

## CHAPTER 7

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## ARTICLE 1

### Administration and Abatement of Nuisances

#### Sec. 7-1-10. Purpose.

The purpose of this Chapter is to preserve and protect the health, safety, welfare, quality of life and quiet enjoyment of property through a uniform procedure for the identification and enforcement of nuisances within the City. (Ord. 2004-O-26 §1-7.1.101)

#### Sec. 7-1-20. Definitions.

As used in this Chapter, the following words or phrases are defined as follows:

*Abatement* means the removal, stoppage, prostration or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying or effacing it.

*City Manager* means the City Manager for the City or a person designated in writing by the City Manager to act on behalf of the City Manager in the administration of all or any part of this Chapter. The City Manager's designee may be a City employee, hearing officer, attorney or member of the Planning and Zoning Commission or Board of Adjustment.

*Code Enforcement Official* means the City-appointed code enforcement officer or an authorized law enforcement official engaged in the investigation and determination of the existence of a nuisance.

*Junk* means iron, brass, copper, tin, lead or other metals; ropes, rags, fibers or fabrics; bottles or other glass; rubber or rubber products; machinery; motor vehicle parts; tools; appliances; unstacked firewood; cartons, pallets, barrels and other containers; building materials such as but not limited to lumber, pipe and pipe fittings; conduit and conduit fittings; wastepaper; or other waste or discarded goods.

*Lot* means any real property platted as a single parcel, regardless of whether such parcel is denoted as a tract, outlot, lot or parcel.

*Nuisance* means any nuisance as identified or defined in Article 2 of this Chapter.

*Owner* means the owner of record based on the County Assessor's records or any person known to the City to possess a legal, financial or equitable interest in the property on which the alleged nuisance exists at the time of the violation. The term *owner* may include: (1) a tenant or lessee where such tenant or lessee is lawfully authorized, by written lease or other agreement with the owner, to occupy the property upon which a nuisance is alleged to exist or is maintained; or (2) a person acting on behalf of the owner as evidenced by a power of attorney or other fully executed and notarized form of written authorization.

*Property* means any real property, premises, structure or location. (Ord. 2004-O-26 §1-7.1.102; Ord. 2007-O-27 §1)

**Sec. 7-1-30. Methods of nuisance abatement.**

In order to abate any nuisance, the City may elect to pursue any one (1) or more of the following methods:

- (1) Pursue summary abatement pursuant to Section 7-1-50 below.
- (2) Initiate an action for judicial enforcement in the Municipal Court or County Court pursuant to Section 7-1-60 below.
- (3) Cause abatement or removal by means of a notice and demand, together with either legal judicial enforcement or City abatement, pursuant to Section 7-1-70 below. (Ord. 2004-O-26 §1-7.1.201)

**Sec. 7-1-40. Notice and demand for abatement.**

(a) Where a Code Enforcement Official has reason to believe that a nuisance may exist upon property within the City, the Code Enforcement Official may seek abatement of the nuisance in accordance with the following procedures:

- (1) Personal contact. The Code Enforcement Official shall first attempt to personally contact the owner or occupant of the property (by personal visit, by telephone or by letter) in an effort to seek voluntary abatement of the nuisance. The Code Enforcement Official shall provide the owner or occupant a reasonable time, and in no event less than seventy-two (72) hours, to voluntarily abate the nuisance.
- (2) Written description. Where the nuisance remains unabated following personal contact with the owner or occupant, the Code Enforcement Official shall prepare a written description of the condition, activity or circumstance that is believed to constitute a nuisance as described in this Chapter. Such written certification should, whenever possible, include photographs, illustrations and other evidence to describe the scope and extent of the nuisance.
- (3) Notice and Demand. The Code Enforcement Official shall prepare a written notice titled "Notice and Demand for Nuisance Abatement" ("Notice and Demand"). Such Notice and Demand shall substantially conform to the following content requirements:
  - a. A written description of the condition, activity or circumstance that constitutes a nuisance and violation of this Chapter.
  - b. A statement that the condition, activity or circumstance constitutes a nuisance, together with a citation to the specific provision of this Chapter that declares such condition, activity or circumstance to be a nuisance and unlawful.
  - c. A copy of this Chapter, as it may be amended.
  - d. A demand that the nuisance be abated on or before a specified time and date. The time and date shall be not less than seven (7) days from the date of the Notice and Demand.

e. A statement that, if the nuisance is not abated on or before the date and time stated in the Notice and Demand, the City may at its option pursue an action to enforce this Chapter in an appropriate court and/or abate the nuisance. Such statement may also inform the addressee of the potential fines and other penalties that may be imposed upon a finding by a court that a nuisance exists on the property. Such statement may also inform the addressee that the cost and expense of abatement incurred by the City will be assessed as a lien against the owner's property and that the City may certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property.

f. Any other information as determined by the Code Enforcement Official to enable the addressee to properly address the abatement of the nuisance and to contact the Code Enforcement Official.

(4) Delivery of Notice and Demand. The Code Enforcement Official shall cause the Notice and Demand to be distributed in accordance with this Paragraph. Provided that the Notice and Demand is mailed or posted in substantial conformity with this Paragraph, the failure of the owner, occupant or another person to receive such Notice and Demand shall not constitute a failure to comply with the requirements of this Section. The Code Enforcement Official shall cause the Notice and Demand to be distributed as follows:

a. The Notice and Demand shall be mailed, by certified U.S. Mail, return receipt requested, to the owner of the property as such owner's name and address appear in the records of the County Assessor; and

b. Either:

1. Where the property includes a residential or commercial structure, the Notice and Demand shall be mailed, by first class U.S. Mail, addressed to "Occupant" at the address of the property upon which the nuisance is located; or

2. Where the property is vacant or undeveloped, one (1) sign measuring not smaller than two (2) feet by three (3) feet shall be posted on the property at a conspicuous location visible from a traveled thoroughfare. Such sign shall be titled "Notice and Demand for Nuisance Abatement," shall state that the property is subject to City enforcement of this Chapter, shall include a brief statement of the nuisance being abated, and shall include the words "additional information is available at the Citizen Service Center for the City of Centennial during normal business hours," together with the address of the Citizen Service Center and telephone number of the Code Enforcement Official.

(5) Failure to timely abate. If the owner or occupant fails to abate the nuisance on or before the date and time stated in the Notice and Demand, the City Manager may:

a. Authorize abatement of all or a portion of the nuisance as the City Manager deems necessary to remedy the nuisance. No additional or prior notice of such abatement action to the owner, agent or occupant of the property is required. Following abatement, the City Manager shall deliver to the owner a written description of the action taken to abate the nuisance together with an itemized invoice or other detailed statement of the cost and expenses incurred by the City in abating the nuisance, and demand for payment within twenty (20) days

of the owner's receipt of the invoice or statement. Within twenty (20) days following the owner's receipt of the City Manager's invoice or statement of costs and expenses, the owner shall deliver to the City Manager payment in full for the costs and expenses. Failure to timely pay an invoice or statement of costs and expense shall constitute a violation of this Code, which shall be subject to the penalties provided by Section 1-4-10 of this Code. The City Manager may, at his or her discretion, assess the costs and expenses of abatement as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by state law.

b. Pursue an action for judicial enforcement of the nuisance violation as provided by Section 7-1-60 below. (Ord. 2004-O-26 §1-7.1.204)

**Sec. 7-1-50. Summary abatement of nuisances.**

(a) The City Manager may authorize the immediate and summary abatement of any nuisance where the following criteria or circumstances are determined by the City Manager to exist:

(1) The Code Enforcement Official certifies in writing to the City Manager that a condition, activity or circumstance exists upon property located within the City which constitutes a nuisance as identified and described in this Chapter. Such written certification should, when possible, include photographs, illustrations and other evidence to describe the scope and extent of the nuisance;

(2) The Code Enforcement Official certifies in writing to the City Manager that the nuisance presents an immediate and imminent danger to the public health, safety or welfare; and

(3) The delay associated with abatement of the nuisance by another method as provided in this Chapter will potentially result in harm or damage to person or property from the nuisance. By way of example and not limitation, such harm or damage may include: the release of sewage onto adjacent property; injury to persons resulting from open pits or cesspools; or the deposit of water upon public streets or sidewalks that results in potentially hazardous conditions.

(b) Following the City Manager's determination as required in Subsection (a) above, the City Manager may authorize abatement of all or a portion of the nuisance as the City Manager deems necessary to remedy the nuisance and to resolve the immediate and imminent danger to the public health, safety or welfare resulting from the nuisance. When summary abatement is authorized by the City Manager, prior notice of such abatement action to the owner, agent or occupant of the property is not required.

(c) Following abatement, the City Manager shall deliver to the owner a written description of the circumstances resulting in the abatement or other action, together with an itemized invoice or other detailed statement of the costs and expenses incurred by the City in abating the nuisance and demand for payment within twenty (20) days of the owner's receipt of the invoice or statement.

(d) Within twenty (20) days following the owner's receipt of the City Manager's invoice or statement of costs and expenses, the owner shall deliver to the City Manager payment in full for the

costs and expenses. Failure to timely pay an invoice or statement of costs and expense shall constitute a violation of this Code, which shall be subject to the penalties provided by Section 1-4-10 of this Code. The City may, at its discretion and only where such costs and expenses exceed one hundred fifty dollars (\$150.00), assess the costs and expenses of abatement as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments to the extent that such priority is not precluded by state law. (Ord. 2004-O-26 §1-7.1.202)

**Sec. 7-1-60. Judicial enforcement.**

(a) The City Manager may initiate a civil action or criminal prosecution for the judicial enforcement of this Chapter against any nuisance at any time. Judicial enforcement shall also be available to abate a nuisance following efforts to abate the nuisance through the delivery of a Notice and Demand. The City Manager shall endeavor to advise and consult with the City Council regarding the nuisance prior to commencing judicial enforcement.

(b) If the City Manager elects to initiate judicial enforcement, no prior notice regarding the nuisance or abatement need be provided to the defendant other than service of a summons and/or complaint in accordance with the applicable court rules.

(c) Upon a finding of a nuisance and violation of any provision of this Chapter by any defendant, the court shall impose the following minimum penalty, unless the City, through the City prosecutor, requests or consents to a lesser or different penalty:

(1) Enjoin or otherwise order the defendant to fully abate and remedy the nuisance within a specified and reasonable period of time not to exceed ten (10) days following the entry of the court's order.

(2) Fine the defendant for each violation an amount not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00) for the first violation; not less than four hundred dollars (\$400.00) nor more than one thousand dollars (\$1,000.00) for the second violation; and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the third and each subsequent violation for the same nuisance. No portion of any minimum fine may be suspended or held in abeyance by the court.

(3) Order the defendant to forthwith pay restitution to the City for the actual costs or loss caused to the City by the violation, including but not limited to administrative expenses, costs to protect the public from the nuisance, court costs and attorney fees.

(4) Authorize the City to assess any unpaid costs and expenses for abatement imposed by the court in Paragraph (3) above as a lien against the owner's property and certify such lien to the County Clerk and Recorder for collection in the same manner as real estate taxes against the property. Each such lien shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by state law.

