

## CHAPTER 7

### Health, Sanitation and Animals

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## ARTICLE 1

### Administration and Abatement of Nuisances

#### Sec. 7-1-10. Definitions.

For purposes of this Chapter, the following definitions shall apply:

*Brush* means voluntary growth of bushes and such as are growing out of place at the location where growing, and shall include all cuttings from trees and bushes; and also high and rank shrubby growth which may conceal filthy deposits.

*Garbage* means table and kitchen refuse and offal (including restaurants), swill and every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or storage of meats, fish, fowls, birds, fruits or vegetables.

*Inoperable vehicle* means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- a. Absence of an effective registration plate upon such vehicle.
- b. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.
- c. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

*Litter* means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

*Nuisance* means any act or condition which endangers the public health, safety or welfare, or results in substantial annoyance or discomfort to the public or inhabitants of the City.

*Refuse* means and includes all combustible and noncombustible rubbish, trash, junk and waste matter, including but not limited to, grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste, unused and nonfunctioning household appliances, discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or nature whatsoever; and all other materials commonly known as rubbish, trash or refuse of any kind or character or by any means known.

*Rubbish* means any type of debris, trash, waste or rejected matter.

*Trash* means any worn out, broken up or used refuse, rubbish, toppings, twigs, leaves of trees or worthless matter or material.

*Weed* means an unsightly, useless, troublesome or injurious growing herbaceous plant, and shall include all rank vegetable growth which exhales unpleasant and noxious odors and also high and rank vegetable growth that may conceal filthy deposits. (Ord. 2001-12 §§1, 2; Ord. 2007-04 §1)

**Sec. 7-1-20. Common law nuisances.**

Where no provision is made in this Chapter, any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the City, and any person causing or permitting any such nuisance shall be in violation of this Chapter. (Ord. 2001-12 §1; Ord. 2007-04 §1)

**Sec. 7-1-30. Author of nuisances.**

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 2007-04 §1)

**Sec. 7-1-40. Prohibition of nuisances.**

It shall be unlawful for any person, being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the City, to commit or do any act constituting a nuisance; and it shall be unlawful for any person to create, continue, maintain or allow any nuisance on any such property. (Ord. 2001-12 §1; Ord. 2007-04 §1)

**Sec. 7-1-50. Ascertaining nuisances.**

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things is, upon investigation, considered by the City Administrator dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 2007-04 §1)

**Sec. 7-1-60. Right of entry.**

The City Administrator, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect for the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. (Ord. 2007-04 §1)

**Sec. 7-1-70. Constitution of separate offense.**

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same. (Ord. 2007-04 §1)

**Sec. 7-1-80. Filing complaint.**

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 2007-04 §1)

**Sec. 7-1-90. Notice of abatement.**

(a) In all cases where a nuisance is found in any building or upon any grounds or other premises within the jurisdiction of the City, the authorized official, upon the discovery of any nuisance on public or private property in the City, shall notify the owner or occupant of such property in writing, requiring the owner or occupant of the property to remove and abate from the property the nuisance within the time specified in the notice. The time for abatement of nuisance posing an imminent danger of loss of life, limb, property or health may be twenty-four (24) hours.

(b) As to other nuisances, the reasonable time for abatement shall not exceed seven (7) days unless it appears from the facts and circumstances that compliance could not be reasonably made within such seven-day period or that a good faith attempt at compliance is being made. The written notice of abatement shall be served by the authorized inspector of the City by delivering a copy thereof to an owner or occupant of the property described in the notice, over the age of eighteen (18) years; or, if the property is unoccupied and the owner is a nonresident, then by mailing a notice to his or her last known address as reflected in the records of the County Clerk and Recorder. If the owner or occupant fails to comply with the requirements for a period longer than that named in the notice, then the City Administrator shall proceed to have the nuisance removed or abated from the property without delay; and the City Administrator shall have the authority to call for any necessary assistance. In no event shall the notice described by this Section be required prior to issuance of a summons and complaint for violation of this Article. (Ord. 2001-12 §3; Ord. 2007-04 §1)

