

ORDINANCE NO. 326

AN ORDINANCE ADOPTING BY REFERENCE AND ENACTING THE MUNICIPAL CODE OF NUNN, COLORADO, AS A NEW MUNICIPAL CODE FOR THE TOWN OF NUNN, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF NUNN, COLORADO:

Section 1. The code entitled "Municipal Code of Nunn, Colorado" ("MCNCO" or "Code") published by CivicPlus, LLC, doing business as MuniCode, 302 South Fourth Street, Suite 500, Manhattan, KS 66502, on April 3, 2024, consisting of Titles 1 through 17, with tables and index, is adopted as a primary code by reference. The subject matter of the MCNCO is matters falling within the legislative authority of the Nunn Board of Trustees. The purpose of the MCNCO is to recodify the general and permanent ordinances of the Town of Nunn, Colorado.

Section 2. All ordinances or portions of ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance which are inconsistent with the provisions of such code, to the extent of such inconsistency and not otherwise saved from repeal, are hereby repealed.

Section 3. The repeal established in the foregoing section shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 4. The Code adopted herein is amended as follows:

- a. Section 13.12.030 is amended by adding the following as a new subsection (c):

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| <p>(c) The prohibition against water tanks, cisterns, and similar private water systems contained in subsection (b) of this section may be waived by the town board by resolution upon a demonstration of reasonable necessity for such waiver satisfactory to the town board in its discretion. As part of the demonstration of reasonable necessity, the party seeking waiver shall identify all known potential negative impacts resulting from such waiver and</p> |
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shall propose means of mitigating such negative impacts to the extent mitigation options are available.

- b. Section 15.04.010 is amended to read in its entirety as follows to reflect the repeal of the Town's adoption of the Uniform Administrative Code, 1997 edition:

15.04.010. (Reserved)

- c. Section 15.04.040 is amended to read in its entirety as follows to reflect the repeal of the Town's adoption of the National Electric Code, 2002 edition:

15.04.040. (Reserved)

- d. Section 15.04.070 is amended to read in its entirety as follows to reflect the repeal of the Town's adoption of the Uniform Code for Building Conservation, 1997 edition:

15.04.070. (Reserved)

- e. Section 15.04.080 is amended to read in its entirety as follows to reflect the repeal of the Town's adoption of the Uniform Administrative Code, 1997 edition:

15.04.080. (Reserved)

- f. In section 15.12.010(d)(6)d the word "fool" is revised to read "foot."

Section 5. The penalty provisions set forth in such Code are hereby adopted as follows:

1.12.010. Violation of Code provisions; penalty; additional remedies.

(a) It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code, unless provision is otherwise herein made for a lesser penalty, shall, upon conviction thereof, be punished by a fine not exceeding the maximum allowed by law for qualified municipal courts of record established by statute and found at C.R.S. §§ 13-10-113 and 31-16-101. Each such person is guilty of a separate offense for each and

every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person, and shall be punished accordingly.

(b) In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this town, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

1.12.020. Violation; penalty; juvenile offenders.

The violation of any section of this Municipal Code by any person not having attained the age of 18 years at the time of the commission of the violation shall be a misdemeanor; however, such conviction shall be punishable by a fine only, not exceeding the maximum allowed by law for qualified municipal courts of record established by statute and found at C.R.S. §§ 13-10-113 and 31-16-101, unless a different and lesser fine is specifically set forth therein. In the event that the juvenile court should assume jurisdiction over the juvenile person so charged pursuant to the provisions of the Colorado Children's Code, prior to final adjudication by the municipal court, then all jurisdiction in the matter shall vest with the juvenile court, and the municipal action shall be dismissed.

1.12.030. Violation; penalty; useful public service.

(a) A violator, upon conviction, may be sentenced to perform a certain number of hours of community or useful public service, not to exceed 40 hours, in addition to any other penalty provided in this chapter. If a person is convicted of more than one violation, community or useful public service may be imposed on any or each and every violation; any community or useful public service penalties in excess of one arising out of multiple violations within one case may run and be satisfied concurrently or consecutively, in the discretion of the court.