(d) In addition to the minimum penalty required by this Section, the court shall be authorized to:

(1) Permanently enjoin the defendant from further engaging in the use of the property in a manner that would constitute a nuisance;

(2) Find the defendant in contempt of court and assess a penalty as specified by the court, including a fine and/or imprisonment for failure to abide by, comply with or conform to any court order or injunction; and/or

(3) Impose any other penalty authorized by law. (Ord. 2004-O-26 §1-7.1.203)

**Sec. 7-1-70. Costs and expenses as lien against property.**

(a) Whenever this Chapter authorizes the City to assess against any person or property the costs and expenses of abatement of nuisances, such costs and expenses shall include all costs actually incurred by the City and reasonably related to the abatement, including but not limited to an hourly rate for each hour of City staff time employed in administering this Chapter in the abatement of the nuisance, attorney fees and legal costs, equipment charges, contractors and other service personnel expenses charged to the City, transportation and storage charges, trash disposal charges and fees, insurance, and equipment and services necessary to protect the property and the general public from harm. The City Manager may establish reasonable and uniform charges for property inspection, preparation and delivery of notices and other administrative tasks customarily undertaken in the administration of this Chapter.

(b) Whenever this Chapter authorizes the City to assess against any person or property the cost and expense of abatement of nuisances, the City shall be authorized to assess any unpaid and delinquent costs and expenses as a lien against the property and to certify the costs and expense to the County Treasurer or other appropriate County official for collection in the same manner as real estate taxes against the property. Each such assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens except general taxes and prior special assessments to the extent such priority is not precluded by state law. (Ord. 2004-O-26 §1-7.1.205)

**Sec. 7-1-80. Review of costs and expenses of abatement.**

(a) Any owner of property subject to an assessment for the costs and expenses of the City's abatement of a nuisance imposed in accordance with Section 7-1-70 above may request an administrative review of the assessment by the City Council.

(b) A request for an administrative review must be made in writing by the owner and delivered to the City Manager prior to 5:00 p.m. on the date upon which payment of costs and expenses are due. The written request shall describe in detail the specific reasons why the assessment is unreasonable, together with any other written information the owner asserts demonstrates the unreasonableness of the assessment. Upon the timely submission of a request, the deadline for payment of assessed costs and expenses shall be postponed until the earlier of the City Council's decision following review or such later time the City Council directs payment to be made following review.

(c) The review shall be for the sole purpose of considering the reasonableness of the assessed costs and expenses. As an administrative matter, no notice or hearing shall be required prior to review of the owner's request by the City Council.

(d) Following review of the City Manager's assessment, the written request for review and any explanation of the City Manager concerning the costs and expenses, the City Council shall either affirm the City Manager's assessment or reduce the assessment upon a finding that the assessment is unreasonable. (Ord. 2004-O-26 §1-7.1.206)

**Sec. 7-1-90. Certain defenses not available.**

(a) Any person who is the record owner of the premises, location or structure at the time a Notice and Demand or other order pursuant to this Chapter is issued and served upon him or her, shall be responsible for complying with that order, and liable for any costs and expense incurred by the City, notwithstanding the fact that he or she conveys interests in the property to another after such notice or order was issued and delivered.

(b) It shall not be a defense to the determination that a nuisance exists or to an action to abate a nuisance that the property is boarded up or otherwise enclosed, or that the nuisance is not visible by the general public. (Ord. 2004-O-26 §1-7.1.207)

**Sec. 7-1-100. Right of entry for inspection and notice.**

(a) The Code Enforcement Official is authorized to enter upon all or any portion of private property to ascertain the existence of a nuisance if:

(1) Emergency conditions dangerous to the public health, safety or welfare are reasonably believed to exist upon such property or upon property which is accessible from the entered property;

(2) The Code Enforcement Official has obtained a warrant authorizing such entry;

(3) The private property is undeveloped or vacant and is not posted in a manner that would indicate the owner's prohibition of such access;

(4) The Code Enforcement Official has obtained the consent of a person who purports to be in ownership, possession or control of the property; or

(5) The Code Enforcement Official was unable to make contact to request the consent of a person in ownership, possession or control after more than two (2) separate attempts to contact such person by telephone, personal visit or posting or mailing of a request to enter.

(b) The Municipal Court Judge shall have the power to issue a search warrant to permit the investigation of the existence of a nuisance upon a showing by the Code Enforcement Official: (1) that there is probable cause that a nuisance exists; or (2) that, upon information and belief made after reasonable investigation, emergency conditions dangerous to the public health, safety or welfare may exist.

(c) The Code Enforcement Official is authorized to enter upon private property in the same manner and by the same means as visitors to the property for the purpose of delivering, depositing, posting or otherwise providing a notice, advisement or other information necessary to implement or administer the provisions of this Chapter. Such entry will customarily involve reaching the front or

primary entrance to the property via the driveway, sidewalk or path. The Code Enforcement Official shall not enter private property where the owner or person in possession denies consent except where emergency conditions are believed to exist or a search warrant authorizing entry is obtained. (Ord. 2004-O-26 §1-7.1.208)

**Sec. 7-1-110. Right of entry for abatement.**

Whenever the City exercises its right to abate a nuisance in accordance with this Chapter, the City shall have the authority to enter upon the property and abate the nuisance. In abating such nuisance, the City may go to whatever extent may be necessary to complete the abatement of the nuisance and, should it be practicable to salvage any material derived in the abatement, the City may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds from such sale. The proceeds, if any, obtained from the sale of any material salvaged as a result of the City's abatement of a nuisance shall be deposited to the General Fund of the City, and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property and collected as any other assessment by the City. Should the proceeds of the sale of such salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the nuisance was abated. (Ord. 2004-O-26 §1-7.1.209)

**Sec. 7-1-120. Administrative regulations and forms authorized.**

The City Manager is authorized to promulgate regulations and forms deemed desirable to assist in the administration of the provisions of this Chapter. No administrative regulation or form shall conflict with a specific requirement of this Chapter. Failure to employ or follow administrative regulations or use forms promulgated by the City Manager shall not constitute a procedural breach or defect in the administration of this Chapter and shall not preclude or limit the City's authority to investigate, address, enforce or abate nuisances. (Ord. 2004-O-26 §1-7.1.210)

**Sec. 7-1-130. Extension of deadlines authorized.**

A reasonable extension of any time deadline established by this Chapter or in the administration of this Chapter may be granted by the Code Enforcement Official or City Manager upon a showing of just cause for an extension. (Ord. 2004-O-26 §1-7.1.211)

**Sec. 7-1-140. Cumulative and concurrent remedies.**

No remedy provided in this Chapter shall be exclusive. All remedies shall be cumulative and available concurrently. The taking of any action authorized by this Chapter or any other provision of this Code, including a charge or conviction of violation of this Chapter, shall not preclude or prevent the taking of other action to abate any nuisance. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 2004-O-26 §1-7.1.201)

**Sec. 7-1-150. Nuisance unlawful.**

It is an offense and unlawful for any person being the owner, agent or occupant of, or having under his or her control, any building, lot or premises to maintain or allow any nuisance to be or remain thereon. It is further unlawful and an offense for any person to:

- (1) Perform any act constituting a nuisance;
- (2) Fail to act where such failure causes or continues a nuisance;
- (3) Permit any activity or condition constituting a nuisance; or
- (4) Aid or abet in the creation or maintenance of a nuisance. (Ord. 2004-O-26 §1-7.1.104; Ord. 2007-O-14 §1)

**Sec. 7-1-160. Nuisance a continuing offense.**

Each calendar day that a nuisance exists shall be a separate offense and violation of this Chapter. (Ord. 2004-O-26 §7.1.106)

**ARTICLE 2**

**Nuisances**

**Sec. 7-2-10. Nuisances declared unlawful.**

Each of the conditions, events or circumstances described in this Article, existing in whole or in part upon property located within the City, are hereby declared nuisances. (Ord. 2004-O-26 §1-7.1.103)

**Sec. 7-2-20. Stagnant ponds and breeding waters.**

It is a nuisance and unlawful for any owner to permit, authorize, allow, park or keep any body of stagnant water, regardless of size, that serves as a breeding area or habitat or otherwise attracts any insect, including larvae forms, that is considered a threat to human or animal health and safety. Because of the presence of West Nile Virus in areas near the City and the danger it poses to the public health and welfare of people and animals and resulting economic losses, and because the West Nile Virus is spread by mosquitoes, breeding and habitat waters of mosquitoes are deemed to be a nuisance constituting an emergency justifying summary abatement of the nuisance in accordance with this Chapter. (Ord. 2004-O-26 §1-7.1.103)

**Sec. 7-2-30. Stockpiling materials on property.**

It is a nuisance and unlawful for any owner to permit, authorize, allow, store or keep upon any property any stockpile, pile, stack, stand, collection, assembly or other accumulation of earth, dirt, stone, rock, sand, concrete, asphalt, cinders, lumber, wood, shingles, used or discarded building or construction materials, tires, inoperable equipment, household appliances, scrap metal, scrap plastic, rubbish, refuse, waste or junk, except where:

- (1) Located within a fully enclosed and lawfully existing structure or building;
- (2) Located upon property zoned and lawfully used for agricultural purposes, including the keeping of horses or other livestock;
- (3) Directly associated with and necessary for an activity being conducted pursuant to a valid and effective building permit issued by the City for the same property upon which such conditions exist;
- (4) Directly associated with and necessary for the conduct of a lawfully permitted business activity (excluding home occupations) such as, but not limited to, the stockpiling of lumber associated with a lumber yard or the piling of earth or stone associated with a landscaping materials sales business;
- (5) Earth, dirt, stone or rock is integrated into and made part of a permanent landscape feature located upon a residentially zoned lot containing: a principal or primary residential structure; or
- (6) Not more than two (2) cords of stacked wood suitable and intended for on-site residential use in an interior wood-burning fireplace or heating system located upon a residentially zoned lot. (Ord. 2004-O-26 §1-7.1.103)

**Sec. 7-2-40. Junk or inoperable vehicles.**

(a) It is a nuisance and unlawful for any owner to permit, authorize, allow, park, keep or fail to remove a junk or inoperable vehicle located on a public highway, street, road, alley, thoroughfare, right-of-way, parking lot or parking area. For purposes of this Article, a *vehicle* shall mean an automobile, truck, motorcycle, motorbike, boat, trailer, camper, house-trailer or similar mode of wheeled transportation. A *trailer* shall mean any form of nonautomotive vehicle, sled or equipment designed to be towed by a vehicle. *Junk* or *inoperable* shall mean either of the following:

- (1) Inability to be lawfully operated on a public street due to circumstances such as but not limited to: lack of current and valid state license plate or registration; nonexistent, insufficient or inadequate safety or other equipment required by law for legal operation.
- (2) Inability to be mechanically operated due to circumstances such as but not limited to: inability to start and/or operate as designed and intended due to a mechanical or physical defect or damage; deflated tires; broken or inoperable turn signals; or broken or inoperable headlights.

(b) It is a nuisance and unlawful for any owner to permit, authorize, allow, park, keep or fail to remove a junk or inoperable vehicle located on private property that is visible from a public highway, street, road, alley, thoroughfare, right-of-way, parking lot or parking area. The terms and phrases *junk* or *inoperable vehicle*, *vehicle* and *trailer* shall have the meanings provided by Subsection (a) above. This Subsection shall not apply to vehicles and trailers located on property that is zoned to both permit and be actively used for a vehicle or trailer repair business. (Ord. 2004-O-26 §1-7.1.103)

**Sec. 7-2-50. General exceptions to nuisance regulations.**

The provisions of this Chapter shall not apply to:

(1) Property, actions, activities or operations owned, controlled or conducted by the City, its officials, contractors and employees in the performance of official municipal functions.