**Sec. 7-1-100. Contents of notice.**

Any notice issued pursuant to the provisions of this Article to the owner, agent or occupant of property in which a nuisance is discovered shall describe the condition that is a nuisance, the time in which the condition is to be removed and abated from the property, and a statement that the owner, agent or occupant of the property, within the period of notice, may protest the findings of the authorized inspector with respect to any matters stated in the notice, by filing a written notice of protest with the City Clerk, pursuant to Section 7-1-160 below. (Ord. 2001-12 §4; Ord. 2007-04 §1)

**Sec. 7-1-110. Abatement after notice.**

After issuance of a notice as provided in Section 7-1-90 of this Article:

(1) If the owner or occupant of the premises refuses or fails to comply with the directions of the written notice, the City Administrator may declare the same to be a nuisance and order the Chief of Police to enter upon such property for the purposes of abating the nuisance as provided in Section 7-1-130 below. The Chief of Police shall have the authority to call for the necessary assistance therefor.

(2) Upon the filing of a protest as provided in the notice, the period of notice shall be extended until final disposition of the protest plus ten (10) days. (Ord. 2001-12 §5; Ord. 2007-04 §1)

**Sec. 7-1-120. Abatement without notice.**

Any nuisance located or found in or upon any street, avenue, sidewalk, highway, public right-of-way, public grounds, park, recreation facility or public property in the City may be abated by the City Administrator without notice. (Ord. 2001-12 §6)

**Sec. 7-1-130. Abatement by court order.**

The City may bring and maintain an action in any court of record, including the Municipal Court, for the prevention, restraining, abatement or enjoining of any public nuisance; or, in the alternative, the City may abate any private or public nuisance after notice is provided in accordance with Section 7-1-110 above, or bring and maintain any other proceeding provided by this Article. When judgment is rendered against any person for creating, keeping or maintaining any nuisance, it shall be the duty of the court to order the defendant to forthwith abate the nuisance. The order shall be entered upon the docket of the court, and be made a part of the judgment. (Ord. 2001-12 §7; Ord. 2007-04 §1)

**Sec. 7-1-140. Report of costs.**

(a) Any officer who is duly authorized to abate any nuisance specified in this Article shall have the authority to engage the necessary assistance and incur the necessary expense therefor.

(b) The expense incurred by the City in abating any nuisance may be recovered from the author thereof as set forth in this Chapter.

(c) Upon the completion of any work by the City contemplated by this Chapter, the Public Works Superintendent shall report, in writing, to the City Administrator, which report shall make a clear statement of the work done by the City and the expense incurred in so doing, so that the City Administrator may determine the cost of such work. The Public Works Superintendent shall make a separate report for each lot or parcel of land. (Ord. 2007-04 §1)

**Sec. 7-1-150. Assessment of property.**

The City may enter upon such property and abate the nuisance pursuant to the provisions of this Article, and actual costs thereof, including five percent (5%) for inspection, a minimum fee assessment of twenty-five dollars (\$25.00) and other incidental costs in connection therewith, shall be assessed upon the lot or lots or tracts of land in the City upon which such nuisance is abated. (Ord. 2001-12 §8; Ord. 2007-04 §1)

**Sec. 7-1-160. Notice of assessment.**

The City Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Ord. 2007-04 §1)

**Sec. 7-1-170. Payment of assessment.**

(a) The owner shall pay such assessment within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. Every such unpaid assessment shall be a lien in the several amounts assessed against such lot or tract of land until paid, and shall have priority over all other liens, except general taxes and prior special assessments.

(b) The amount of such assessment may be paid to the City Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Ord. 2001-12 §8; Ord. 2007-04 §1)

**Sec. 7-1-180. Objection to assessment; hearing.**

The owner, agent or occupant of the property subject to the notice of abatement, within the period of notice, may protest the findings of the authorized inspector with respect to any matters stated in the notice, by filing a notice of protest with the City Clerk. Upon receipt of any notice of protest, the City Clerk shall forward the same to the City Administrator. The City Administrator or a hearing officer appointed by him or her shall forthwith schedule a hearing on the protest. During the pendency of the protest, the notice of abatement shall be extended as provided in Section 7-1-110 hereof. (Ord. 2001-12 §9; Ord. 2007-04 §1)

