

COUNCIL BILL NO. 06-019
ORDINANCE NO. 4009

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF ARVADA, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; SETTING FORTH THE PENALTY CLAUSES 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 CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. There is hereby adopted by reference that certain code entitled "Code of the City of Arvada, Colorado," published by Municipal Code Corporation, containing the Charter, the Code of Ordinances and the Land Development Code, including certain ordinances of a general and permanent nature as compiled, consolidated, codified, and indexed in Parts I, II and III, which includes but is not limited to chapters 1 through 102, each inclusive, together with all secondary codes duly described in Section 4 of this ordinance and incorporated herein by reference. Three copies of the "Code of the City of Arvada, Colorado" (the "Code") adopted herein are now on file with the City Clerk of the City of Arvada, and may be inspected during regular business hours.

Section 2. The provisions of the Code shall be in force and effect from and after August 1, 2006, and the previously adopted Arvada City Code and all codified ordinances adopted by the City Council on or before December 19, 2005 are hereby repealed from and after August 1, 2006, except as hereinafter provided in this Ordinance. It is the intent of the City Council to repeal only the 1981 codification and amendments to the Arvada City Code and the version of the Land Development Code previously adopted by Ordinance 3971 and effective in November 2005.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. The following secondary codes were adopted by reference and incorporated in the Code of the City of Arvada, Colorado. One copy of each such code is on file in the city clerk's office.

- (a) The International Building Code, 2003 Edition, including appendix I, as published by the International Code Council, as adopted and amended in code section 7-401 et seq.;

- (b) The International Residential Code, 2003 Edition, including appendices A, B, C, H, J and K, as published by the International Code Council, as adopted and amended in code section 7-501 et seq.;
- (c) The International Plumbing Code, 2003 Edition, including appendices B, C, D, E, F and G, as published by the International Code Council, as adopted and amended in code section 7-901 et seq.;
- (d) The International Mechanical Code, 2003 Edition, including appendix A, as published by the International Code Council, as adopted and amended in code section 7-801 et seq.;
- (e) The National Electric Code, 2005 Edition, including annexes A through F, as published by the National Fire Protection Association, as adopted and amended in code section 7-1001 et seq.;
- (f) The International Fire Code, 2003 Edition, including appendices B, E, F and G, as published by the International Code Council, as adopted and amended in code section 13-1 et seq.;
- (g) The Model Traffic Code for Colorado Municipalities, 1995 Edition, articles I and II, as published by the State of Colorado, Department of Transportation, as adopted and amended in code section 17-11 et seq.;
- (h) The International Fuel Gas Code, 2003 Edition, including appendices A, B and C, as published by the International Code Council as adopted and amended in code section 7-701 et seq.;
- (i) The International Energy Conversation Code, 2003 Edition, published by the International Code Council, as adopted and amended in section 7-601 et seq.

Section 5. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished in accordance with the penalty clauses within section 1-5 of the Code or, as to the Arvada Land Development Code, Section 9.5 (Part III of the Code of the City of Arvada), both as hereinafter set forth in full:

(1) Sec. 1-5. General penalty; continuing violations.

- (a) Except as otherwise provided in this Code or in any ordinance whenever, in any provision of this Code or of any other ordinance of the city, the doing of any act is required, prohibited, or declared to be unlawful, any

person, who at the time of commission of the offense was at least ten years of age, but not yet 18 years of age, and who is convicted of a violation of any such provision shall, for each offense, be fined not more than \$999.00 or shall be sentenced to detention not to exceed ten days, or shall be both so fined and detained.

- (b) Except as otherwise provided in this Code or in any ordinance, whenever, in any provision of this Code or of any other ordinance of the city, the doing of any act is required, prohibited, or declared to be unlawful, any person 18 years of age or older at the time of the violation, who is convicted of a violation of any such provision not designated as a domestic violence offense, shall, for each offense, be fined not more than \$999.00 or shall be imprisoned not to exceed 180 days, or shall be both so fined and imprisoned.
- (c) Except as otherwise provided in this Code or in any ordinance, whenever, in any provision of this Code or of any other ordinance of the city, the doing of any act is required, prohibited, or declared to be unlawful, any person 18 years of age or older at the time of the violation, who is convicted of a violation of any such provision designated as a domestic violence offense, shall, for each offense, be fined not more than \$999.00 or shall be imprisoned not to exceed one year, or shall be both so fined and imprisoned.
- (d) Every day any violation of this Code or any other ordinance of the city hereafter enacted or any rule or regulation promulgated under the provisions of this Code continues or is permitted to continue shall constitute a separate offense.

