

CHAPTER 1

General Provisions

Article I General

Sec. 1-1	How Code designated and cited.....	1-1
Sec. 1-2	Definitions and rules of construction	1-1
Sec. 1-3	Amendments or additions to Code.....	1-2
Sec. 1-4	Catchlines of sections; history notes, cross-references, etc.; reference to Code	1-2
Sec. 1-5	Aiding and abetting.....	1-3
Sec. 1-6	Attempts.....	1-3
Sec. 1-7	Complicity	1-3
Sec. 1-8	General penalty; continuing violations	1-3
Sec. 1-9	Commitment for failure to pay fine	1-4
Sec. 1-10	Severability of parts of Code	1-4
Sec. 1-11	Officers to continue	1-4
Sec. 1-12	Certain ordinances not affected by Code	1-4
Sec. 1-13	Provisions considered as continuation of existing ordinances	1-5
Sec. 1-14	Code not affecting prior offenses, rights, etc.	1-5
Sec. 1-15	Fees set by resolution; review.....	1-5
Sec. 1-16	City Clerk to keep copies of Code	1-5
Sec. 1-17	Penalty for altering copies of Code.....	1-5
Sec. 1-18	City right to recover costs.....	1-6

ARTICLE I

General

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following Chapters shall constitute and be known as the *Municipal Code of the City of Idaho Springs* and may be cited under that name or as the *Idaho Springs Municipal Code*. (Ord. 8 §1, 2006)

Sec. 1-2. Definitions and rules of construction.

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 City of Idaho Springs, Colorado.

This Code. The Municipal Code of the City of Idaho Springs as designated in Section 1-1 above.

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 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, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Eve – one-half (½) day, Christmas Day and any other day appointed as a holiday by the President or the Congress of the United States or pursuant to state statute.

Council or City Council. The City Council of the City of Idaho Springs, Colorado.

County. Clear Creek County, Colorado.

Criminal negligence. A person acts with *criminal negligence* when, through a gross deviation from the standard of care that a reasonable person would exercise, he or she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

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.

Intentionally or with intent. All offenses defined in this Code in which the mental culpability requirement is expressed as *intentionally* or *with intent* and declared to be specific intent offenses. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

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.

Knowingly or willfully. All offenses in which the mental culpability requirement is expressed as *knowingly* or *willfully* and declared to be in general intent crimes. A person acts *knowingly* or *willfully* with respect to conduct or to a circumstance described by an ordinance defining an offense when he or she is aware that his or her conduct is practically certain to cause the result.

May is permissive and not mandatory.

May not has a prohibitory effect and states a prohibition.

Mayor. The Mayor of the City of Idaho Springs.

Month. A calendar month.

Must is mandatory and not permissive.

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

Oath is 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*.

Officers, boards, commissions. Whenever reference is made to any officer, board or commission, the reference shall be construed as if followed by the words "of the City of Idaho Springs."

Owner, applied to a building or land, includes any part owner, joint owner, tenant in common or joint tenant of the whole or of a part of such building or land.

Person extends and is applied to associations, corporations, firms, partnerships and bodies politic and corporate, as well as to individuals.

Preceding, following. The words *preceding* and *following* mean next before and next after, respectively.

Public or private property. Includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores of beaches thereof, any park, playground or building, any refuges, conservations or recreation areas, and any residential, commercial, industrial, farm or ranch properties or timberland.

Public place. A place to which the public or a substantial segment of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities.

Recklessly. A person acts *recklessly* when he or she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Roadway. That portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall is mandatory and not permissive.

Sidewalk. 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.

State. The State of Colorado.

Street includes any highway, alley, street, avenue, public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway in the City, dedicated or devoted to public use. Such term also includes any access that meets the requirements of Section 43-2-201, C.R.S., as amended.

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

Will is mandatory and not permissive.

Written or in writing includes any representation of words, letters or figures, whether by printing or otherwise.

Year. A calendar year.
(Ord. 8 §1, 2006)

Sec. 1-3. Amendments or additions to Code.

(A) Any additions or amendments to this Code shall be adopted as ordinances under applicable provisions of state law and this Code and, when passed in such form as to indicate the intention to make the same a part hereof, shall be deemed to be incorporated into this Code so that reference to it as the "Municipal Code of the City of Idaho Springs" shall be understood as including such additions or amendments.

(B) 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, subsection or any portion thereof, such repealed portions may be excluded from this 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.