**Sec. 7-1-190. Certified assessment.**

In case any assessment is not paid within thirty (30) days after the same has been certified to the City Clerk by the City Council, the City Clerk shall certify to the County Treasurer, list of all delinquent assessments, giving the name of the owner as it appears of record, the number of lot, block and subdivision, or other legal descriptions sufficient to identify such property upon the records of the County Treasurer, and the amount of the assessment. Said certification shall be the same in substance and in the same form as required for the certification of special assessments, and the County Treasurer, upon the receipt of such certified list, shall place the same upon the tax list for the current year and collect the special assessment in the same manner as other taxes are collected, with a ten-percent penalty thereon; and all the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full force and effect for the collection of such assessments. (Ord. 2001-12 §8; Ord. 2007-04 §1)

**Sec. 7-1-200. Cumulative remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 2007-04 §1)

**Sec. 7-1-210. Concurrent remedies.**

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a

concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. 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. 2007-04 §1)

**Sec. 7-1-220. Violations and penalties.**

Any person who violates any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Ord. 2007-04 §1)

**ARTICLE 2**

**Nuisances**

**Sec. 7-2-10. Accumulation to constitute nuisance.**

Whenever there shall be in or upon any lot or piece of ground within the limits of the City any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be a violation of this Article. (Ord. 2001-12 §2; Ord. 2007-04 §1)

**Sec. 7-2-20. Posting handbills, posters and placards.**

Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house shall be deemed a nuisance and may be abated as provided in this Chapter. (Ord. 2007-04 §1)

**Sec. 7-2-30. Sewer connection.**

The owner of any building having sewerage shall be required to have the sewerage from said building connected to the City sewage disposal system or connected to a previously approved and accepted private sewage disposal or septic system. All buildings or properties which are not properly connected to the City's central sewage disposal system or to a previously approved and maintained individual sewage disposal or collection system shall be deemed a nuisance. (Ord. 2001-12 §2; Ord. 2007-04 §1)

**Sec. 7-2-40. Streets, streams and water supply.**

No person shall throw or deposit, or cause or permit to be thrown or deposited, any litter, offal composed of animal or vegetable substance, or both, any dead animal, excrement, garbage, or other offensive matter whatever, upon any street, avenue, alley, sidewalk, or public grounds. No person shall throw, deposit or cause or permit to be thrown or deposited in the City anything specified in any foregoing part of this Section, or any other substance that would tend to have a polluting effect, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially

or naturally created, or so near any such place as to be likely to pollute the water. (Ord. 2004-08 §7; Ord. 2007-04 §1)

**Sec. 7-2-50. Stagnant ponds.**

Any sink hole, cesspool or other pond or pool not utilized as a drainage or flood barrier improvement, which contains impure, stagnant or offensive water or other material, shall be deemed a nuisance. Every owner or occupant of a lot or piece of ground within the City is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Ord. 2001-12 §2; Ord. 2007-04 §1)

**Sec. 7-2-60. Sewer inlet.**

No person shall, in the City, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Ord. 2007-04 §1)

**Sec. 7-2-70. Abandoned wells or cisterns.**

Any abandoned well, cistern or pit on any property or premises within the limits of the City, whenever the location of the same or construction shows that the well, cistern or pit is a danger to life and limb, shall be deemed a nuisance. (Ord. 2001-12 §2)

**Sec. 7-2-80. Nauseous liquids.**

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place. (Ord. 2007-04 §1)

**Sec. 7-2-90. Stale matter.**

No person shall keep, collect or use, or cause to be kept, collected or used, in the City any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation. (Ord. 2007-04 §1)

**Sec. 7-2-100. Transporting garbage, manure.**

Every vehicle or trailer used to transport manure, garbage, swill or offal in any street in the City shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Ord. 2007-04 §1)

**Sec. 7-2-110. Dumping on property.**

It is unlawful for any person to use any land, premises or property within the City for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the Chief of Police or the City Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to

be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the Chief of Police or City Clerk shall issue such a permit upon the payment of a fee in the amount of four dollars (\$4.00), with the approval of the City Council. (Ord. 2007-04 §1)

**Sec. 7-2-120. Dead animal removal.**

When any animal dies in the City, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith beyond the limits of the City. If such body is not forthwith removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal is in any street, highway or public grounds in the City, it shall be the duty of the Chief of Police to cause such body to be removed forthwith beyond the limits of the City. (Ord. 2007-04 §1)

**Sec. 7-2-130. Noisemakers.**

The use of music, noisemakers or loudspeakers on the streets of the City for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter. (Ord. 2007-04 §1)

**Sec. 7-2-140. Inoperable vehicles.**

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. (Ord. 2007-04 §1)

**Sec. 7-2-150. Vacant residential dwellings.**

All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Chief of Police. (Ord. 2007-04 §1)

**ARTICLE 3**

**Garbage and Refuse**

**Sec. 7-3-10. Accumulation of refuse prohibited.**

(a) It shall be unlawful and a nuisance for any person to permit an unreasonable accumulation of refuse or garbage on any property under his or her control within the City.