(b) For the purposes of subsection (a) of this section, the term "community or useful public service" means any work which is beneficial to the public, any public entity, or any bona fide nonprofit private or public organization and which work would not, with the exercise of reasonable care, endanger the health or safety of the person required to work.

(c) Any community or useful public service penalty imposed pursuant to this section shall be suitable to the age and abilities of the violator, and the amount of community or useful public service work ordered shall be reasonably related to the seriousness of the violation.

(d) The court may assess a fee to cover the costs of the defendant participating in the useful public service program upon every person required to perform community or useful public service pursuant to this section. The

court may waive all or a portion of this fee if the court determines the violator to be indigent.

2.44.120. Failure of juror to appear; penalty.

If any person who is lawfully summoned to appear before the municipal court as a juror fails, neglects, or refuses to appear as required, without reasonable excuse, said person is deemed guilty of contempt and fined or imprisoned as the court may direct.

2.52.130. Penalties and remedies.

(a) Any person found to have violated any provision of this chapter shall be subject to termination of employment or removal from office. Additionally, such person shall be liable to the town for such damages as may have been suffered or incurred as a result of such violation, together with any costs (including attorney's fees) incurred by the town in the investigation and prosecution of such violation.

(b) Any court of competent jurisdiction called upon to enforce the provisions of this chapter may, with the consent of the town board, exempt from the provisions of this chapter any conduct of a town officer or town employee upon the finding that the enforcement of this chapter with respect to such officer or employee's conduct would not be in the public interest.

(c) Notwithstanding anything contained in this chapter to the contrary, no town employee or town officer shall be in violation of the provisions of this chapter if, prior to engaging in the conduct which would otherwise have resulted in a violation of this chapter, the town employee or town officer has obtained a written opinion from the town attorney that the particular conduct in question would not violate the provisions of this chapter, and the town employee or town officer acts in accordance with the opinion of the town attorney. The town attorney shall promptly render an opinion as to the legality of any proposed conduct or action under this chapter upon the request of a town employee or officer.

5.04.130. Failure to procure license; penalty.

It is unlawful for any person to engage in any business, profession or occupation without first having obtained a license therefor, and paying the license fee pursuant to the provisions of this chapter. Any person convicted of a violation or provisions stated or adopted in this chapter shall be punished in accordance with chapter 1.12.

5.08.060. Suspension or revocation; fines and penalties.

It is unlawful for any person to violate any provision of this chapter and, upon conviction of a violation of the chapter, shall be punished by the fine that shall not be less than \$200.00 and no more than \$1,000.00. There may be a possible suspension or revocation of the retail license for temporary

period or a permanent period once the local liquor authority board completes review.

5.16.050. Violation; penalty.

Every person convicted of a violation of any provision of this chapter shall be punished in accordance with chapter 1.12.

5.20.030. Penalty.

Any action violating any of the provisions of this chapter shall be punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment, for each separate offense.

5.24.020. Violation of chapter.

Violations of this chapter shall be subject to the general penalty provisions set forth in chapter 1.12.

5.28.130. Violations and enforcement.

(a) If the authority has reasonable cause to believe that a licensee has violated any state statute or this chapter, it shall issue an order to show cause, specifically identifying the alleged violation, advising that action may be taken against the license, and giving the licensee ten days to provide a response in writing.

(b) Based on the licensee's response and any other evidence that has been presented, the authority shall determine if a violation has occurred, and if so, the appropriate penalty. The authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed. The range of penalties may include a written warning, license suspension, a fine per individual violation of up to \$5,000.00 each, a fine in lieu of suspension of up to \$50,000.00, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

(c) Within ten days of any decision by the authority, the licensee may provide a written response by submitting a letter to the authority clearly stating its position. In response, the authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A licensee may continue to operate during the pendency of an appeal, provided that nothing in this section shall extend the term of a license. The authority may grant extensions of deadlines related to any order to show cause or subsequent processing for good cause shown.

