





Title 1

GENERAL PROVISIONS

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Chapter 1.00

OFFICIAL CODE

Sections:

- 1.00.010 Official Code of Clyde Park
- 1.00.020 Title of Code
- 1.00.030 Amending This Code
- 1.00.040 Repealing Ordinance: Effect Of
- 1.00.050 Rules For Construction

1.00.010 Official Code of Clyde Park. This compilation, revision and codification of the general ordinances of the Town of Clyde Park is hereby declared to be and shall hereafter constitute the official code of general ordinances of the Town of Clyde Park, Montana.

1.00.020 Title of Code. This code shall hereafter be known and referred to as the Official Code of the Town of Clyde Park, Montana, and a copy or copies of such Code in printed form shall be received without further proof as the ordinances of permanent and general effect in the Town of Clyde Park, in all courts and administrative tribunals of this State.

1.00.030 Amending This Code. Any ordinance amending this code shall set forth in full the section or sections of the code being amended, and this shall constitute a sufficient compliance with any statutory requirement that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.

1.00.040 Repealing Ordinance: Effect Of. The repeal of ordinances as provided shall not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceeding as commenced under or by virtue of the ordinance repealed, nor the tenure of office of any person holding office at the time when they take effect; nor shall

the repeal of any ordinance thereby have the effect of reviving any ordinance therefor repealed or superseded.

1.00.050 Rules For Construction. In the construction of the official code and all ordinances amendatory thereof or supplementary thereto the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the legislative body or repugnant to the context.

A. INTENT TO DEFRAUD: Whenever, by any of the provisions of the official code, an intent to defraud is required in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association or body politic or any combination of persons.

B. LIABILITY OF EMPLOYERS AND AGENTS: When the provisions herein contained prohibit the commission or omission of an act, not only the person actually doing the prohibited thing or omitting the directed act, but also the employer and all other persons concerned or aiding or abetting the person shall be guilty of the offense described and liable to the penalty set forth.

C. TITLE OF SECTIONS AND SUBSECTIONS: The title of any section or subsection of this official code shall be deemed to in no wise restrict, qualify or to limit the effect of the provisions set forth and contained in such section or subsection.

D. EFFECT OF CONSTITUTIONALITY: Should any portion of this official code be declared by any court of competent jurisdiction to be unconstitutional or void, such adjudication shall in no way affect the remaining portion of this official code.

E. DEFINITIONS:

The singular number includes the plural.

Words used in the present include the future.

Words used in the masculine gender include, as well, the feminine and neuter.

The word "person" includes bodies politic and corporate, partnerships, associations and corporations.

The word "signature" includes any name, mark or sign written with the intent to authenticate any instrument of writing.

The word "oath" includes "affirmation", and the word "swear" includes the word "affirm". Every mode of oral statement under oath or affirmation is embraced in the term "depose".

The word "official time" whenever used shall mean standard time in the Town of Clyde Park.

The word "day" shall mean any twenty-four (24) hour period from midnight to midnight; and the word "month" shall mean a calendar month unless otherwise expressed; and the word "quarter" shall mean any three (3) month period, ending with the last day of March, June, September and December; and the word "year" shall mean any one (1) calendar year unless otherwise expressed.

The word "shall" is mandatory, "may" is discretionary.

The word "property" includes both real and personal property.

The term "land", "real estate" and "real property" includes lands, tenements, hereditaments, water rights, possessory rights and claims.

The term "personal property" includes every description of money, goods, chattels, effects, evidence of rights of action, and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right or interest therein.

The word "public thoroughfare" includes streets, alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

The word "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Words prohibiting anything being done, except in accordance with a license or permit or authority from a board of officers, shall be construed as giving such board of officers power to license or permit or authorize such thing to be done.

Whenever the word "council" is used it shall be construed to mean the Town Council of this Town.

The word "officer" shall include officers and boards in charge of departments and the members of such boards, and such reference as the use of the word "city" or "town" shall mean this municipality. "Clerk" or "treasurer" and others shall mean the Town Clerk or Town Treasurer as the case may be applicable.

The term "willfully" when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make intent to violate law or to injure another or to acquire an advantage.