(b) Any owner of property, his or her agent or person having charge of such property, shall be in violation of this Chapter and subject to the penalties stated herein, if he or she fails to do any of the following:

- (1) Keep garbage and refuse in tightly closed containers.
- (2) Store garbage and refuse in a manner that will prevent entry by animals resulting in littering of public or private property and in a manner preventing littering of public and private property.
- (3) Remove from property or cause to be removed all accumulated garbage and refuse at periodic intervals.
- (4) Dispose of garbage and refuse only by depositing it in a County and State approved disposal site. Disposal of garbage and refuse within the City limits on any public or private property other than in approved sites is prohibited. (Ord. 2001-12 §2)

**Sec. 7-3-20. Responsibility for refuse on premises.**

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Ord. 2007-04 §1)

**Sec. 7-3-30. Removal of refuse from business.**

Discarded refuse, including automobile parts, stoves, furniture and junkyard refuse, shall be removed periodically by the proprietor of a business so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or flammable which might endanger life or property shall be removed to such places as approved by the Chief of Police or the Fire Chief. Such removal shall be handled by the establishment responsible therefor. (Ord. 2007-04 §1)

**Sec. 7-3-40. Trash receptacle required.**

Any business or other activity doing business within the City which, in the ordinary course of its business or activity, distributes or sells to the public any foodstuff, beverage, container, wrapper or holder made of inedible material, shall be required to install and maintain a trashcan, recycling bin or other waste receptacle for the disposal of such material at a convenient location which is open to the public, within ten (10) feet of the entrance to the business premises, on the exterior of such premises. The receptacle shall be maintained in a reasonably clean condition and shall be emptied often enough so that more material can be placed into it at all times. The obligation to maintain the trash container or waste receptacle shall be during all periods of time that said business or activity is open to the general public. (Ord. 1987-2 §1; Ord. 2007-04 §1)

**Sec. 7-3-50. Enforcement.**

(a) Each business or activity required to install and maintain a waste receptacle as provided in Section 7-3-40 above shall have five (5) days from the commencement of such business or activity to install and maintain a suitable waste receptacle which complies with the provisions of this Article. In

the event a business or activity fails to so comply with this requirement, the City shall have the right to purchase a suitable waste receptacle or trash container for and on behalf of said noncomplying business or activity, without notice of the City's intention to do so, and the business or activity shall be responsible to the City for repayment of the amounts so expended by the City for the purchase of a suitable trash container.

(b) In the event the business fails to empty the trash container on a regular basis and keep said container in a reasonably clean condition as provided in Section 7-3-40 above, the City shall have the right to make suitable arrangements for the emptying of said container; and the noncomplying business or activity shall be required to reimburse the City for all amounts so expended by the City for the emptying of said trash container.

(c) Any amounts so expended by the City as provided in this Section shall be repaid by the business owner or activity within ten (10) days of receipt of a bill from the City. If not paid, said amount due shall accrue interest at the rate of eighteen percent (18%) per annum until fully paid.

(d) In addition to all of the remedies provided in this Section, in the event of a violation of this Article, the City shall have available all of the remedies provided in Chapter 6 of this Code, including the right to revoke or suspend a business license for violations hereof. (Ord. 1987-2 §1; Ord. 2007-04 §1)

## **ARTICLE 4**

### **Weeds and Brush**

#### **Sec. 7-4-10. Undesirable Plant Management Advisory Commission designated.**

The City Council is appointed to act as the Undesirable Plant Management Advisory Commission for the City and shall have the duties and responsibilities as provided by state statute. (Ord. 2007-04 §1)

*Editor's Note: Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.*

#### **Sec. 7-4-20. Declaration of nuisance.**

Any weeds or brush found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place. (Ord. 2007-04 §1)

#### **Sec. 7-4-30. Duty of property owner to cut.**

It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the City to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more. (Ord. 2007-04 §1)

**Sec. 7-4-40. Removal from City.**

All weeds and brush cut in accordance with Section 7-4-30 hereof shall, immediately upon being cut, be removed from the City or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut. (Ord. 2007-04 §1)

**ARTICLE 5**

**Trees**

**Sec. 7-5-10. Prohibited trees.**

(a) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted within the City limits any female box elder tree (*Acer negundo*), female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the City, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance.