(2). 9.5 REMEDIES AND ENFORCEMENT POWERS

The Zoning Enforcement Officer and relevant Decision-Making Bodies shall have the following remedies and powers to enforce this Code.

9.5.1 Civil Remedies and enforcement powers.

A. *Deny/Withhold Permits.*

- 1. Deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall

apply whether or not the current owner or Applicant for the permit is responsible for the violation.

2. Where a property owner, agent, or other person has a record of an outstanding serious violation or violations of this Code, the relevant Decision-Making Bodies shall be authorized to deny or withhold all permits, certificates, or other forms of authorization for any use or development activity undertaken by such person until the outstanding violation is corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

B. *Permits Approved with Conditions.* Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that the violation [shall] be corrected.

C. *Revoke Approvals or Permits.*

1. Revoke any development approval, permit, or other authorization, after notice and a public hearing by the Decision-Making Body that originally granted the final approval, permit, or other authorization, when it is determined that either:
 - a. There is a material departure from the approved plans, specifications, or conditions of approval;
 - b. There is a violation of any provision of this Code;
 - c. The development approval or permit was obtained by false representation; or
 - d. The development approval or permit was issued in error.

Written notice of revocation shall be served upon the owner, the owner's agent, Applicant, or other person to whom the permit was issued, or such notice may be posted in a prominent location at the place of the violation. No work or construction shall proceed after service of the revocation notice.

D. *Stop Work Order.*

1. *Issuance of Stop Work Order.* With or without revoking permits, the Community Development Director or Chief Building Official may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a permit or other form of authorization issued pursuant to this Code. The stop work order shall specify the Code provisions allegedly being violated. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
 2. *Timing/Notice.* The stop work order may be issued at the same time as the notice of the initial violation (see § 9.8.1. of the Land Development Code), or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the 14-day period specified in § 9.8.1 of the Land Development Code. The stop work order shall also indicate that failure to comply with the order may subject the violator to civil and/or criminal liability as penalty for the violation(s).
- E. *Injunctive Relief.* Initiate injunction proceedings or other appropriate legal action in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction against any person who fails to comply with any provision of this Code or any requirement or condition imposed pursuant to this Code. In any court proceeding in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the Code violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject Code violation.
- F. *Abatement.* Seek a court order in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction, in the nature of mandamus, abatement, injunction or other action to abate or remove a violation or to otherwise restore the premises to the condition which existed before the violation.
- G. *Revoke Licenses.* The City may revoke the license of any City-licensed contractor or City-licensed business operation where there are repeated violations of this Code. Revocation of licenses shall be processed according to applicable procedures adopted for this purpose by the applicable City Department or entity.

9.5.2. Criminal remedies.

- A. *Guilty of Misdemeanor.* A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this Code exists, where notice of violation, including any stop work order, has been properly served, and where such person fails to comply with such notice or stop work order.
- B. *Penalty.* Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine of not more than \$999.00 or by imprisonment for not more than one hundred eighty (180) days, or by both such fine or imprisonment for each such violation.

The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 6. Additions or amendments to the Code when passed in such form as to indicate the intention of the City 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 7. Ordinances adopted after December 19, 2005, that have not yet been codified in the new City Code and that amend or refer to ordinances that have been codified in the Code shall be construed as if they are in full force and effect.

Section 8. Any defined term not defined herein shall have the meaning provided in the applicable adopted code.

Section 9. Savings Clause. The repeal provided for in Section 2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred, or any contract or right established or accruing before August 1, 2006; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the City or authorizing the issue of any bonds of the City, or any evidence of the City's indebtedness or any contract or obligation assumed by the City; nor shall it affect any administrative ordinances or resolutions of the City Council not in conflict or inconsistent with the provisions of the code; nor shall it affect the annual tax levy, making appropriations or adoption of a budget; nor shall it affect any right or franchise conferred by ordinance or resolution by the City Council on any person, firm, or associations; nor shall it affect any ordinance relating to the salaries of City officers and employees; nor shall it affect any ordinance naming, opening, accepting, or vacating streets or alleys within the City; nor shall it affect any ordinance relating to zoning; nor shall it affect any ordinance establishing sewer or any other districts; nor shall it affect any ordinance setting

surcharges for sewer taps on certain sewer trunk lines, nor shall it affect any ordinance not incorporated into the code, unless in direct conflict with any provision of the code.

Section 9. This ordinance shall become effective on August 1, 2006.

INTRODUCED, READ AND ORDERED PUBLISHED this 26th day of June, 2006.

PASSED, ADOPTED AND APPROVED this 10th day of July, 2006.

Ken Fellman, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Christopher K. Daly, City Attorney

Publication dates: June 29, 2006
 July 13, 2006