(2) Any noise resulting from any authorized emergency vehicle in responding to an emergency call or acting in time of emergency.

(3) The operation of aircraft or aircraft activities that would otherwise constitute a nuisance under this Chapter but which is authorized or lawfully allowed by federal law.

(4) Air pollution or noise generally emanating from the operation of a public right-of-way other than air pollution or noise emanating from a single identifiable vehicle.

(5) An activity which would constitute a nuisance in accordance with this Chapter but is expressly described in a valid City-issued permit (other than a building permit or other approval issued in accordance with the building and safety codes adopted by the City) provided that such activity is ceased, terminated or abated with seventy-two (72) hours of commencement or within such other period of time specifically identified in the permit. (Ord. 2004-O-26 §1-7.1.104)

### **ARTICLE 3**

#### **Portable Toilets**

##### **Sec. 7-3-10. Legislative declaration.**

The City Council finds and declares that a substantial danger to the preservation of public health and safety exists as a result of the placement of portable toilets on residential property. Although portable toilets are desirable and even required under certain circumstances, regulations are necessary to prevent the misuse or neglect of such devices and to mitigate their impact on surrounding properties. (Ord. 2005-O-27 §1-4.3.601)

##### **Sec. 7-3-20. Definitions.**

As used in this Article, unless the context otherwise requires:

*Portable toilet* means an enclosed, freestanding toilet not requiring a foundation, whether intended to be temporary or permanent.

*Public property* means any public street, right-of-way, road, highway, alley or other publicly owned and maintained property.

*Residential property* means any property zoned for and primarily used for single-family or multi-family residential purposes. (Ord. 2005-O-27 §1-4.3.602; Ord. 2007-O-14 §1)

##### **Sec. 7-3-30. Portable toilets prohibited on public property.**

It is unlawful for any person to place, store or maintain a portable toilet on any public property, unless such person is an employee, official or contractor of the City acting within the scope of his or her official municipal functions. (Ord. 2005-O-27 §1-4.3.603; Ord. 2007-O-14 §1)

**Sec. 7-3-40. Portable toilets restricted on residential property.**

(a) It is unlawful for any person to place a portable toilet on any residential property except where the portable toilet is directly associated with and necessary for an activity being conducted pursuant to a valid and effective building permit issued by the City for the same property upon which the portable toilet has been placed, except as provided in this Section. Any such portable toilet must be removed within forty-eight (48) hours of the expiration of the building permit and/or the completion of the work for which the portable toilet was necessary.

(b) Portable toilets harbored on residential property pursuant to this Section may not be placed within fifteen (15) feet of any property line or public right-of-way, or within ten (10) feet of any well, door or window of any house.

(c) Portable toilets harbored on residential property pursuant to this Section must be harbored clean so as to minimize any offensive odors, and must be emptied at least once per week. (Ord. 2005-O-27 §1-4.3.604; Ord. 2007-O-14 §1)

**Sec. 7-3-50. Violations.**

Any person who violates this Article commits a minor offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation. (Ord. 2005-O-27 §1-4.3.605)

**ARTICLE 4**

**Storage Pods**

**Sec. 7-4-10. Legislative declaration.**

The City Council finds and declares that a substantial danger to the preservation of public health and safety exists as a result of the placement of large self-storage containers, or "pods," on or around public streets and sidewalks and other public property; and that, even on private property, such containers can present hazards to public health, safety and welfare, particularly when harbored on property for prolonged periods of time. (Ord. 2005-O-27 §1-4.3.701)

**Sec. 7-4-20. Definitions.**

As used in this Article, unless the context otherwise requires:

*Public property* means any public street, right-of-way, road, highway, alley or other publicly owned and maintained property.

*Residential property* means any property zoned or primarily used for residential purposes.

*Storage pod* means any container intended for the purpose of storing or keeping household goods and other personal property that is intended to be filled, refilled or emptied while located outdoors on the property and then later removed from the property for storage off-site. A *storage*

*pod* does not include a *dumpster*, as defined in Article 5 of this Chapter. (Ord. 2005-O-27 §1-4.3.702; Ord. 2007-O-14 §1)

**Sec. 7-4-30. Storage pods prohibited on public property.**

It is unlawful for any person to place, store or maintain a storage pod on any public property, unless such person is an employee, official or contractor of the City acting within the scope of his or her official municipal functions. (Ord. 2005-O-27 §1-4.3.703; Ord. 2007-O-14 §1)

**Sec. 7-4-40. Storage pods restricted on residential property.**

It is unlawful for any person to place a storage pod on any residential property for more than seven (7) consecutive days. Any storage pod placed on residential property shall be placed so as not to encroach onto public property or interfere with the use by the public of any public property. (Ord. 2005-O-27 §1-4.3.704; Ord. 2007-O-14 §1)

**Sec. 7-4-50. Violations.**

Any person who violates this Article commits a minor offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation. (Ord. 2005-O-27 §1-4.3.705)

**ARTICLE 5**

**Trash Regulations**

**Sec. 7-5-10. Legislative declaration.**

The City Council finds and declares that a substantial danger to the preservation of public health and safety exists as a result of the improper placement or storage of large trash and recycling containers on or around public streets and sidewalks or other public property; and that even on private property, such containers can be detrimental to public health, safety and welfare, particularly when harbored on the property for prolonged periods of time. (Ord. 2005-O-27 §1-4.3.501)

**Sec. 7-5-20. Definitions.**

As used in this Article, unless the context otherwise requires:

*Dumpster* means any container exceeding a capacity of ten (10) cubic feet designed or intended to be used for the storage or hauling of trash, refuse, garbage, yard debris, recyclables or other waste materials.

*Public property* means any public street, right-of-way, road, highway, alley or other publicly owned and maintained property.

*Residential property* means any property zoned or primarily used for residential purposes. (Ord. 2005-O-27 §1-4.3.502; Ord. 2007-O-14 §1)

**Sec. 7-5-30. Dumpsters prohibited on public property.**

Except as provided in Section 7-5-50 below, it is unlawful for any person to place, store or maintain a dumpster on any public property, unless such person is an employee, official or contractor of the City acting within the scope of his or her official municipal functions. (Ord. 2005-O-27 §1-4.3.503)

**Sec. 7-5-40. Dumpsters restricted on residential property.**

(a) It is unlawful for any person to place a dumpster on any residential property except where one (1) of the following circumstances is found to exist:

(1) The dumpster is directly associated with and necessary for an activity being conducted pursuant to a valid and effective building permit issued by the City for the same property upon which the dumpster has been placed, except as provided in this Section. Any such dumpster must be removed within seven (7) days of the expiration of the building permit and/or the completion of the work for which the dumpster was necessary.

(2) The dumpster is being used in connection with work conducted on the same property for which a City-issued building permit is not required. Any such dumpster may not be harbored on the property for more than seven (7) consecutive days.

(3) The dumpster is located on property used for a multi-family residential use for the ongoing and permanent use of the residents for daily trash and solid waste disposal. Such dumpster shall be located and maintained in accordance with any other applicable requirement of this Code or the applicable zone district regulations for the property.

(b) Dumpsters harbored on residential property pursuant to this Section may not be placed within five (5) feet of any property line or public right-of-way. (Ord. 2005-O-27 §1-4.3.504; Ord. 2007-O-14 §1)

**Sec. 7-5-50. Administrative residential dumpster permits.**

The Director of Public Works may administratively review and shall approve or deny applications for permits for dumpsters on public property in accordance with this Section. The Director of Public Works is authorized to create and require the use of forms and to promulgate procedures not inconsistent with the provisions of this Section in order to implement the administrative permit process. (Ord. 2005-O-27 §1-4.3.505; Ord. 2007-O-14 §1)

**Sec. 7-5-60. Intent of permit.**

Administrative dumpster permits are intended to allow for the residential use of dumpsters for community or neighborhood cleanup and maintenance projects within residential subdivisions of the City. Administrative dumpster permits shall be available for issuance only to:

(1) Incorporated residential homeowner associations, civic associations or community associations (regardless of name or title) within the City;

(2) Groups of five (5) or more residents of the same residential subdivision within the City;  
and

(3) General improvement districts located within the City. (Ord. 2005-O-27 §1-4.3.505)

**Sec. 7-5-70. Minimum requirements.**

(a) Dumpsters placed on public property may only be located within portions of public rights-of-way where vehicular parking is permitted. No dumpster may be located within the portion of a public right-of-way intended for through traffic, or in any right-of-way that is not of adequate width to allow for vehicular parking.

(b) Dumpsters placed on public property must be located within eighteen (18) inches of the curb.

(c) No dumpster placed on public property may be located so as to block, impair or interfere with the use of sidewalks or pedestrian ways.

(d) No dumpster placed on public property may be located so as to block, impair or interfere with motorist visibility at any intersection.

(e) No dumpster placed on public property may remain for more than seven (7) consecutive days. No extensions shall be permitted. (Ord. 2005-O-27 §1-4.3.505)

**Sec. 7-5-80. Permit applications.**

(a) A person or organization seeking an administrative dumpster permit shall, at a minimum, submit to the Director of Public Works the following:

(1) A completed application in a form approved by the Director of Public Works;

(2) An application fee in the amount of twenty-five dollars (\$25.00);

(3) A fully executed right-of-way use agreement in accordance with this Section; and

(4) A map, sketch or other graphic depiction of the proposed location of the dumpster on public property. Such map or sketch need not be professionally prepared, but shall show the proposed distance of the dumpster from any intersections, driveways and curb cuts.

(b) The application form to be approved by the Director of Public Works shall contain, at a minimum, the following information:

(1) The name, address and telephone number for the applicant. For an applicant comprised of a group of five (5) or more residents within a residential subdivision, contact information shall be provided for all members of the group, and the group shall designate one (1) member as the primary contact person.

(2) The name, address and telephone number for the company providing the dumpster and a description of the size of the dumpster.

(3) A general description of the purpose of the dumpster and the identity of the proposed users of the dumpster.

(4) The date of the delivery of the dumpster and the date and time for removal of the dumpster.

(c) Right-of-way use agreements. A person or organization requesting an administrative dumpster permit shall submit with each completed application an executed right-of-way use agreement in a form approved by the Director of Public Works. Such agreement shall include, at a minimum, the following:

(1) A commitment by the applicant to remove the dumpster:

a. At the date and time of removal set forth in the permit application; or

b. Within twenty-four (24) hours after the rated capacity of the dumpster has been reached, whichever is earlier.

(2) An acknowledgement by the applicant that the City is authorized to demand removal of the dumpster by the dumpster company, without notice to the applicant, upon the City's determination that:

a. The dumpster has remained on site after the expiration of the permit;

b. The dumpster is filled to its rated capacity; or

c. The dumpster's location or use constitutes a potentially unsafe or hazardous condition.

(3) A commitment by the applicant to:

a. Locate the dumpster in the location approved in the permit;

b. Erect and maintain at all times two (2) or more pylons, traffic cones or other similar markers, as needed, to alert approaching motorists to the presence of a dumpster in the right of way;

c. Securely and prominently affix two (2) copies of the administrative dumpster permit to the dumpster in locations visible to the traveled portions of the right-of-way;

d. Prohibit the placement of and promptly remove any junk, trash or materials outside or adjacent to the dumpster; and

e. Notify the City in writing of any damage to public property, including damage to asphalt, concrete or other right-of-way surface, caused by the placement or removal of the dumpster.

(4) The signature of the applicant.

(5) The signature of a duly authorized representative of the company providing the dumpster acknowledging the City's authority to demand removal of the dumpster in accordance with this Section.