(C) 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 _____ of the Municipal Code of the City of Idaho Springs, Colorado, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
(Ord. 8 §1, 2006)

Sec. 1-4. Catchlines of sections; history notes, cross-references, etc.; reference to Code.

(A) The catchlines 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 section nor as any part of the section; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(B) Any history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Such notes are provided for the convenience of the user of this Code and have no legal effect.

(C) All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.
(Ord. 8 §1, 2006)

Sec. 1-5. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act violating the provisions of this Code, whether individually or in connection with one (1) or more other persons, or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Code is likewise guilty of such offense.
(Ord. 8 §1, 2006)

Sec. 1-6. Attempts.

(A) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of a violation of this Code, he or she engages in conduct constituting a substantial step toward the commission of the offense. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(B) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his or her complicity under Section 1-7 below were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(C) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his or her criminal intent.
(Ord. 8 §1, 2006)

Sec. 1-7. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense.
(Ord. 8 §1, 2006)

Sec. 1-8. General penalty; continuing violations.

(A) In this Section, *violation of this Code* means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is declared a misdemeanor, an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(B) In this Section, *violation of this Code* does not include the failure of a City officer or City employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this Section.

(C) Except for violations of Chapter 17 of this Code and violations of the Model Traffic Code classified in Chapter 15 as criminal traffic offenses, and as otherwise provided, violations of any provision of this Code are noncriminal offenses and are civil matters. This Section shall control over any provision in the Code that provides for imprisonment but does not expressly state that the offense is criminal. Trial of noncriminal offenses shall be by the court. No defendant found civilly liable for a noncriminal offense shall be punished by imprisonment for such offense, but may be fined an amount not to exceed two thousand six hundred fifty dollars (\$2,650.00). Any person convicted of a criminal violation of any section of this Code shall be imprisoned for a period not to exceed one (1) year or fined an amount not to exceed two thousand six hundred fifty dollars (\$2,650.00), or both. With respect to violations of this Code which are continuous, a separate offense shall be deemed committed for each day the violation occurs or continues.

(D) No person under the age of eighteen (18) years as of the date of the offense for which he or she was convicted shall be subject to the imposition of a jail sentence, but may be confined for up to forty-eight (48) hours in a juvenile detention facility for violation of any probation conditions or for contempt of court in accordance with Section 13-10-113(5), C.R.S., as amended.

(E) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(F) Violations of this Code which are continuous may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.
(Ord. 8 §1, 2006; Ord. 9 §1, 2013)

Sec. 1-9. Commitment for failure to pay fine.

(A) Every person against whom a fine or penalty shall be assessed under the ordinances of the City, who shall refuse or neglect to pay the same when demanded, upon execution ordered by the Municipal Judge may be committed in default thereof to the county jail or such other suitable place as shall be provided by the City under the direction of the proper officer until the fine or penalty is fully paid and satisfied or the person has served the maximum incarceration period for the offense of which such person was convicted, whichever first occurs. Such satisfaction shall be made at a rate to be determined from time to time by order of the Municipal Court, and such person may be required to do any reasonable work while confined. The foregoing notwithstanding, in the discretion of the Municipal Judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installment payments. In case the defendant refuses or neglects to comply with the terms of the stay of execution, then execution may issue and the defendant may be committed to the county jail, as provided in this Section, until such fine, penalty or judgment is fully paid or otherwise satisfied.

(B) Upon the failure or neglect by a person to pay a fine as directed by the Municipal Court, the Municipal Court shall inquire as to the grounds for such person's neglect or failure to pay such fine. Should the Municipal Court be satisfied that the grounds for such person's failure to pay the fine is solely indigency, the Municipal Court shall not incarcerate the person; provided, however, that the person who owes the fine has the burden of going forward and persuasion on the issue of indigency.
(Ord. 8 §1, 2006)

Sec. 1-10. 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.
(Ord. 8 §1, 2006)

Sec. 1-11. Officers to continue.

