

## **TITLE 1**

### **GENERAL PROVISIONS**

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## **Chapter 1.00 Official Code**

### **Sections:**

- 1.00.010 Official Code of Bainville
- 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 Bainville.** This compilation, revision and codification of the general ordinances of the town of Bainville is hereby declared to be and shall here-after constitute the official code of general ordinances of the Town of Bainville, Montana.

**1.00.020 Title of Code.** This code shall hereafter be known and referred to as the Official Code of the town of Bainville, 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 Bainville, 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any duty imposed, any penalty incurred, or any action or proceeding as commenced under or by virtue of the ordinance repealed, or the tenure of office of any person holding office at the time when they take effect; nor shall the repeal of any ordinance thereby have the effect of reviving any ordinance theretofore repealed or superseded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 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 Bainville.

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", "negligent" 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      Ward Established

**1.02 .010      Ward Established.**    There shall be one ward in the town of Bainville which shall be known as Ward Number One and which shall consist of the whole of the town.

(Ord 52)

## **Chapter 1.06 Elections**

### **Sections:**

1.06 .010 Elections in Accordance with State Statutes

1.06.020 Qualification of Electors

**1.06.010 Elections in Accordance with State Statutes.** All primary and general elections shall be held in accordance with the statutes of the state of Montana.

**1.06.020 Qualification of Electors.** Any person shall be qualified to vote in any and all city elections provided they are a resident of the city or an area which has been annexed and certified as such by the Clerk and Recorder of Roosevelt County.

## **Chapter 1.08 General Penalty**

### **Sections:**

- 1.08.010      General Penalty
- 1.08.020      Execution of a Fine
- 1.08.030      Designating County Jail as Town Jail

**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 pro- vision 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 day for every ten dollars (\$10.00) of the fine.

**1.08.030      Designating County Jail as Town Jail.**      The County Jail of Roosevelt County, Montana, now located in Wolf Point, Montana, is hereby designated as the Town Jail and shall be used to confine all persons sentenced to serve time under a judgment of imprisonment by the city court of said town.

(Ord 34)

## **Chapter 1.12 Passage of Ordinances**

### **Sections:**

1.12.010 Referred to Whole Council

1.12.020 Passage of Ordinances

**1.12.010 Referred to Whole Council.** Whenever an ordinance is introduced and presented by one member of the council at any regular meeting thereof or at any special meeting duly called for such purpose, and the mayor shall then and there cause such ordinance to be read. After the first reading of said ordinance the same shall be referred by the mayor to the whole council which shall take said ordinance under advisement and consideration until the next regular meeting of the council, at which time the whole council shall cast a final vote for or against its adoption.

**1.12.020 Passage of Ordinances.** Any ordinance by unanimous consent of both members of the council may be read by title only. The council may by unanimous consent of both members suspend the foregoing rules and cause any ordinance to be brought up for final consideration and final vote at any time after its introduction. Any ordinance or resolution passed by the council shall not become effective until thirty (30) days after its passage, except general appropriation providing for the ordinary and current expenses of the town, excepting also emergency measures, and in the case of an emergency measure, the emergency must be expressed in the preamble or in the body of the measure, and the measure must receive two-thirds (2/3) vote of both members of the council elected and the mayor. In emergency ordinances the resolution shall include only such measures as are immediately necessary for the preservation of peace, health and safety, and shall not include a franchise or license to be a corporation or individual, or any provisions for the sale of real estate, or any lease or letting for a period exceeding one year, or the purchase or sale of personal property exceeding five thousand dollars (\$5,000.00).

## **Chapter 1.14 Order of Presentation and Public Participation in Regular Meetings**

### **Sections:**

1.14.010 Procedure

1.14.010 Procedure

The procedure in which items are presented to the Council shall be as follows:

1. The Mayor as Chair or Clerk shall present the agenda item to the council.
2. The City Staff may present a background report on the matter for discussion. If the agenda item is a public hearing, the public hearing will be opened prior to staff presentation.
3. Comments from the applicant, or his agent, shall be heard by the council. The applicant's presentation/testimony is limited to five (5) minutes.
4. After being recognized by the Chair, a Councilman or woman may direct questions to the staff or applicant.
5. Members of the audience or their agent may be invited to present testimony or other evidence. To be recognized, each person desiring to give testimony shall step to the lectern and, after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. The audience presentation/testimony is limited to three (3) minutes per speaker.
6. After being recognized by the Chair, a Councilman or woman may direct questions to any person so testifying for purposed of clarification.
7. Following public comment, the applicant and staff shall be given the opportunity to comment on any testimony or their evidence.
8. That following staff comment, the applicant will be given the opportunity to rebut or comment on any testimony or other evidence. The applicant's comments and rebuttal is limited to five (5) minutes.