(b) The owner of any property within the City, upon which any tree listed in Subsection (a) above has been planted after the effective date of the ordinance codified herein, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the City.

(c) In case of the failure of any owner of such property to cut and remove such tree as required in Subsection (b) above, the City shall cut and remove such tree. (Ord. 2007-04 §1)

**Sec. 7-5-20. Trees and limbs in public right-of-way.**

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a danger to public safety shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value. (Ord. 2007-04 §1)

**Sec. 7-5-30. Control of trees and shrubs.**

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the City are hereby declared a nuisance.

(b) The City shall give written notice to the owner or occupant of any property abutting City rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The City shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.

(c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the City, unless authorized or directed by the City.

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the City, except any person who notifies the City of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement. (Ord. 2007-04 §1)

## **ARTICLE 6**

### **Animals**

#### *Division 1*

#### *Livestock*

#### **Sec. 7-6-10. Livestock running at large.**

(a) It is unlawful for the owner, possessor or keeper of any horses, cattle, swine, sheep, goats, geese and other livestock to permit such livestock to run at large within the City limits. Livestock is deemed to be running at large within the City when off or away from the premises where owned or where it belongs, and beyond the immediate physical control and supervision of the person who has authority over the same.

(b) Any and all persons convicted under this Section shall be fined in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 2000-12 §§2—4; Ord. 2007-04 §1)

#### **Sec. 7-6-20. Impoundment provisions.**

The provisions contained in this Division shall be applicable to the impounding, holding, sale and disposition of all animals found running at large within the City limits. (Ord. 1988-2 §1; Ord. 2007-04 §1)

#### **Sec. 7-6-30. Animal Control Officer.**

There is hereby created the office of Animal Control Officer of the City. Said office shall be filled by appointment of the City Council, and said person shall be compensated as prescribed by the City Council. In the absence of a specific appointment of an Animal Control Officer by the City Council, it shall be the duty of the Chief of Police to perform the duties of the Animal Control Officer. (Ord. 1988-2 §1)

#### **Sec. 7-6-40. Impoundment of animal.**

Upon his or her own initiative or upon receipt of a complaint by any person concerning an alleged violation of this Division, the Animal Control Officer shall investigate. If it is determined that reasonable probability exists that a violation of this Division has occurred, the Animal Control Officer shall either impound the animal and deliver it to a holding area specifically designated by the City

Council for the purpose of impounding animals, or the Animal Control Officer may order the private property owner/complainant to impound the animal at his or her property if said property owner has a suitable pen, stable, pasture or other suitable method for impounding and keeping said animal. (Ord. 1988-2 §1)

**Sec. 7-6-50. Notification of impoundment.**

It shall be the duty of the City Clerk to notify the State Board of Stock Inspection Commissioners (hereinafter "Board") of the possession and impounding of stray livestock by telephone within forty-eight (48) hours of the impounding of said animal. The City Clerk shall follow up said oral notice with a written notice setting forth the description of the animal and other marks of identification, such as color, age, sex, size and possible owner, within two (2) days of giving the oral notice. (Ord. 1988-2 §1; Ord. 2007-04 §1)

**Sec. 7-6-60. Disposition of impounded animal.**

Upon giving notice to the Board, the Board shall dispose of said animal in accordance with the provisions of Section 35-44-101 et seq., C.R.S. The City or the private property owner who has held the impounded animal shall be entitled to receive reasonable remuneration for storage and feed of said animal in accordance with the provisions of Section 35-44-107, C.R.S., and in accordance with the decisions of the Board as to what constitutes a reasonable charge. Said claim for remuneration shall commence upon the date of oral notice by the City Clerk to the Board. The storage and feed costs incurred by a private property owner which are not paid for by the Board shall be paid to the private property owner by the City in accordance with the decision of the Board as to what constitutes a reasonable charge. Such costs shall be recoverable from the owner of the animal, if known. (Ord. 1988-2 §1; Ord. 2007-04 §1)