(d) Permit issuance. The Director of Public Works shall administratively approve any application that meets all of the requirements of this Section. The Director of Public Works shall issue to the applicant three (3) originals of a permit, in a form approved by the Director of Public Works, bearing the signature of the Director and the seal of the City. The applicant shall be obligated to affix two (2) copies of the permit to the dumpster in accordance with this Section and shall retain one (1) copy for the applicant's records. (Ord. 2005-O-27 §1-4.3.505)

**Sec. 7-5-90. Violations.**

Any person who violates this Article commits a minor offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation. (Ord. 2005-O-27 §1-4.3.506)

**ARTICLE 6**

**Weeds and Brush**

**Sec. 7-6-10. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Noxious vegetation* means plants or parts thereof which meet one (1) or more of the following criteria:

- a. It aggressively invades or is detrimental to economic crops or native plant communities;
- b. It is a carrier of detrimental insects, diseases or parasites;
- c. The direct or indirect effects of the presence of the plant are detrimental to the environmentally sound management of natural or agricultural ecosystems.

*Noxious vegetation* specifically includes Leafy Spurge (*Euphorbia esula*), Canadian Thistle (*Cirsium arvense*), Musk Thistle (*Carduus nutans*), Russian Knapweed (*Centaurea repens*), Diffuse Knapweed (*Centaurea diffusa*), Spotted Knapweed (*Centaurea maculosa*) and Purple Loosestrife (*Lythrium salicaria*). *Noxious vegetation* does not include Russian Olive Tree (*Elaeagnus angustifolia*) if such tree is in a living, healthy and disease-free condition. This list is not intended to be exclusive, but rather is intended to be indicative of those types of plants which are considered noxious and a present threat to the continued economic and environmental value of the lands within the City.

*Right-of-way* means all City streets, alleys and sidewalks.

*Weeds* means any plant or vegetation which is not intentionally cultivated or is unsightly and economically useless, including grass/brush that is more than eight (8) inches in height as measured from ground level. The term *weeds* does not include healthy flowers or vegetables, plots of shrubbery, ornamental landscaping, grain plots or pastures used for feed, fodder or forage. (Ord. 2007-O-27 §2)

**Sec. 7-6-20. Removal of noxious vegetation.**

(a) All owners and occupants of land within the City shall maintain such property free from noxious vegetation, including any alleys behind and sidewalk areas in front or on the side of any lot or tract of land and any portion of the City's right-of-way located between the property line of such lot or open area and the curb face, flow line or edge of pavement of any public street. Disposal of the noxious vegetation will be performed in a manner which will minimize the reproduction of the noxious vegetation.

(b) Noxious vegetation shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate and as deemed by the City to be consistent with Section 35-5.5-101 et seq., C.R.S. (Ord. 2007-O-27 §2)

**Sec. 7-6-30. Unlawful growth of weeds.**

(a) It is unlawful for any person to permit the growth of weeds upon any lot or tract of land owned or occupied by any such person, including any alleys behind and sidewalk areas in front or on the side of any lot or tract of land and any portion of the City's right-of-way located between the property line of such lot or open area and the curb face, flow line or edge of pavement of any public street to a height of not more than those limitations permissible under this Article.

(b) Weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate.

(c) This Section shall not apply to any lot or parcel of property within the City that is:

(1) Zoned for agricultural use;

(2) Larger than two hundred (200) acres in size and under single ownership; or

(3) Zoned for residential use and located south of Arapahoe Road and east of Parker Road within a subdivision subject to recorded covenants or land use approvals applicable to the lot or parcel which indicate, restrict or require that the lots or parcels be maintained in a natural state. (Ord. 2007-O-27 §2)

**Sec. 7-6-40. Notice and assessment.**

(a) Any person who violates this Article shall be served a written notice of violation. Service of the notice may be by first-class mail properly addressed to the dwelling or building located on the lot or tract of land upon which a violation of this Article occurs; by a conspicuous posting of a notice of violation upon the property or building located on the lot or tract of land upon which a violation of this Article occurs; or by personal service upon a natural person over the age of eighteen (18) years

who occupies a dwelling or building or a lot or tract of land upon which a violation of this Article occurs.

(b) If a notice of violation cannot be served in any manner specified above, the notice of violation shall be sent by first-class mail to the owner of record of such lot or tract of land as shown in the records of the County.

(c) The notice will state that the weeds must be cut to a height less than eight (8) inches or noxious vegetation removed within seven (7) days from the date of the notice and, if not so cut or removed by the owner or occupant, the City will cut the weeds or remove the noxious vegetation and assess the whole cost thereof, including five percent (5%) for inspection and incidental costs, upon the lots or tracts of land from which the plants are controlled or removed.

(d) The City will serve such a notice on the same violator only once during any calendar year. Thereafter, in the event of a subsequent violation by the same person within the same calendar year, the City will cut the weeds or remove the noxious vegetation and assess the whole cost thereof, including five percent (5%) for inspection and incidental costs, upon the lots or tracts of land from which the weeds are cut or noxious vegetation removed, without serving an additional notice on the violator. (Ord. 2007-O-27 §2)

**Sec. 7-6-50. Payment of assessment.**

(a) Upon the first violation by the same person within the same calendar year, if the weeds are not cut to a height less than eight (8) inches or noxious vegetation removed by the owner or the occupant within the seven (7) days specified in the notice, the City may cut the weeds or remove the noxious vegetation and assess the whole cost thereof, including five percent (5%) for inspection and incidental costs, upon the lots or tracts of land from which the plants are controlled or removed.

(b) Upon any subsequent violation by the same person within the same calendar year, the City may cut the weeds or remove the noxious vegetation and assess the whole cost thereof, including five percent (5%) for inspection and incidental costs, upon the lots or tracts of land from which the weeds are cut or the noxious vegetation is removed without any further notice.

(c) The City will send a statement of costs to the owner of record by first-class mail. The amount of the costs in the statement is due and payable by the owner of record to the City within thirty (30) days from the date of the statement. If the amount is not paid by the date due, interest on any unpaid balance due to the City shall accrue at the legal rate specified in Section 5-12-101, C.R.S.

(d) The City Clerk is authorized to record a statement of lien with the clerk and recorder for the county in which the lot or tract of land is located if the assessment is not paid by the owner within thirty (30) days from the date of the statement. (Ord. 2007-O-27 §2)

**Sec. 7-6-60. Certification to the County Treasurer.**

If the owner of record fails to pay the amount specified in the statement of costs, the City Clerk may certify the amount due and owing to the County Treasurer for collection of the assessment. The County Treasurer shall collect the assessment, together with a ten-percent penalty for the cost of collection, in the same manner as other taxes are collected. (Ord. 2007-O-27 §2)

**Sec. 7-6-70. Alternative enforcement.**

The City may pursue the remedies set forth herein with or without also filing a complaint in the Municipal Court, at the City's sole discretion, for violation of this Article. (Ord. 2007-O-27 §2)

**ARTICLE 7**

**Animal Control**

*Division 1  
General Provisions*

**Sec. 7-7-10. Definitions.**

When used in this Article, the following words, terms and phrases will have the meanings assigned in this Section:

*Animal* means reptiles and any live vertebrate creature, domestic or wild, also including fowl.

*Animal control officer* means a person who is either an employee of or a contractor to the City and who is authorized by the City to enforce this Article.

*Animal Services* means the City department, or any successor department or division, charged with administration and enforcement of this Article.

*Animal shelter* or *shelter* means the City-designated facility for the boarding and disposition of any animal impounded under the provisions of this Article or any other ordinance or law of the State. The City may designate other facilities as necessary for the boarding of impounded livestock, wildlife or exotic species that the shelter is unable to confine safely or humanely.

*Attack* means any violent or hostile physical contact with a person or any violent or hostile behavior that confines the movement of a person, including but not limited to chasing, cornering or encircling a person.

*Cat* means any member of the species *Felis catus*, regardless of sex.

*Dangerous animal* means any animal, except a dog assisting a law enforcement officer engaged in law enforcement duties, that:

a. Causes serious bodily injury to any person or domestic animal or behaves in a manner that would have resulted in such serious bodily injury except for the fact that there was intervention by a person to stop the behavior.

b. Has been previously adjudged as a potentially dangerous animal under Section 7-7-430 of this Article and the owner or keeper has failed to obtain and maintain the required potentially dangerous animal permit, or the animal has engaged in subsequent behavior that poses a threat to public safety or for which any of the potentially dangerous animal permit conditions set forth for the keeping of potentially dangerous animals have been violated (unless

the animal owner or keeper has been relieved of the obligation to maintain such permit as set forth in Subsection 7-7-430(f) of this Article).

c. Engages in or has been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

*Days* means calendar days, inclusive of Saturdays, Sundays and holidays, notwithstanding Section 1-2-20 of this Code.

*Dog* means any member of the species *Canis familiaris*, regardless of sex.

*Domestic animal* means any household pet or livestock customarily adaptable so as to commonly live safely within society.

*Keeper* means any person who is in possession of or is keeping, harboring or caring for any animal.

*Keep(ing)* means to care for, to have custody of, to provide premises to which the animal regularly returns for food and shelter, or to exercise physical control over or to have any right of property in, an animal, or to own, harbor or allow an animal to remain about any premises within the City.

*Law enforcement officer* means any sheriff, deputy or undersheriff of the County charged with enforcing the ordinances or laws of the City under agreement between the City and the County, or any law enforcement officer of a successor City department designated and authorized by the City to enforce such laws.

*Owner or keeper* means a person over the age of eighteen (18) or an emancipated child who keeps an animal. The parent, guardian or legal custodian of any unemancipated child under the age of eighteen (18) years who keeps an animal shall be deemed to be the owner or keeper of such animal.

*Potentially dangerous animal* means any animal, except a dog assisting a law enforcement officer engaged in law enforcement duties, that may be a threat to public safety as may be demonstrated by any of the following behaviors:

a. Causes any injury less than serious bodily injury to any person or domestic animal at any place within the City.

b. Without provocation, approaches any person in a menacing or terrorizing manner or in an apparent attitude of attack, whether such person is in motion or standing still, and whether such person is on foot or on or in a vehicle or device which allows such person to be in motion.

c. Attacks any person who is lawfully on the owner's or keeper's property.

d. Acts in a highly aggressive manner within a fenced yard or enclosure and appears to a reasonable person to be able to jump over or escape such fenced yard or enclosure.

*Proper enclosure* means a structure which:

- a. Is suitable to prevent the entry of young children and to prevent the animal from escaping.
- b. Has secure sides and a secure top or secure sides which are of sufficient height to prevent the animal from escaping over the sides.
- c. Has sides that are constructed at the bottom so as to prevent the animal's escape by digging under the sides.
- d. Provides appropriate protection from the elements for the animal.

*Serious bodily injury* means any physical injury that results in broken bones or severe bruising, muscle tears, lacerations that require multiple sutures or cosmetic surgery, or any physical injury that requires corrective or cosmetic surgery or results in death.

*Spayed female* means any female dog or cat on which an ovariectomy or ovariohysterectomy has been performed by a veterinarian, and for which the owner or keeper shall furnish a certificate certifying that such operation has been performed.

*Tether* means to tie up or chain to a fixed or heavy inanimate object so as to restrict the free movement of an animal to a distance no greater than the length of its leash or chain.

*Vaccinate* or *vaccinate against rabies* means the inoculation of a dog or cat with a vaccine licensed by the United States Department of Agriculture for use in the prevention of rabies.

