by a fine of not more than \$300., ~~or imprisonment of not more than ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years may be sentenced to any period of imprisonment except for contempt of court.~~ Each day during which any violation is committed or permitted to continue shall be considered to constitute a separate offense.

EXHIBIT A

CHAPTER 6

SECTION 3

Single Family Home Design Standards

Subsections:

6-6-6 Enforcement and Administration.

6-6-6 ENFORCEMENT AND ADMINISTRATION.

(E) It shall be unlawful to violate any of the provisions of these regulations, or the terms of any decision entered pursuant to this Subsection. Any person convicted of such a violation may be punished by a fine of up to three hundred (\$300) dollars, ~~or a jail sentence of up to ninety (90) days, or by both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subject to any term of imprisonment in excess of ten (10) days, except for contempt of Court.~~ Each day any violations continues shall constitute a separate violation.

EXHIBIT A

CHAPTER 7

SECTION 3

Zoning Regulations

Subsections:

7-3-19 Enforcement and Administration.

7-3-19 ENFORCEMENT AND ADMINISTRATION.

(F) It shall be unlawful to violate any of the provisions of these Zoning Regulations, or the terms of any decision entered pursuant to this Section. Any person convicted of such a violation may be punished by a fine of up to \$300 dollars, ~~or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, that no person under the age of 18 years shall be subject to any term of imprisonment, except for contempt of Court.~~ Each day any violation continues shall constitute a separate violation.

EXHIBIT A

CHAPTER 8

SECTION 1

Mobile Home Park and Travel Home Park Regulations

Subsections:

8-1-8 Administration and Enforcement.

8-1-8. ADMINISTRATION AND ENFORCEMENT.

(C) Any person convicted of a violation of any of the provisions of this Section shall be punished by a fine of not more than \$300, ~~or imprisonment of not more than ninety (90) days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years may be sentenced to any period of imprisonment except for contempt of court.~~ Each day during which any violation is committed or permitted to continue shall be considered to constitute a separate offense.

EXHIBIT A

CHAPTER 8

SECTION 2

Outdoor Concerts

Subsections:

8-2-4 Violations.

8-2-4 VIOLATIONS.

(A) It shall be unlawful for any person to violate any of the provisions of this Ordinance. Any person convicted of such a violation may be punished by a fine of up to \$300.5; ~~or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years shall be subject to any term of imprisonment, except for contempt of Court.~~

EXHIBIT A

CHAPTER 10

SECTION 2

Nuisances

Subsections:

10-2-2 Abatement of Nuisances.

10-2-2 ABATEMENT OF NUISANCES.

(C) The Town may prosecute any person maintaining or allowing a nuisance to exist in Municipal Court, and upon conviction, the Court may enter an order on such items as it deems appropriate for the abatement of the nuisance in addition to any fine. ~~or jail sentence~~

EXHIBIT A

CHAPTER 11

SECTION 1

Animals

Subsections:

11-1-14 Penalty.

11-1-14 PENALTY.

(A) Any person convicted of a violation of any of the provisions of this Section shall be punished by a fine not to exceed \$300 ~~or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment; provided however that no person under the age of 18 years may be sentenced to any term of imprisonment in excess of ten (10) days.~~

EXHIBIT A

CHAPTER 14

SECTION 5

Excavation in and Encroachment of Town Property

Subsections:

14-5-21 Administration and Enforcement.

14-5-21 ADMINISTRATION AND ENFORCEMENT.

(A) It shall be unlawful to violate any of the provisions of this Section, or of a permit issued hereunder. Any person convicted of such a violation may be punished by a fine up to \$300, ~~or jail sentence of up to 90 days, or by both such fine and imprisonment, provided however no person under the age of 18 years shall be subject to imprisonment in excess of ten days, except for contempt of court.~~ Each day a violation continues shall be considered a separate violation.

EXHIBIT A

CHAPTER 15

SECTION 1

Traffic Regulations

Subsections:

15-1-13 Penalties.

15-1-13 PENALTIES.

(A) It shall be unlawful to violate any of the provisions of this Section 15-1 or of the Model Traffic Code adopted by reference herein. Any person convicted of a violation of any provision not classified as a Traffic Infraction, may be punished by a fine in an amount not to exceed \$300, ~~or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment, unless a lower maximum sentence is specified.~~