The terms "neglect", "negligence", "neglect" and "negligently" impart a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

The term "knowingly" imparts a knowledge that the fact exists which brings the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such act or omission.

Chapter 1.02

WARDS

Sections:

- 1.02.010 Designating Wards
- 1.02.020 First Ward
- 1.02.030 Second Ward

1.02.010 Designating Wards. The Town is to be divided into two (2) wards, which shall be numbered First and Second Ward, respectively.

1.02.020 First Ward. All of that portion of the Town consisting of the original plat and amended additions thereto, lying easterly from a line drawn parallel with the center of what is known as Miles Street and Dinsmore Street in the Town, shall comprise the First Ward of the Town.

1.02.030 Second Ward. All of that portion of the Town consisting of the original plat and amended additions thereto, lying westerly from a line drawn parallel with the center of what is known as Miles Street and Dinsmore Street in the Town, shall comprise the Second Ward of the Town.

(Ord 18)

Chapter 1.04

CORPORATE SEAL

Sections:

1.04.010 Adoption of Seal

1.04.010 Adoption of Seal. A seal of circular form with the words "Town of Clyde Park, State of Montana", and underneath, the date "1913" is hereby adopted and declared to be the corporate seal of the Town, to be used in all cases in which a seal is necessary to be used by said corporation.

(Ord 3)

Chapter 1.06

PUBLISHING OF NOTICES, RESOLUTIONS, AND ORDINANCES

Sections:

1.06.010 Publishing of Notices, Resolutions, and Ordinances

1.06.010 **Publishing of Notices, Resolutions, and Ordinances.** Notices, resolutions, or ordinances passed by the Town of Clyde Park will or may be published, as required by Montana Law, as follows:

- a. By publishing the same by posting a copy of the notice, resolution or ordinance within the Town of Clyde Park at the following three (3) locations: Town Hall, General Store, and Bank of the Rockies, or the successor for the General Store or Bank of the Rockies; and/or, (Amended Ord. 64, 10-1-2002)
- b. By publishing the same in the Town of Clyde Park monthly newsletter at least one (1) time. (Amended, Ord. 64, 10-1-2001)

Chapter 1.08

GENERAL PENALTY

Sections:

- 1.08.010 General Penalty
- 1.08.020 Execution of a Fine

1.08.010 General Penalty. Whenever in any provision of this Code or other ordinance of the Town any act is prohibited or is made or declared to be unlawful, a misdemeanor or an offense, or whenever in any such provision or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided therefor, any person upon conviction for the violation of any such provision of this Code or ordinances shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment, for each such offense. Each day any violation of any provision of any ordinance shall continue, shall constitute a separate offense.

In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

1.08.020 Execution of a Fine.

A. If the judgment is for a fine alone, execution may issue thereon as on a judgment in a civil case;

B. If the judgment is for a fine and imprisonment until fine be paid, the defendant must be committed to the custody of the proper officer, and by him detained until the judgment is complied with. The imprisonment must not exceed one (1) day for every ten dollars (\$10.00) of the fine.

Chapter 1.10

MUNICIPAL INFRACTION

Sections:

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| 1.10.010 | Definitions. |
| 1.10.020 | Civil Citations. Service and Requirements |
| 1.10.030. | Court Proceedings |
| 1.10.040 | Penalties |
| 1.10.050 | Appeals |
| 1.10.060 | Issuance of Civil Complaint Not Grounds for Further Legal Action |
| 1.10.070 | Environmental Actions |

1.10.010 Definitions.

A. "Municipal Infraction" means any violation of the Clyde Park Municipal Code which has been specifically declared to be a Municipal Infraction under provisions of the Clyde Park Municipal Code.

B. "Officer" means any employee or official authorized to enforce provisions of the Clyde Park Municipal Code or Clyde Park Municipal Regulation.

C. "Repeat Violation" means a recurring violation for the same section of the Clyde Park Municipal Code. Each day that a violation occurs or is permitted to exist constitutes a separate and distinct infraction. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.020 Civil Citations. Service and Requirements.