*Veterinarian* shall be a professional licensed to practice veterinary medicine by the State.

*Wild animal* means all species of animals which exist in their natural, unconfined state and are usually not domesticated. (Ord. 2009-O-07 §1)

**Sec. 7-7-20. Rabies vaccination required.**

(a) Every dog, cat and ferret aged six (6) months or older shall be vaccinated by a veterinarian against rabies. Vaccinations must be kept current thereafter. Any owner or keeper of a dog, cat or ferret aged six (6) months or older brought into the City shall secure a vaccination for said animal within ten (10) days after bringing the animal into the City or within ten (10) days after the animal reaches six (6) months of age, whichever occurs later.

(b) A certificate of vaccination shall be completed by a veterinarian, with one (1) copy to be issued to the dog, cat or ferret owner and shall be presented upon demand to any animal control officer or law enforcement officer of the City. A rabies tag shall also be issued by the veterinarian to the owner or keeper of the dog, cat or ferret, who shall comply with Section 7-7-30 below.

(c) It shall be unlawful for any person to keep any dog, cat or ferret which has not been properly vaccinated for rabies or which cannot be identified as having a current certificate of vaccination, as required by this Section. (Ord. 2009-O-07 §1)

**Sec. 7-7-30. Licensing; collar and tags or microchip required.**

(a) It shall be unlawful for the owner or keeper of any dog within the City to fail to secure a nontransferable license for such dog from Animal Services within thirty (30) days of the time the dog reaches six (6) months of age or is brought into the City, whichever occurs later. The owner or keeper of any licensed dog shall keep Animal Services informed at all times of the current address at which the dog is owned or kept. The provisions of this Section shall not apply to dogs whose owners or keepers are nonresidents temporarily located within the City for a period of thirty (30) days or less, to dogs brought into the City for purposes of exhibits, or to assistance dogs owned by persons with disabilities, as such terms are defined in Section 24-38-803(5), C.R.S.

(b) No dog license shall be issued until the owner or keeper presents satisfactory proof of compliance with Section 7-7-20 above.

(c) The dog license fees shall be as set by resolution of the City Council, as amended from time to time, and may provide for an annual or triennial license renewal and fee.

(d) It is unlawful for the owner or keeper of any dog or cat within the City to fail to cause such dog or cat, while off the premises of the owner or keeper, to either:

(1) Wear at all times a collar with a tag made of durable material with legible and current identification attached thereto containing words, numbers or a combination thereof, which enables the animal control officer or any law enforcement officer to readily ascertain the name, current home address and current home telephone number of the owner or keeper and a valid current rabies tag attached thereto, which tag shall be furnished by a veterinarian, the number of such tag corresponding with the number of the rabies certificate issued to the owner or keeper of the dog or cat; or

(2) Have a microchip surgically implanted into such dog or cat, or other similar type of identification.

(e) Any dog or cat found neither collared nor identified by microchip in violation of this Section may be seized and impounded by the animal control officer or any law enforcement officer. The owner or keeper of any such dog or cat, if ascertainable, may be notified to procure a valid rabies vaccination tag and license for the same within four (4) days of the date of such notice. The date of notice shall be the date the owner or keeper is provided notice and/or the date that the animal control officer or animal shelter makes reasonable efforts to ascertain and provide the owner or keeper with such notice. Dogs or cats impounded under this Section may be released to the owner or keeper from impound upon presentation of the appropriate tag or license at the shelter. Presentation of such tag or license shall not affect the liability of such owner or keeper for violation of Subsection (d) above. In the event the owner or keeper fails to present such tag or license at the animal shelter, an animal impounded under this Article may be disposed of in accordance with the provisions of this Article after a period of not less than five (5) days from the date of impound or four (4) days from the date of notice, whichever is longer.

(f) An animal control officer may, in the officer's discretion, choose to issue to any person charged with a violation of this Section a penalty assessment or summons and complaint that may be voided by such officer prior to filing the charging document with the Municipal Court upon

satisfactory proof being presented to Animal Services within the time period set forth on the face of the penalty assessment or summons and complaint that the party charged has come into compliance with the requirements of this Section. (Ord. 2009-O-07 §1)

**Sec. 7-7-40. Powers and duties of animal control officers and law enforcement officers.**

(a) Animal control officers and law enforcement officers of this City shall have the power and duty to enforce all sections of this Article or any other ordinance or law of the State pertaining to animals. In the furtherance of such duties, such officers may issue, sign and serve penalty assessments or summons and complaints in order to enforce the provisions of this Article.

(b) Animal Services shall keep accurate and detailed records of the impoundment and disposition of all animals coming into custody and of all reports of any animal bites reported to any animal control officer or law enforcement officer.

(c) It shall be lawful for any animal control officer or law enforcement officer to go upon private property to capture any animal to be impounded for, or to investigate any report of a violation of this Article, if:

- (1) The officer has obtained consent of the person in possession of the property;
- (2) The officer has obtained a search warrant pursuant to Rule 241 of the Colorado Municipal Court Rules;
- (3) The officer is in pursuit of an animal which is or has been running at large;
- (4) The officer is in pursuit of an animal which the officer has probable cause to believe has bitten a person; or
- (5) The officer is attempting to abate a continuing violation when the owner of the property is not available.

Nothing in Paragraphs (c)(3), (c)(4) or (c)(5) of this Section shall be deemed to authorize entry into any enclosed building on private property.

(d) If an affidavit has been submitted to the Municipal Court Judge which satisfies the judge that an animal which is the subject of a violation of this Article is located within the City and that the animal either poses a clear and present danger to the health, general welfare or safety of other persons or animals or is suffering extreme neglect or cruelty, the Municipal Court Judge may order the animal seized by a designated officer of the City pursuant to Rule 241 of the Colorado Municipal Court Rules. The owner or keeper of the animal may request a hearing concerning any such order for seizure entered pursuant to this Section by filing an appropriate motion pursuant to Rule 241(e) of the Colorado Municipal Court Rules. Whenever an animal is seized by order of the Municipal Court or other court, the animal shelter shall not adopt out, donate or euthanize the animal unless such action is permitted by a subsequent order of the same court which ordered the initial seizure.

(e) Notwithstanding Paragraph (c)(2) or (c)(6) above, if an animal control officer or law enforcement officer has reasonable cause to believe that the keeping or maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the

public health or safety, the animal control officer or law enforcement officer shall have the right to immediately enter and inspect the property or vehicle in or upon which the animal is kept and may use any reasonable means required to effect such entry and make such inspection, whether the property or vehicle is occupied or unoccupied and whether permission to inspect has been obtained or not. If the property or vehicle is occupied, the animal control officer or law enforcement officer shall first present proper credentials to the owner or occupant of the property or vehicle and demand entry, explaining his or her reasons therefor and the purpose of the inspection. Such entry shall be solely for the purpose of abating the violation, and no evidence obtained during or as a result of such entry shall be admissible for purposes of prosecution. (Ord. 2009-O-07 §1)

**Sec. 7-7-50. Interference with animal control officer or law enforcement officer.**

(a) It is unlawful for any person to intentionally interfere with, hinder, harass, molest, injure, obstruct or disobey a lawful order from any animal control officer or law enforcement officer in the discharge of his or her official duties under this Article or other applicable law.

(b) It is unlawful for any person to fail to allow or to refuse entry to an animal control officer or law enforcement officer demanding entry for purposes of inspection pursuant to Subsection 7-7-40(e) above. (Ord. 2009-O-07 §1)

*Division 2  
Impoundment*

**Sec. 7-7-110. Impoundment generally.**

(a) Any time an animal control officer or a law enforcement officer has reasonable suspicion to believe an animal has engaged in any form of prohibited behavior under this Article or any other ordinance or any law of the State, including but not limited to the failure of the animal to be properly collared and tagged as set forth in this Article, such animal may, at the discretion of the animal control officer or law enforcement officer, be taken into custody by any animal control officer or law enforcement officer and impounded in a humane manner.

(b) Unless other time frames are specifically provided for in this Article (including but not limited to bite confinement periods), any animal impounded which is not claimed within a five-day period may be disposed of by the animal shelter. Disposal may be by adoption, donation or humane destruction at the sole discretion of the animal shelter. During the period of impoundment, the animal shelter or Animal Services shall make reasonable effort to ascertain and notify the owner or keeper. Notwithstanding the other provisions of this Subsection, feral cats or dogs may be humanely destroyed at the sole discretion of the animal shelter at any time three (3) days after impoundment.

(c) Any animal held as evidence at the shelter at the request of an animal control officer shall be impounded pending the hearing set forth in Section 7-7-130 below. Any animal so impounded which is not claimed or for which financial bond is not paid as set forth in Section 7-7-140 below may be disposed of as set forth in Subsection (b) above. In no event shall said animal be released to the owner or keeper prior to the service of a penalty assessment or summons and complaint upon the owner or keeper.

(d) The owner or keeper of any impounded animal shall be responsible for the payment of all charges and fees, including those for impoundment, boarding, euthanasia, disposal, veterinary and all other services as needed. Fees and charges for impoundment of animals shall be as set by City Council by resolution in accordance with the fees and charges incurred by the City. No impounded animal shall be released until the owner or keeper has paid or arranged to pay all such charges and fees. Failure of the owner or keeper of any impounded animal to claim such animal from the animal shelter shall not relieve the owner or keeper from payment of all applicable charges and fees as established by the shelter. It shall be unlawful for any owner or keeper to fail to pay such fees and charges.

(e) In the sole discretion of the animal control officer, any dog found running at large in violation of Section 7-7-410 of this Article, which is not otherwise a potentially dangerous or dangerous animal under the provisions of this Article, may be returned to its owner or keeper and, in the animal control officer's discretion, such owner or keeper may be required to pay a return-to-owner fee, the amount of which shall be set by resolution of the City Council, as amended from time to time. (Ord. 2009-O-07 §1)

**Sec. 7-7-120. Seizure and immediate destruction.**

(a) Any animal which has caused injury to any person or animal, which has, without provocation, attacked any person or domesticated animal, or which otherwise meets the definition of a dangerous or potentially dangerous animal as set forth in this Article and is found running at large may be seized and impounded at the owner's or keeper's expense by an animal control officer or law enforcement officer without notice to the owner or keeper, subject to the requirement that the animal control officer, law enforcement officer or animal shelter makes a reasonable effort to notify such owner or keeper after seizing and impounding the animal. If, after making every reasonable attempt to seize such animal, including the solicitation of assistance from the animal's owner or keeper, if such owner or keeper is immediately ascertainable and available, the officer determines that the animal cannot be seized without exposing the officer or other persons to danger of personal injury from the animal, and the animal presents a present danger to any person or other animal, it shall be lawful for the officer to destroy the animal without notice to the owner or keeper.

(b) When a veterinarian, animal shelter, animal control officer or law enforcement officer has determined that an animal is critically ill or injured, is suffering extreme pain or has a poor prognosis for recovery, nothing in this Article shall be construed to prevent the immediate destruction of such domestic or wild animal. (Ord. 2009-O-07 §1)

**Sec. 7-7-130. Hearing on disposition of seized animals.**

(a) Whenever an animal is seized or impounded pursuant to this Article and a penalty assessment or summons and complaint has been served, depending on the nature of the charge pending, the animal owner or keeper may be summoned before the Municipal Court on the next available court date following the seizure or impoundment to address only the issue of disposition of the seized and impounded animal. The City, through Animal Services, shall make reasonable efforts to notify the owner or keeper in writing by personal service or by posting notice on the front door of the owner's or keeper's residence at the address shown on the animal license records. Unless the animal owner or keeper waives the time frame for advance service of such notice in order to expedite a hearing, this notice shall be served at least four (4) days prior to the hearing and shall state the time, date, location

and purpose of the hearing. Such hearings resulting from animal seizures or impoundments shall be given priority on the Municipal Court docket in order to minimize the expense to animal owners or keepers for impoundment of seized animals.