(d) Any license issued under this chapter shall be null and void if a court of competent jurisdiction determines that the issuance of licenses violates federal law. Upon denial or revocation of a state license, all related licenses issued under this chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

6.04.150. Penalty for violation.

(a) Any person who violates any provision of this chapter or commits any unlawful act defined by this chapter, or any person who fails to perform any act required by this chapter, or any person who fails or refuses to comply with any lawful order given pursuant to this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided in chapter 1.12. Violation also requires a mandatory impoundment period. Animals are kept overnight for an amount to be established and amended from time to time by resolution of the board and set forth in the town's fee schedule.

(b) The minimum fines set forth shall be mandatory and shall not be suspended for any reason. Each day any violation continues shall constitute a separate offense and is punishable accordingly. Any person charged with a third offense shall be required to appear in front of the town board to have the penalty portion set for the offense.

8.04.070. Town authorized trash haulers.

(a) The town, by and through its duly authorized agents, employees, contractors, or town licensed haulers, shall be the sole agency for the collection and disposal of refuse and no person except such duly authorized agents, employees, contractors, or town-licensed haulers shall collect or dispose of any refuse, whether their own or another's within the town. Nothing

contained herein shall prevent an individual from hauling their own waste material, provided that it is properly disposed of in conformity with state law, this Code, and health department rules and regulations.

(b) The charge for town collection of refuse will be made at the same time as the charge for the water utility service offered and furnished by the town, and such refuse charge shall be due and payable at the same time and place as the charge for the water utility service.

(c) The charge for town refuse collection and the charge for water utility service are hereby declared to be parts of one debt to the town insofar as the same or any one customer or consumer, and the refusal or failure to pay any part of such debt for any monthly period of service in accordance with the rules and regulations established by the town board shall be sufficient cause for discontinuing water utility service and/or refuse collection.

(d) The amount of the charge for refuse collection service provided by the town shall be a lien upon the property service until the same is paid. In case of failure to pay the established charges for collection service by the owner or person having the occupancy, control, or management of any premises within 30 days after the time prescribed for payment of such charges by the town, the town clerk may certify such charges as assessed to the county treasurer

to be placed on such tax list for the current year to be collected in the same manner as other taxes are collected with a ten percent penalty to defray the cost of collection as provided by state law.

8.04.120. Violation; penalty.

Any person who violates any of the provisions of this chapter is guilty of violation of this chapter and shall be punished as provided in chapter 1.12.

8.08.070. Complaint; penalties.

Any person who, as owner or as tenant and in possession of any lots or tracts of land within the town, permits weeds, brush, or rubbish to become nuisances, as defined in this chapter, or any person who, as owner or as tenant in possession of any lots or tracts of land, fails or refuses to remove, spray, or burn weeds, brush, or rubbish, as may be required under the circumstances, after 48 hours' written request of the town code enforcement marshal; or any person who as owner or as tenant in possession, refuses or fails to heed the notice provided in section 8.08.030, on complaint being made to the town, is guilty of a civil violation and, upon conviction thereof, shall be punished in accordance with chapter 1.12. The fact that assessments have been proposed, determined, or levied shall not prevent other penalties from being imposed for violation of this chapter.

8.12.040. Penalties.

Any person, firm, or corporation violating this chapter or any provision is guilty of a civil violation and, upon conviction thereof, shall be punished as provided in chapter 1.12. Each day during which such violation continues shall be deemed a separate offense.

8.16.080. Enforcement.

Penalties will incur upon improper use and operation and or not adhering to the rules established. Section 9.24.070 may be followed by any law enforcement for any such violation.

The graduated fine schedule for such penalty assessment procedure shall be:

- (1) \$50.00 for the first offense.
- (2) \$100.00 for the second offense.

(3) Summons to court for the third offense.

