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ARTICLE 1

Code

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

The published code known as the Brush Municipal Code, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the City 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 City of Brush, Colorado, as a codification of all the ordinances of the City of Brush of a general and permanent nature through Ordinance No. 774-06, 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 City. (Ord. 774-06 §1)

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

This Code constitutes a compilation, revision and codification of all the ordinances of the City of Brush, Colorado, of a general and permanent nature, and shall be known as the *Brush Municipal Code*. (Prior code §1-1; Ord. 774-06 §1)

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

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the City Council. (Ord. 774-06 §1)

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

Secondary codes may be adopted by reference, as provided by state law. (Ord. 774-06 §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general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided.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. 774-06 §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incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.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. 774-06 §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 City.
- (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 City.
- (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. 774-06 §1)

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

In compiling and preparing the ordinances of the City 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 City Council 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. 774-06 §1)

ARTICLE 2

Definitions and Usage

Sec. 1-2-10. Definitions.

In the construction of this Code, the following words and phrases, whenever used in the ordinances of the City of Brush 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:

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

City Council means the City Council of the City of Brush.

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

County means the County of Morgan, Colorado.

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

Day is the period of time between any midnight and the midnight following.

Daytime is the period of time between sunrise and sunset. *Nighttime* is the period of time between sunset and sunrise.

Law denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the City 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 in all cases in which, by law, an affirmation maybe 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 City; 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 such building, land, motor vehicle, animal or other real or personal property.

Person means a natural person, corporation, firm, partnership, association, joint venture, joint stock company, club, company, business, trust, organization and any other group acting as a unit or the manager, lessee, agent, servant, officer or employee of any of them. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word *person* is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the officers, agents or members thereof who are responsible for any violation of such section.

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, tangible and intangible personal property.

Real property, premises, real estate or *lands* shall be deemed to be coextensive with lands, tenements and hereditaments.

Shall and *must* are both mandatory.

Sidewalk means the portion of the street between the curblin and the adjacent property line intended for the use of pedestrians.

State means the State of Colorado.

Street includes any public way, highway, street, avenue, boulevard, parkway, lane, alley, court, place, square, curb or other public thoroughfare in the City which has been or may hereafter be dedicated and open to public use, or such other public property so designated in any state law.

Tenant and *occupant*, applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Writing and *written* shall include printing, lithographing or any other mode of representing words and letters. Whenever any notice, report, statement or record is required or authorized

by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Year means a calendar year, unless otherwise expressed. (Prior code §1-2; Ord. 774-06 §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. (Prior code §1-2; Ord. 774-06 §1)

Sec. 1-2-30. Title of office.

(a) Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City, or his or her designated representative.

(b) Wherever in this Code reference is made to the *City Superintendent*, the same shall mean the *City Administrator* and shall refer to that office designated by Section 2-3-50 of this Code. (Prior code §§1-2, 1-10; Ord. 774-06 §1)

Sec. 1-2-40. Joint authority.

All words giving a joint authority to three (3) or more persons shall be construed as giving such authority to a majority of such persons. (Prior code §1-2)

Sec. 1-2-50. 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. 774-06 §1)

Sec. 1-2-60. Grammatical interpretation.

The following grammatical rules shall apply to this Code and to City 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.

(5) Whenever reference is made, Alderman, Councilor, Council member, Council person, shall mean the same. (Prior code §1-2; Ord. 774-06 §1)

ARTICLE 3

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. (Prior code §1-3; Ord. 774-06 §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. 774-06 §1)

Sec. 1-3-30. Prohibited acts.

Whenever in this Code or any City 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. 774-06 §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. 774-06 §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. 774-06 §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 City 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 City. 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 City Council. (Ord. 774-06 §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 below. (Ord. 774-06 §1)

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

(a) The City Council 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 City Council 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 City Clerk, or someone authorized and directed by the City 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 City Clerk for the use of the public. (Ord. 774-06 §1)

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

The Mayor and City 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 this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the Mayor and City Clerk shall carefully examine at least one (1) copy of this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the City and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 774-06 §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 City 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 City Clerk's office except upon proper order of a court of law. (Ord. 774-06 §1)

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

Copies of this Code book may be purchased from the City Clerk upon the payment of a fee to be set by resolution of the City Council. (Ord. 774-06 §1)

Sec. 1-3-120. 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 City to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 of this Chapter. (Ord. 774-06 §1)

Sec. 1-3-130. Severability.

The provisions of this Code are declared to be severable, and if any phrase, clause, sentence, paragraph, section 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. (Prior code §1-5; Ord. 774-06 §1)

ARTICLE 4

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. (Ord. 774-06 §1)

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

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 three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. 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. (Prior code §1-6; Ord. 774-06 §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 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 three hundred dollars (\$300.00) 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. (Ord. 774-06 §1)

Sec. 1-4-40. 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 provided by 1-4-20 above unless another penalty is specifically provided for the violation. (Ord. 774-06 §1)

Sec. 1-4-50. 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. 774-06 §1)

ARTICLE 5

Inspections

Sec. 1-5-10. Entry.

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 City, the City Administrator 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 City Administrator is unable to obtain permission of such occupant or owner to enter such building or premises, the City Administrator is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 774-06 §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 City, 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 City 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. 774-06 §1)

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

Unauthorized entry pursuant to Section 1-5-20 above 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. 774-06 §1)

ARTICLE 6

Seal

Sec. 1-6-10. Corporate seal.

A seal, the impression of which is as follows: in the center the word "Seal" surrounded by the words "City of Brush, Colorado," shall be and hereby is declared to be the official seal of the City.
(Prior code §1-9)