(b) If an animal is seized and impounded on an evidence hold pursuant to Subsection 7-7-110(c) above and the owner or keeper cannot be ascertained or served with either a penalty assessment or summons and complaint in accordance with Subsection 7-7-110(c) above, disposition of the animal may proceed in accordance with the time frames and requirements of Subsection 7-7-110(b) above.

(c) If, on the date of the hearing, notice to the owner or keeper was provided as required under Subsection (a) of this Section, the Municipal Court may proceed with the hearing as to the disposition of the animal, whether or not the owner or keeper appears.

(d) Formal rules of evidence shall not apply at such animal disposition hearings, and any statements made at such hearings shall not be used as evidence at any subsequent hearing in the prosecution of the underlying charges. If the City establishes by a preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property or animals, the Municipal Court shall order the animal to remain impounded at the owner's or keeper's expense until final disposition of the pending municipal charges. If the Municipal Court determines that it is inappropriate to order the animal impounded, the Municipal Court may order the animal returned to the owner or keeper and kept under such circumstances as will ensure the safety of persons, property or other animals, as the case may be. (Ord. 2009-O-07 §1)

**Sec. 7-7-140. Financial bonding for cost of holding impounded animals.**

(a) The owner or keeper of an animal that has been ordered impounded after the hearing as set forth in Section 7-7-130 above may be required to post a bond with the Municipal Court in an amount sufficient to provide for the care and keeping of the animal from the date of impound, to the extent any such charges remain outstanding as of the date of the hearing as set forth in Section 7-7-130, until the date set for trial on the pending municipal charges. Notice of such bond shall be given at the conclusion of the hearing to the owner or keeper, allowing five (5) days for the posting of such bond.

(b) If the owner or keeper does not appear at the disposition hearing as set forth in Section 7-7-130 above, the City shall, if ascertainable, send notice of the bond amount to the owner or keeper allowing the owner or keeper five (5) days from the date of the notice to post such bond.

(c) If the owner or keeper fails to post the bond or cannot be ascertained by the City following reasonable efforts, the animal shall be deemed abandoned, and the animal shelter may dispose of the animal at any time after five (5) days from the date of notice of the bond requirement. The date of notice shall be the later of the date the owner or keeper is provided notice or the date that the animal control officer or animal shelter makes reasonable efforts to ascertain and provide the owner or keeper with such notice. Animal Services shall be provided copies of all notices issued under this Section.

(d) At the end of the time for which expenses are covered by the bond, the animal shelter may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or keeper shall be liable for the cost of the care, keeping or disposal of the animal. (Ord. 2009-O-07 §1)

**Sec. 7-7-150. Destruction, seizure or release on Court's order.**

(a) If a penalty assessment or summons and complaint has been filed in the Municipal Court against the owner or keeper of an animal for a violation of this Article, the Municipal Court may, upon making a finding that the animal is dangerous or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner. Surrender of an animal by the owner or keeper thereof does not relieve or render the owner or keeper immune from the decision of the Municipal Court, or to the fees, fines or other penalties which may result from a violation of this Article.

(b) If the Municipal Court determines that an impounded animal should be released, the Municipal Court shall issue a release form signed by the Municipal Court Judge to the owner or keeper of the animal, which the owner or keeper shall present at the animal shelter in order to claim the animal. The Municipal Court shall also send a copy of the release form to Animal Services and to the animal shelter. Any animal held pursuant to court order may be disposed of by the animal shelter if unclaimed by the owner or keeper within three (3) days following the issuance of a court order authorizing the release of the animal.

(c) Trials involving charges resulting in animal seizures or impoundments shall be given priority on the Municipal Court docket in order to minimize the expense to animal owners or keepers for impoundment of seized animals. (Ord. 2009-O-07 §1)

**Sec. 7-7-160. Prosecution.**

(a) For the purpose of prosecution of a violation of any section of this Article, it shall not be necessary in order to obtain a conviction to prove knowledge or notice on the part of the owner or keeper of the animal in question that said animal was violating any of the sections of this Article at the time and place charged. The purpose of this Section is to impose strict liability upon the owner or keeper of any animal for the actions, conduct and condition of such animal, unless the violation specifically provides otherwise.

(b) Each separate day, or any portion thereof, during which such violation of this Article occurs or continues shall constitute a separate offense and, upon conviction thereof, shall be punishable as provided in this Article. (Ord. 2009-O-07 §1)

**Sec. 7-7-170. Penalties.**

(a) The animal control officer or law enforcement officer, or the City Attorney or designee may recommend that one (1) or more special sanctions be levied against any owner or keeper convicted of any violation of this Article. This recommendation may be presented to the Municipal Court as a proposed condition of sentencing upon conviction and may be in lieu of or in addition to any other penalty permitted under this Code. The Municipal Court may take into consideration the severity of the incident, the prior history of the animal or the owner or keeper and the recommendation of the animal control officer, law enforcement officer or City Attorney. Without in any way limiting the power of the Municipal Court to impose special sanctions as it deems appropriate, special sanctions may include:

(1) Construction of a secure animal enclosure (built to specifications as ordered by the Municipal Court and in compliance with City zoning requirements).

(2) Spaying or neutering of the animal.

(3) Obedience training or behavior modification.

(4) Responsible pet ownership class(es).

(5) Community service work.

(6) Euthanasia of the animal.

(7) Prohibition from owning animals for a specified period of time.

(8) Use of specified humane training devices for behavior modification.

(9) Inspections of premises where the animal is kept.

(10) Restitution for costs of care rendered, shelter provided at the animal shelter and costs of veterinary care and medical treatment.

(11) Treatment or counseling programs.

(b) Any person convicted of violating Section 7-7-20 of this Article (Rabies vaccination required) shall be fined seventy-five dollars (\$75.00) for the first offense; one hundred dollars (\$100.00) for the second offense within a two-year period; and a minimum of one hundred fifty dollars (\$150.00) for all similar offenses within a two-year period thereafter, with a mandatory court appearance required at the time the person is charged with such violation. The Municipal Court may suspend all or part of any fine hereunder if the person convicted of violating Section 7-7-20 provides proof that the animal was properly vaccinated on the date of the violation.

(c) Any person convicted of violating Section 7-7-30 (Licensing; collar and tags or microchip required) of this Article shall be fined fifty dollars (\$50.00) for the first offense; seventy-five dollars (\$75.00) for the second offense within a two-year period; and a minimum of one hundred dollars (\$100.00) for all similar offenses within a two-year period thereafter, with a mandatory court appearance required at the time the person is charged with such violation. The Municipal Court may suspend all or part of any fine hereunder if the person convicted of violating Section 7-7-30 provides proof that the animal was properly licensed and/or identified on the date of the violation.

(d) Any person convicted of violating Subsection 7-7-320(a) (Removal of feces from property of another) or 7-7-320 (b) (Unlawful disposal of feces) of this Article shall be fined fifty dollars (\$50.00) for the first offense; seventy-five dollars (\$75.00) for the second offense within a two-year period; and a minimum of one hundred dollars (\$100.00) for all similar offenses within a two-year period thereafter, with a mandatory court appearance required at the time the person is charged with such violation. Any person convicted of violating Subsection 7-7-320(c) (Unlawful disposal of feces in storm sewer or on property of another) of this Article shall be fined an amount of up to one thousand dollars (\$1000.00), and a mandatory court appearance shall be required at the time the person is charged with such violation.

(e) Any person convicted of violating Section 7-7-410 (Running at large) of this Article shall be fined fifty dollars (\$50.00) for the first offense; seventy-five dollars (\$75.00) for the second offense within a two-year period; and a minimum of one hundred dollars (\$100.00) for all similar offenses within a two-year period thereafter, with a mandatory court appearance required at the time the person is charged with such violation.

(f) Any person charged with violating Section 7-7-420 or 7-7-430 of this Article (Dangerous animal or Potentially dangerous animals) shall be issued a summons and complaint requiring a mandatory court appearance.

(g) Any person convicted of violating Section 7-7-470 of this Article (Noisy dogs) shall be fined fifty dollars (\$50.00) for the first offense; seventy-five dollars (\$75.00) for the second offense within a two-year period; and a minimum of one hundred dollars (\$100.00) for all similar offenses within a two-year period thereafter, with a mandatory court appearance required at the time the person is charged with such violation.

(h) Notwithstanding any other provision set forth in this Section, any person charged with a violation of this Article related to any incident for which there is an issue of injury or damage or for which restitution by a victim may be requested or ordered shall be issued a summons and complaint requiring a mandatory court appearance.

(i) Unless the penalty is specifically set forth herein, any person convicted of violating any other provisions of this Article shall be guilty of a minor offense punishable by a fine of up to one thousand dollars (\$1,000.00) as set forth in this Code and imposition of any special sanctions as ordered by the Municipal Court and authorized herein. (Ord. 2009-O-07 §1)

**Sec. 7-7-180. Immunity from liability.**

The City and its employees and agents and the animal shelter and its employees shall be immune from liability for any actions taken pursuant to this Article. (Ord. 2009-O-07 §1)

*Division 3  
Owner Responsibilities*

**Sec. 7-7-310. Reporting of animal bites and confinement.**

(a) The owner or keeper of any domesticated animal that has bitten any person so as to cause a break in the skin shall immediately advise an animal control officer of that fact. Any such animal shall be immediately confined for a period of ten (10) days or longer on the advice of the officer, attending veterinarian or the County Health Department. Confined animals shall have no contact with the public, and it is unlawful for any person to remove any confined animal from the designated quarantine location. As they are not considered to be transmitters of the rabies virus, bites inflicted by domesticated rodents, rabbits, reptiles or fowl need not be reported pursuant to this Section.

(b) Confinement may be on the premises of the owner or keeper if deemed appropriate in the discretion of the officer, attending veterinarian or County Health Department, but the animal must remain within the City for a minimum of ten (10) days. If not confined on the premises of the owner

or keeper, confinement will be at the animal shelter site or any veterinary hospital or boarding kennel within the City limits. Such confinement shall be at the expense of the owner or keeper. In the case of an animal whose owner or keeper cannot be located, such confinement shall be at the animal shelter.

(c) The owner or keeper of any animal that has been reported as having inflicted a bite causing a break in the skin of any person shall, on demand of an animal control officer or any law enforcement officer, produce said animal for examination and confinement, as prescribed in this Section. It is unlawful to give away, sell or remove any such animal from the City or to destroy such animal before it is properly confined by an animal control officer or law enforcement officer.

(d) Every physician and other medical practitioner who treats a person for bites inflicted by an animal shall report such treatment to an animal control officer within twenty-four (24) hours, providing the name, address and telephone number of such person.

(e) The owner or keeper of any dog or cat shall inform the veterinarian before any rabies inoculation is given of whether the subject dog or cat is under bite confinement or has inflicted a bite on any person within the last ten (10) days. It shall be the responsibility of any veterinarian to vaccinate any dog or cat over four (4) months of age that is presented in good health and has not inflicted a bite upon a person in the preceding ten (10) days. When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify Animal Services and advise it of any reports of human contact with said animal.