(4) Summons to court for red flag days or high wind warnings.

9.44.030. Penalty.

Violation of this chapter shall be punishable by a fine for the first offence of no more than \$100.00 and 15 days imprisonment in the county correctional facility. As to subsequent offences, such violations shall be subject to the general penalty provisions set forth in chapter 1.12. This penalty provision may be amended from time-to-time by the town board of trustees.

10.04.030. Violations and penalties.

It is unlawful for any person to violate any of the provisions adopted in this chapter. If any penalty provisions are contained in the model traffic code, such provisions are hereby expressly not adopted. Every person convicted of a violation of any provision stated or adopted in this chapter shall be subject to such penalties as are provided in chapter 1.12.

10.08.040. Penalties.

Every person convicted of a violation of any provision of this chapter shall be subject to such penalties as are provided in chapter 1.12.

10.12.140. Costs of abatement by town; collection.

(a) In the event an inoperable vehicle on any lot, block, or parcel of land is removed in accordance with the provisions of this chapter, the whole cost of removing the inoperable vehicle, together with a five percent fee for inspection and other incidentals, shall be paid to the town clerk within 30 days after mailing by the town clerk to the owner of the lot, block, or parcel of land from which the inoperable vehicle was removed, by first class mail, postage prepaid, notice of the assessment of such costs.

(b) Failure to pay such assessment within such period of 30 days shall cause such assessment to become a lien against such lot, block, or parcel of land, and such lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time, after such failure to so pay the same within 30 days, by the town clerk to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by the laws of the state.

(c) If, during one 365-day period, the administrative authority performs a second or further inspection (other than an inspection showing compliance) for the same property and finds a second or further violation of the same type, the owner or occupant of the subject property shall be

assessed a re-inspection fee. Such fee is established by the town board by resolution. If such re-inspection fee is not paid within 30 days, it shall be collected pursuant to subsections (a) and (b) of this section.

12.04.080. Penalty.

Any person who violates any of the provisions of this chapter shall be punished in accordance with chapter 1.12.

13.08.140. Water bills, payment, penalty, shut-off, and abatement.

(a) Water meters shall be read on the 27th day of each month, as nearly as possible, and bills shall be mailed on the first day of each succeeding month. All water bills shall be due on or before the 15th day of the month following the reading of the meter and, if not paid by the 15th, a delinquency fee shall be added thereto and charged to the property pursuant to chapter 1.12. Such delinquency fee amount may be set and amended from time to time by board by resolution.

(b) If a bill is not paid within 40 days of such mailing date, a shut-off notice will be mailed and a \$5.00 delinquency fee will be added. Such delinquency fee amount may be set and amended from time to time by the board resolution. If such bill and delinquency charge is not paid within an additional five days, the water service to the property may be shut off by the town. The person residing on the property or the property owner may request abatement of any money or shut-off penalty upon petition to the board of trustees which may be granted for good cause shown for a period not to exceed the next regularly scheduled meeting date of the board of trustees, at which meeting the petition for abatement shall be reviewed and decided upon by the board of trustees.

13.08.220. Penalties.

Whenever in any section of this chapter or regulation promulgated hereunder, the doing of any act is required, prohibited, or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person, firm, or corporation who shall be convicted of a violation of any such section shall, for each offense, be punished in accordance with chapter 1.12.

13.12.050. Penalties.

Any person, firm, or corporation violating this chapter or any provision is guilty of a civil violation and, upon conviction thereof, shall be punished in accordance with chapter 1.12. Each day during which such violation continues shall be deemed a separate offense.

15.04.110. Violation; penalty.

(a) It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building or structure in the town, or cause the same to be done, contrary to or in violation of any of the provisions of the codes adopted in this chapter.

(b) Any person, firm, or corporation violating any of the provisions of the codes adopted in this chapter shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of these codes are committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable in accordance with chapter 1.12.