A. The City Attorney will prepare a civil complaint which will be served upon a person who commits a municipal infraction once it is filed in the City Court. A copy of the civil complaint may be served on the defendant by any one of the following methods:

1. Personal Service;
2. By certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested; or,
3. By publication, in the manner described in Rule 4D(5) of the Montana Rules of Civil Procedure.

B. The original complaint will be filed with the Town of Clyde Park City Court.

C. The complaint will serve as notification that a municipal infraction has been committed and will contain the following information:

1. The name and address of the defendant;
2. The name or description of the infraction attested to by the Community Service Officer;
3. The location and time of the infraction;
4. The amount of the civil penalty to be assessed or the alternative relief sought, or both;
5. The manner, location and time in which the penalty may be paid;
6. The time and place of court appearance; and,
7. The penalty for failure to appear in court. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.030. Court Proceedings.

A. If the total amount of civil penalties do not exceed three thousand dollars (\$3,000.00), the matter will be tried before the City Court Judge in the same manner as a small claim. If the total amount of civil penalties assessed exceeds three thousand dollars (\$3,000.00), the matter must be tried before a District Court Judge.

B. The Town has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof must be by clear and convincing evidence.

C. The Court will ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the Town and produce evidence or witnesses on the defendant's behalf.

D. The defendant may be represented by counsel of the defendant's own choosing and at the defendant's own expense.

E. The defendant may answer by admitting or denying the infraction.

F. If a municipal infraction is proven, the Court shall enter judgment against the defendant. If the infraction is not proven, the Court will dismiss the charges.

G. If the person named in the citation is shown to have been served with the civil complaint in the proper manner and, without good cause, fails to appear in response to the complaint, judgment shall be entered against the person by the Court. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.040 Penalties.

A. A violation of a municipal infraction is a civil offense and punishable by a civil penalty.

B. For a first violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.

C. For each repeat violation, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.

D. If there is a specific Clyde Park Municipal Code provision that provides for a specific penalty, the specific Clyde Park Municipal Code provision shall apply provided the penalty does not exceed the civil penalties provided by this section.

E. Any statutory surcharges required by State Law or Clyde Park Municipal Code must be imposed in addition to the civil penalty.

F. All penalties and forfeiture collected by the Court for municipal infractions shall be remitted to the Town in the same manner as fines and forfeitures collected for criminal offenses.

G. The defendant against whom judgment is entered shall pay court costs and fees as in small claims court under Title 25, Chapter 35 of the Montana Code Annotated in addition to the penalties imposed by the Court.

H. In addition to the imposition of civil penalties authorized by law against a defendant, the Town may seek alternative relief from the Court in the same action. Alternative relief may consist of any of the following:

1. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court;
2. Order the defendant to abate or cease the violation;
3. Authorize the Town to abate or correct the violation; or,
4. Order the Town's costs for abatement or correction of the violation be entered as a judgment against the defendant or assessed against the property where the violation occurred, or both.

I. The City Court may assess or enter judgment for costs of abatement or correction in any amount not to exceed the jurisdictional amount for a money judgment in a civil action under Section 3-11-103, MCA. If the Town seeks abatement or correction costs in excess of this amount, the matter shall be referred to District Court for hearing and entry of an appropriate order.

J. A defendant who willfully violates the terms of an order imposed by the Court is guilty of contempt. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.050 Appeals.

A. The defendant or the Town may file a motion for a new trial or may appeal the decision to District Court.

B. A factual determination made by the trial court, supported by substantial evidence as shown on the record, is binding for purposes of appeal relating to the violation at issue, but is not admissible or binding as to any future violations for the same or similar ordinance provision by the same defendant. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.060 Issuance of Civil Complaint Not Grounds for Further Legal Action.

Except for willful or wanton misconduct on the part of the Town, the issuance of a civil complaint for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution. (Enacted, Ordinance No. 89, April 3, 2008)

1.10.070 Environmental Actions.

An action brought by the Town for an environmental violation does not preclude, and is in addition to, any other enforcement action that may be brought under state law. (Enacted, Ordinance No. 89, April 3, 2008)

Jh.1.cp.4.08.Code Section.1.10.010