(f) Animals known to have been bitten by or exposed to a rabid animal shall be immediately destroyed or released upon proof of current rabies immunization and booster injection provided by a licensed veterinarian at the expense of the owner or keeper. The owner or keeper of any animal released under this Section shall be required to keep said animal under quarantine for a period of six (6) months or as may be determined necessary by the treating veterinarian or County Public Health Officer. (Ord. 2009-O-07 §1)

**Sec. 7-7-320. Removal of feces.**

(a) It is unlawful for the owner or keeper of an animal that defecates upon any property other than that of the owner or keeper, including the common areas of condominiums, townhouses, duplexes or apartments, to fail to immediately remove and properly dispose of such feces, as outlined herein.

(b) It is unlawful for any person to dispose of animal feces in any manner except by depositing it in a toilet, a covered fly-tight container normally used for garbage or an airtight bag or container placed in a garbage receptacle.

(c) It is unlawful to place animal feces in storm sewers or upon the property of another. (Ord. 2009-O-07 §1)

**Sec. 7-7-330. Cleanliness of premises.**

It is unlawful for any person to allow the accumulation of feces on any premises owned, occupied or controlled by such person in the City, including any stable, stall, shed, compartment, apartment or

any yard or appurtenance thereof to the extent that it creates an unsanitary, offensive or unhealthy condition. Such accumulations may also be deemed a nuisance, and enforcement of this Section may either be through summons and complaint in the Municipal Court or in accordance with Article 2 of this Chapter concerning nuisances, at the sole discretion of Animal Services or the Code enforcement personnel of the City. (Ord. 2009-O-07 §1)

**Sec. 7-7-340. Limits on number of dogs and cats.**

Notwithstanding any provision otherwise set forth in this Code, no person or household in any zone district, other than as specifically permitted under the zoning regulations for the Agricultural Zone District or under an approved development plan, or any person holding a valid pet fancier's permit as set forth in Section 7-7-350 below, shall own or have custody of:

- (1) More than three (3) dogs of more than four (4) months of age;
- (2) More than four (4) cats of more than four (4) months of age; or
- (3) More than a total of four (4) dogs and cats of more than four (4) months of age in any combination. (Ord. 2009-O-07 §1)

**Sec. 7-7-350. Pet fancier's permit.**

(a) Any person in possession of a valid pet fancier's permit may keep and maintain up to six (6) dogs or six (6) cats or any combination thereof up to six (6) dogs and/or cats of four (4) months of age or older at any place, on any premises or in any one (1) residence located within the City.

(b) Animal Services may establish regulations and standards for the issuance of pet fancier's permits relating to:

- (1) The maximum number of household pets to be kept or maintained on the premises;
- (2) The construction, sanitation and maintenance of facilities;
- (3) The housing, care and humane treatment of animals kept on the property; and
- (4) Any other regulations and standards in conformity with and for the purpose of carrying out the intent of this Section.

(c) Compliance with any regulations and standards promulgated in accordance with Subsection (b) above shall be prerequisite to the issuance and continued validity of any pet fancier's permit issued pursuant to this Section.

(d) Application for a pet fancier's permit shall be fully completed in writing on a form approved by Animal Services.

(e) Holders of a pet fancier's permit shall pay an annual fee to cover the cost of inspection and permit issuance in an amount to be set by City Council by resolution. No permit fee shall be refundable once issued.

(f) Prior to Animal Services issuing any pet fancier's permit, the applicant shall notify in writing any homeowners' association that has jurisdiction over the property for which the permit is sought and all property owners contiguous to the applicant's property that the applicant has applied for a pet fancier's permit. The form of such notice shall be provided by Animal Services and shall state that any objections by any homeowners' association or contiguous property owners shall be made in writing and must be received by Animal Services within five (5) days of the date of receipt of notification. Animal Services shall be provided a copy of all such notices and an affidavit by the applicant that notice was actually sent and the date of actual receipt by the applicable homeowners' association and contiguous property owners.

(g) Animal Services may inspect at any reasonable time the facilities housing all animals contained on the premises for which a pet fancier's permit is issued, to determine compliance with the standards set forth in this Section and any regulations and standards adopted by Animal Services.

(h) Animal Services may deny or revoke any permit issued pursuant to this Section in the event of any one (1) of the following:

(1) The applicant resides on a lot smaller than is reasonable to accommodate the requested number of animals, either due to concerns about animal health and welfare or effects on neighboring properties;

(2) The keeping of such number of animals as set forth in the permit application violates applicable neighborhood covenants;

(3) Animal Services has reason to believe that the applicant or permit holder has willfully withheld or falsified any information required for a permit;

(4) Upon inspection by Animal Services, the applicant or permit holder fails to meet any of the conditions of the permit or regulations and standards adopted hereunder;

(5) The applicant or permit holder has been convicted of two (2) violations of this Article in any eighteen-month period, or has been convicted of any violation involving inhumane treatment, neglect or cruelty to animals or keeping a dangerous animal or potentially dangerous animal or similar laws in this or any other state, county or city; or

(6) Animal Services receives complaints from more than one (1) neighboring property owner in any twelve-month period about nuisance effects attributable to the increased number of animals on the premises for which the permit is issued.

(i) Upon denial or revocation of a pet fancier's permit, Animal Services shall notify the applicant or permit holder in writing of such determination and the reason(s) for such denial or revocation within twenty (20) days of application for a permit or within five (5) days of a determination of revocation.

(1) The decision to deny or revoke a pet fancier's permit shall be final.

(2) If an application is denied or revoked, an applicant may not reapply for a pet fancier's permit for three (3) months from the date of denial or revocation.

(3) Pet fancier's permit holders whose permit is revoked shall have thirty (30) days to reduce the number of pets to comply with the limitation set forth in Section 7-7-340 above and comply with other provisions set forth in this Section.

(j) Any pet fancier's permit issued shall expire twelve (12) months from the date of issuance. The procedure for renewal of a pet fancier's permit shall be the same as for the original permit. Failure to make application for the renewal of a permit within thirty (30) days of the expiration of a permit or prior thereto shall require an additional late fee in an amount set by the City Council by resolution.

(k) Pet fancier's permits shall not be transferable from one (1) person to another nor from one (1) location to another.

(l) It is unlawful for any person issued a pet fancier's permit to fail to comply with all requirements set forth in this Section and all rules and regulations pertaining to the issuance of such permit. (Ord. 2009-O-07 §1)

**Sec. 7-7-360. Animals other than dogs at large.**

It is unlawful to fail to keep any horse, cattle, donkey, mule, swine, sheep, goat, domesticated goose, duck or chicken securely corralled or fenced and under such reasonable control as to prevent such animal from being within the City on any public property or on any private property for which the owner or tenant has not given permission for the presence of such animal. (Ord. 2009-O-07 §1)

**Sec. 7-7-370. Disposition of dead animals.**

(a) It is unlawful for the owner or keeper of any animal which has died to fail to dispose of such dead animal within twenty-four (24) hours of death by burial, incineration in a State-approved facility, rendering or other State-approved means.

(b) It shall be unlawful to dump or abandon any dead animal on any public or private property within the City.

(c) If any animal dies on public property or on property other than that of the owner or keeper, it may be removed by an animal control officer or law enforcement officer. The owner or keeper shall be responsible for disposal fees as established by the City Council by resolution, in addition to penalties for violation of Section 7-7-410 of this Article, if applicable. (Ord. 2009-O-07 §1)

**Sec. 7-7-380. Humane care.**

(a) No owner or keeper of a domestic animal shall fail to provide it with minimum care and to ensure that its enclosure is not overcrowded, unclean or unhealthy.

(b) A domestic animal is deprived of minimum care if it is not provided with care sufficient to preserve the health and well-being of the animal considering the species, breed and type of animal; and, except for emergencies or circumstances beyond the reasonable control of the owner or keeper, minimum care includes, but is not limited to, the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight. Food receptacles should be located for easy accessibility to the domestic animal and to minimize contamination from trash, debris and waste.
- (2) Open or adequate access to potable water in sufficient quantity to satisfy the domestic animal's needs. Water receptacles must be kept clean and sanitary.
- (3) In case of domestic animals other than livestock or poultry, access to a barn, doghouse or other enclosed structure:
  - a. Sufficient to protect the animal from wind, rain, snow or sun;
  - b. Which has adequate bedding to protect against cold and dampness;
  - c. Which is large enough to prevent overcrowding and to allow the animal to turn about freely and to easily stand and lie in a comfortable normal position;
  - d. Which is structurally sound and maintained in good repair so as to contain the animal and protect it from injury and adverse conditions; and
  - e. That is adequately ventilated to provide for the health and comfort of the animal.
- (4) Veterinary care deemed necessary by a reasonable and prudent person to relieve distress from injury, neglect or disease.
- (5) Premises on which the domestic animals are kept shall be kept clean, healthy and in good repair to protect the animal from injury and disease and so that the animal can avoid contact with feces, urine, moisture, trash or debris. (Ord. 2009-O-07 §1)

*Division 4  
Animal Control Violations*

**Sec. 7-7-410. Running at large.**

- (a) It shall be unlawful for the owner or keeper of any dog to permit the same to run or go or be at large on any street or public place within the City or upon the premises of any other person without permission of such other person, unless the dog is accompanied by a person and is under control, as such term is defined in this Section.
- (b) For purposes of this Section, *control* shall mean that the dog is on a leash, cord or chain not more than ten (10) feet in length held by a person of sufficient age, size and physical ability to restrain the animal.
- (c) It shall be unlawful to tether any animal on any property other than that of the owner or keeper without permission of the property owner or occupant or to allow any animal tethered on the property of the owner or keeper to have access to property other than that of the animal owner or keeper.

(d) In addition to any other remedy provided by the City to prohibit the running at large of dogs, any dog running at large may be seized and impounded in accordance with this Article. (Ord. 2009-O-07 §1)

**Sec. 7-7-420. Dangerous animals.**

It is unlawful to own, keep or maintain any dangerous animal within the City. Whenever any animal engages in behavior that meets the definition of a dangerous animal, the owner or keeper of such animal shall be charged with a violation of this Section, and the animal shall be seized and impounded as set forth in this Article. Any person convicted of a violation of this Section shall, in addition to all other permitted penalties under this Code, be required to humanely destroy such animal or to remove and maintain it outside of the City. (Ord. 2009-O-07 §1)

**Sec. 7-7-430. Potentially dangerous animals.**

(a) It is unlawful to keep or maintain any potentially dangerous animal within the City without compliance with this Section. Whenever any animal engages in behavior that meets the definition of a potentially dangerous animal, the owner or keeper of such animal shall be charged with a violation of this Section, and the animal may be seized and impounded as set forth in this Article. If the animal is impounded, such owner or keeper shall also be required to meet the financial bonding requirements set forth in this Article. If the identity of the owner or keeper of an animal which the animal control officer reasonably believes to be potentially dangerous cannot be reasonably determined, the animal shall be immediately confiscated. If the owner or keeper then claims such animal, the animal may, in the discretion of Animal Services, be released to its owner or keeper, together with a copy of the summons and complaint charging a violation of this Section. If the animal remains unclaimed for five (5) days, the animal shall be destroyed in an expeditious and humane manner. Such animals may be placed for adoption only with the consent of Animal Services.