15.08.120. Penalties.

Any person, firm, or corporation violating this chapter is guilty of a civil violation and, upon conviction thereof, shall be punished in accordance with chapter 1.12. Each day during which such violation continues shall be deemed a separate offense.

15.12.050. Penalties.

Any person, firm, or corporation violating this chapter or any provision of applicable state law is guilty of a civil violation and, upon conviction thereof, shall be punished in accordance with chapter 1.12. Each day during which such violation continues shall be deemed a separate offense.

15.16.030. Penalties.

(a) It shall be unlawful for any person, firm, or corporation to erect, construct, renovate, enlarge, alter, repair, improve, cover, equip, use, occupy, or maintain any building or structure in the town, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the (aforementioned codes).

(b) Any person, firm, or corporation violating any of the provisions of the (aforementioned codes) or of this chapter shall be punishable in accordance with chapter 1.12. Each and every day or portion thereof during which any such violation is committed, continued, or permitted shall be considered a separate offense.

16.56.010. Penalty.

Any person who violates any of the provisions of these regulations is guilty of a violation of this chapter and shall be punished as provided therein.

16.56.020. Injunction.

Any violation of these regulations shall be subject to immediate injunctive action. It is expressly declared that the town has no adequate remedy at law for any violation of these regulations and that immediate, irreparable harm will result to the town from any such violation. Upon being informed of a violation of these regulations, the town attorney may apply to any court of competent jurisdiction for injunctive relief.

17.64.010. Fines.

Any person or corporation, whether as principal agent, employee, or otherwise, who violates any of the provisions of this title shall be punished in accordance with chapter 1.12. Each day of the existence of any violation shall be deemed a separate offense.

17.64.020. Injunction, abatement.

The erection, construction, enlargement, conversion, moving or maintenance of any building which is continued, operated or maintained contrary to any provisions of this title is hereby declared to be a violation of this title and unlawful. The town attorney shall immediately, upon any such violation having been called to their attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be instituted by any property owner who may be especially damaged by any violation of this title.

17.80.100. Enforcement and penalties.

(a) Specific authority is granted to the enforcement officer to remove, or have removed, the following signs after posting of a notice at least 24 hours prior to removal upon the premises where such sign is located:

- (1) Signs which are prohibited as stated in this chapter;
- (2) Unlawful "temporary" or "portable" signs as defined in this chapter.

(b) Any person, firm or corporation, partnership or other entity of whatever description violating any regulation or provision of any of the sections of this chapter shall be subject to the enforcement of provisions hereof.

(c) Whenever an alleged violation of any of the provisions of this chapter has not been voluntarily abated within the time specified, the town has the right to have an enforcement officer remove or cause to be removed the violation.

17.84.180. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of

conditions and safeguards established in connection with conditions) shall constitute a penalty. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined by the town. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 6. The following provisions of Town of Nunn ordinances or of the previous version of the Nunn Municipal Code, as applicable, were or may have been previously adopted and not repealed and though they may not be inconsistent with provisions in the Code herein adopted are nonetheless hereby expressly repealed to the extent not previously repealed:

- a. Ordinance No. 263 adopting various codes by reference.
- b. Section 15.04.050 of the previous version of the Nunn Municipal Code concerning the Code for Abatement of Dangerous Buildings as referenced in Section 8 of Ordinance No. 263.
- c. Chapter 17.62 of the previous version of the Nunn Municipal Code containing outdated provisions related to the review of permits for flood hazard.
- d. Chapter 17.64 of the previous version of the Nunn Municipal Code containing outdated provisions related to determining flood hazards.

Section 7. Additions or amendments to the Code, when passed in the form as to indicate the intention to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 8. Ordinances adopted after this ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 9. This ordinance shall take effect thirty days after publication as provided by law

INTRODUCED, READ, PASSED, AND ADOPTED THIS 20TH DAY OF JUNE, 2024.

TOWN OF NUNN

By: Jordan Cable, Mayor

ATTEST:

Cathy Payne, Town Clerk