If any ordinance that creates an office or employment in the City is repealed by the adoption of this Code, and the same office or employment is also provided for in this Code, then the present incumbent of the office or employment shall continue to hold such office or employment and to perform the duties and functions thereof until removed therefrom in accordance with this Code or until his or her successor is elected or appointed and qualified.
(Ord. 8 §1, 2006)

Sec. 1-12. 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 establishing any contract right.
 - (2) Any ordinance authorizing the issuance of any bond or evidence of indebtedness of the City.
 - (3) Any ordinance relating to the annual appropriation or the annual tax levy.
 - (4) Any ordinance granting any franchise.
 - (5) Any ordinance annexing territory to the City.
 - (6) Any ordinance naming, dedicating or vacating streets or alleys.
 - (7) Any ordinance creating or assessing any local improvement district.
 - (8) Any ordinance authorizing the sale, purchase or lease of property by the City.
 - (9) Any ordinance adopting personnel rules.
 - (10) Any ordinance relating to a subdivision that is not codified in this Code.
 - (11) Any ordinance that is temporary, although general in effect.
 - (12) Any ordinance that is special, although permanent in effect.
 - (13) Any ordinance that was adopted for purposes that have been consummated.
- (Ord. 8 §1, 2006)

Sec. 1-13. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.
(Ord. 8 §1, 2006)

Sec. 1-14. Code not affecting prior offenses, rights, etc.

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

(B) No offense committed, and no fine, forfeiture or penalty incurred before the provisions of any ordinance, part of an ordinance or resolution are repealed, shall be affected, released or in any way discharged by such repeal. Trial, conviction and punishment for any such offense and recovery of fines, forfeitures and penalties shall be had in all respects as if the repealed provisions had remained in force.
(Ord. 8 §1, 2006)

Sec. 1-15. Fees set by resolution; review.

(A) Except as may be otherwise established by individual ordinance, all fees, assessments or charges for permits, licenses or services as established in this Code shall be set from time to time by resolution duly adopted by the City Council. It is the intent that all municipal fees and charges shall, at a minimum, be reviewed annually and that additions, deletions or adjustments in such fees and charges shall be adopted before December 31 of each year, becoming effective at the beginning of the next fiscal year. Failure to conduct an annual review of any fee, assessment or charge shall not in any way affect the continuing validity thereof, and all fees, assessments and charges shall remain in full force until amended by subsequent resolution adopted by the City Council. This Section is not intended to apply to fines, nor to any deposit or penalty, whether expressed as an absolute amount or as a percentage, in this Code.

(B) In addition to all fees, assessments and charges established elsewhere in this Code, there shall be included in the fees and charges set annually certain administrative fees, which may include but shall not be limited to:

- (1) Returned check charges;
 - (2) Research charges; and
 - (3) Document charges, including photocopying charges.
- (Ord. 8 §1, 2006)

Sec. 1-16. City Clerk to keep copies of Code.

The City Clerk shall keep copies of this Code on file in the office of the City Clerk available for public inspection and for distribution to the public for such reasonable charge therefor as the City Council may establish from time to time. It shall be the express duty of the City Clerk to insert in the Code, upon final passage, all amendments or ordinances which indicate the intention of the City Council to make the same a part thereof, and to extract from the Code all such provisions which may from time to time be repealed by the City Council. A copy of this official Code of the City of Idaho Springs in printed form shall, when certified as a true copy by the City Clerk, be received without further proof as competent evidence in all courts or other legally established tribunals as the ordinances of a permanent and general nature for the City.
(Ord. 8 §1, 2006)

Sec. 1-17. Penalty for altering copies of Code.

It is unlawful for any person, firm or corporation to change, amend, alter or tamper with, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof in any manner whatsoever which will cause the law of the City to be misrepresented thereby; provided, however, that this Section shall not apply to additions, revisions or amendments duly passed and adopted by the City Council, or to the editing or correction by the City Attorney and/or City Clerk of typographical, grammatical, formatting or similar nonsubstantive errors that may be discovered or occur from time to time within this Code. Any person, firm or corporation violating this Section shall be subject to the penalty set forth in Section 1-8 above.
(Ord. 8 §1, 2006)

Sec. 1-18. City right to recover costs.

(A) Whenever the City is authorized to take action to bring about compliance with provisions of this Code, the actual, direct costs incurred by the City therefor may be recovered from the responsible party. As provided elsewhere in this Code, when the action taken involves real property, and the property owner fails to reimburse the City within thirty (30) days, the charges will become a lien against the real property and may be certified to the County Treasurer, to be collected in the same manner as general taxes.

(B) Nothing in this Section shall be construed to include routine operation costs of the City, such as payroll for enforcement staff writing tickets or administrative staff sending notices of violations.
(Ord. 8 §1, 2006)

Sec. 1-19—1-30. Reserved.