(b) After any animal has been adjudged potentially dangerous through conviction or entry of a plea in the Municipal Court, the animal may be permitted to remain in the City if and only if the owner applies for and receives a potentially dangerous animal permit from Animal Services, and the Municipal Court shall order any such owner or keeper of a potentially dangerous animal to apply for such permit within five (5) days of the date of conviction and to maintain such permit for such animal at all times unless the animal is later determined by Animal Services to no longer be potentially dangerous in accordance with Subsection (f) of this Section. The owner or keeper of a potentially dangerous animal shall at all times comply with all conditions of such permit.

(c) Applications for potentially dangerous animal permits shall include:

(1) The name and address of the applicant and of the owner or keeper of the animal and the names and addresses of two (2) persons who may be contacted in the case of emergency.

(2) An accurate description of the animal for which the permit is requested.

(3) The address or place where the animal will be located.

(4) A permit fee for the animal. In addition to the license fees provided by Section 7-7-30 of this Article, the owner or keeper of a potentially dangerous animal shall pay an annual permit fee

as set by the City Council by resolution to register and maintain registration of such owner or keeper's animal as a potentially dangerous animal.

- (5) Proof that the animal has had a microchip implanted.
  - (6) Proof that the animal has a current rabies vaccination.
  - (7) Such other information as Animal Services may require.
- (d) Conditions of a potentially dangerous animal permit.
- (1) Any owner or keeper of a potentially dangerous animal shall be jointly and severally responsible with all other owners or keepers of such animal for compliance with the requirements of this Subsection and the permit issued hereunder.
  - (2) The owner or keeper of any potentially dangerous animal shall be allowed only one (1) permitted potentially dangerous animal, and no household within the City shall be allowed to harbor more than one (1) permitted potentially dangerous animal at any time.
  - (3) The owner or keeper of a potentially dangerous animal shall be a responsible adult eighteen (18) years of age or older.
  - (4) The location where the potentially dangerous animal is possessed or maintained must be kept clean and sanitary, and the animal must be provided proper and adequate food, water, ventilation, shelter and care at all times.
  - (5) Animal Services must be permitted at any reasonable time to inspect the animal and premises for compliance with this Section.
  - (6) The owner or keeper of the potentially dangerous animal shall provide and pay for the implantation of a microchip within such animal and shall provide proof of compliance with this requirement at the time of making the permit application.
  - (7) The owner or keeper of a potentially dangerous animal shall notify Animal Services in person or by telephone of any of the following occurrences within the scheduled time frames as set forth in this Subsection:
    - a. Within eight (8) hours after the animal has escaped or has otherwise ceased to be in custody of the owner or keeper for any reason, unless the owner or keeper knows such animal to be physically secured, restrained or confined and to be in the custody of another adult who is competent.
    - b. Within eight (8) hours after the animal has attacked a person or another domestic animal.
    - c. If the animal has died or if ownership or possession of the potentially dangerous animal or the location of the potentially dangerous animal's primary habitat is changed to a person or location outside of the City, the animal owner or keeper listed on the permit shall notify Animal Services within twenty-four (24) hours of such change, including the name, address and telephone number of the new owner, if relevant. If ownership or possession of the animal

or the location of the animal's primary habitat is changed to a person or location at a different address within the City, the animal owner or keeper listed on the permit shall notify Animal Services within twenty-four (24) hours of the change, including the name, address and telephone number of the new owner, if relevant, and the new owner may be permitted to modify the permit to reflect the new owner's name in the discretion of Animal Services, but such modification must be obtained within five (5) days of the change. The fee for a permit modification shall be as set by the City Council by resolution.

(8) In the discretion of Animal Services and/or as ordered by the Municipal Court, potentially dangerous animal permits may contain any or all of the following conditions:

a. Except under the circumstances otherwise specifically permitted by this Section, a potentially dangerous animal shall at all times be maintained inside of a proper enclosure.

b. The potentially dangerous animal shall not be present, kept or maintained at any location other than as specified in the permit.

c. A sign which is clearly visible to the general public shall be posted on the premises where a potentially dangerous animal is kept, warning that there is an animal on the premises which presents a potential danger to persons. Such sign shall have the dimensions, colors, graphics and lettering that comply with the standards as established by Animal Services. Such sign shall also include a symbol sufficient to convey, without the use of words, the message that there is an animal on the premises which presents a potential danger to persons.

d. The potentially dangerous animal shall not be permitted to be outside a proper enclosure on the premises named in the permit except for the purpose of obtaining supervised and attended exercise, veterinary care, being sold or given away or to comply with any provision of law or directive of an animal control officer. When outside the proper enclosure for such permitted purposes, the animal must be properly muzzled and restrained by a substantial chain or leash not to exceed six (6) feet in length under the control of a responsible adult at all times who has the physical ability to restrain the movement of such animal. Notwithstanding, potentially dangerous animals may be confined humanely within a vehicle, provided that the animal cannot escape or inflict injury upon any person or other domestic animal.

(e) Except as provided in Subsection (f) below, the permit as provided in this Section shall be renewed annually with Animal Services.

(f) In the discretion of Animal Services, upon written request from the owner or keeper, if there are no additional documented findings by Animal Services of any behavior of the potentially dangerous animal which indicates that the animal remains a threat to the public safety for the thirty-six-month period from the effective date of the initial potentially dangerous animal permit, the owner or keeper may be relieved of the obligation to continue to maintain a potentially dangerous animal permit. (Ord. 2009-O-07 §1)

**Sec. 7-7-440. Affirmative defenses to dangerous or potentially dangerous animal charges.**

The Municipal Court shall consider the following affirmative defenses if evidence thereof is presented in determining whether an animal is dangerous or potentially dangerous:

(1) The underlying evidence leading to the charge against the animal as dangerous or potentially dangerous.

(2) Whether any injury or damage to a person by the animal was caused or contributed to by the actions of that person, including acts of physical abuse, tormenting, teasing or assaulting the animal.

(3) Whether a person injured or damaged by the animal was committing a trespass or other tort upon premises occupied by the owner or keeper of the animal, or was committing or attempting to commit a crime.

(4) Whether any injury or damage to a domestic animal was caused or contributed to by the actions of the domestic animal, including acts of teasing, tormenting, abusing or attacking the animal.

(5) Whether a person injured or damaged by the animal had gained uninvited and unauthorized entry into the fenced or indoor property of the owner or keeper of the animal. As used in this Section, *unauthorized entry* does not include entry into a fenced residential front yard unless the yard is locked or posted to prohibit entry.

(6) Whether any injury or damage to a person by the animal was caused while the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault. (Ord. 2009-O-07 §1)

**Sec. 7-7-450. Animals from other jurisdictions.**

No animal that has been previously determined to be dangerous or vicious after an administrative or court hearing by another jurisdiction shall be kept, owned or harbored in the City. No animal that has previously been determined to be potentially dangerous or potentially vicious, or received a similar designation in another jurisdiction, shall be kept, owned or harbored in the City unless the animal's owner or keeper obtains and maintains a potentially dangerous animal permit prior to bringing such animal into the City, without need for further adjudication by the Municipal Court. Application and issuance of and conditions applicable to such permit shall be in accordance with the provisions set forth in Section 7-7-430 above. Animals in violation of this Section are subject to impoundment and humane destruction after notice and a hearing under this Section, except that the only issues for hearing are whether the animal ever received a potentially dangerous, dangerous or vicious animal designation or similar designation in another jurisdiction, and whether the animal's owner or keeper complied with the requirements under this Section. (Ord. 2009-O-07 §1)

**Sec. 7-7-460. Presumption of ownership.**

For purposes of Sections 7-7-420 and 7-7-430 above, any adult at whose residence a dangerous animal or potentially dangerous animal is kept or found shall be presumed to be an owner or keeper of such animal and shall have the burden of rebutting such presumption. If an animal has more than one (1) owner or keeper within the meaning of this Section, any one (1) of such owners or keepers may be prosecuted for violations of this Article whether or not any other owners or keepers are also prosecuted. (Ord. 2009-O-07 §1)

**Sec. 7-7-470. Noisy dogs.**

(a) It is unlawful to keep a dog which, individually or in combination with another dog or dogs kept on the same premises, makes noise by barking, howling, whining, yelping or other utterance which is plainly audible beyond the premises on which the animal is kept, for a consecutive period in excess of ten (10) minutes during the day (7:00 a.m. to 9:00 p.m.) or for a consecutive period in excess of five (5) minutes during the night (9:01 p.m. to 6:59 a.m.) and/or a cumulative period in excess of ninety (90) minutes during any twenty-four-hour period.

(b) As a courtesy only, an animal control officer may provide, at the officer's discretion, a one-time verbal warning to the owner or keeper of any animal upon receipt of a first complaint of a violation of this Section associated with such animal.

(c) Whether or not the animal control officer provides a verbal warning as set forth in Subsection (b) above, prior to issuing any penalty assessment or summons and complaint, the animal control officer shall issue a written warning that a complaint of a violation of this Section has been received for any particular dog or owner or keeper. Such written warning shall be served by personal service on the owner or keeper or by posting of such written warning on the door of the premises of the owner or keeper. The warning shall be based on a written complaint by an identified complaining party or by the witnessing of a violation hereof by the animal control or other law enforcement officer and shall include the name and address of the complaining party, the dog owner's address, description of the dog and a description of the incident, to include, at a minimum, the date, time, place, duration and a brief explanation of the nature of the violation.

(d) If a written warning has been served in accordance with Subsection (c) above, no further written warning shall be provided to such premises in any twelve-month period, it being the intent of this Subsection that a penalty assessment or summons and complaint shall issue if a written warning has already been provided within any twelve-month retroactive period. The issuance of a penalty assessment or summons and complaint shall constitute a written warning for the purpose of calculating the new twelve-month retroactive period described in this Subsection.

(e) Animal services shall keep records of all warnings and penalty assessments or summons and complaints issued pursuant to this Section, and such records shall constitute prima facie proof that such warnings were issued and properly served.

(f) A penalty assessment shall be issued for a complaint of violation of this Section only if a minimum of five (5) days have lapsed between the date of the violation that was the subject of the written warning and a subsequent violation.

(g) It shall not be a defense to a violation of this Section that the owner or keeper of such dog was not available to remedy such violation or that the dog was provoked by persons through the ordinary or reasonable use of private properties, public roadways, sidewalks or alleyways or common areas of condominiums, townhouses or apartment buildings.

(h) A penalty assessment or a summons and complaint issued for violation of this Section in accordance with the penalty provisions of Subsection 7-7-170(f) shall either be signed by an animal control officer that personally witnessed the violation, by at least two (2) identified complaining witnesses from separate households who are willing to testify at trial in addition to the signature of

the serving officer, or may be signed by only one (1) complaining witness other than the serving officer if there exists competent evidence admissible at trial to prove a prima facie case of a violation of this Section. (Ord. 2010-O-16 §1)

**Sec. 7-7-480. Dogs in estrus.**

Any unspayed dog in the stage of estrus (heat) shall be confined during such time in a house or secure and enclosed building, and said area of enclosure shall be so constructed that no male dog may gain access to the confined animal. When outside the house or enclosure for waste elimination, the unspayed dog must be physically restrained by a competent person by the use of a hand-held leash. An animal control officer or law enforcement officer shall order any unspayed dog that is in a state of estrus and that is not properly confined, or any such dog that is creating a neighborhood nuisance, to be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner or keeper. Failure to comply with the order of the animal control officer or law enforcement officer shall be a violation of this Article, and the unspayed dog will then be impounded as provided in this Article, subject to fines and charges as directed. (Ord. 2009-O-07 §1)