**Sec. 7-6-70. Nonliability for injury.**

Neither the City nor a private property owner shall be liable or responsible for the death of or injury to an animal incurred while said animal is in the possession or custody of the City or said property owner pursuant to the impounding provisions of this Division. (Ord. 1988-2 §2; Ord. 2007-04 §1)

*Division 2  
Dogs*

**Sec. 7-6-110. Definitions.**

For purposes of this Division, the following words shall have the meanings ascribed hereafter:

*Animal shelter, City pound, dog pound* and *pound* shall refer to any facilities used for the boarding and disposition of any animal impounded under the provisions of this Article.

*Disturb* means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises.

*Dog*, as used in this Division, shall be construed to mean any dog, bitch or whelp over four (4) months of age.

*Neighborhood* means the area within five hundred (500) feet of the exterior boundary of the premises where a dog resides. (Ord. 2000-16 §1; Ord. 2007-04 §1)

**Sec. 7-6-120. License required.**

The owner, possessor or keeper of any dog within the City shall secure a license for such dog from the City Clerk on or before the first day of January of each year or within thirty (30) days after the dog reaches the age of four (4) months. New residents of the City shall have fourteen (14) days after becoming such residents to secure a license hereunder. The requirements of this Section shall not apply to nonresidents temporarily located in or passing through the City, or to dogs temporarily brought into the City for purposes of exhibition. However, dogs kept in the City for more than fourteen (14) days are deemed to be dogs of a City resident and shall be subject to the licensing provisions of this Section. (Ord. 2000-16 §2)

**Sec. 7-6-130. License fee.**

The annual license fee for dogs within the City shall be established from time to time by resolution of the City Council. (Ord. 2000-16 §3)

**Sec. 7-6-140. Rabies vaccination required.**

The owner, possessor or keeper of every dog within the City shall have such dog inoculated against rabies as frequently as is recommended by the "Compendium of Animal Rabies Control" as promulgated by the National Association of State Public Health Veterinarians. Dogs purchased, obtained or otherwise acquired or brought into the City shall be inoculated within thirty (30) days after such acquisition or being brought into the City. (Ord. 2000-16 §4)

**Sec. 7-6-150. Vaccination by licensed veterinarian.**

The inoculation required by the preceding Section shall be made by any veterinarian licensed to practice in the State. (Ord. 2000-16 §5; Ord. 2007-04 §1)

**Sec. 7-6-160. Prerequisite to issuance of license.**

Upon application for a dog license, the applicant shall exhibit to the City Clerk a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this Division. All applications for licenses shall be made on forms provided by the City Clerk. (Ord. 2000-16 §6; Ord. 2007-04 §1)

**Sec. 7-6-170. Issuance of tag.**

It shall be the duty of the City Clerk to deliver or cause to be delivered to each person making application for a license, paying the license fee provided for in this Division and presenting the certificate of inoculation, a dog tag for each dog which is licensed and inoculated. (Ord. 2000-16 §7)

**Sec. 7-6-180. Possession of tag.**

Only those persons who own, possess or keep a dog duly licensed and inoculated in accordance with the provisions of this Division shall be permitted to possess a dog tag as herein provided for. (Ord. 2000-16 §8)

**Sec. 7-6-190. Description of tag.**

The dog tag provided for shall be of such size, shape, color and material as may be deemed expedient and suitable by the City Clerk; provided, however, that the color thereof shall be changed each year. Such tag shall contain a stamped number thereon in numerical order beginning with Number One, shall indicate the year for which the same is issued and contain the words *City of Cripple Creek*. (Ord. 2000-16 §9)

**Sec. 7-6-200. Attachment to collar or harness.**

Every owner, possessor or keeper of a dog within the City shall place upon such dog a collar or harness made of leather, metal or other substantial and durable material to which the dog tag herein provided for shall be securely fastened. (Ord. 2000-16 §10)

**Sec. 7-6-210. Tag worn by licensed dog.**

No person shall affix to the collar or harness of any dog or permit to remain so affixed a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the time of issuance of its license. (Ord. 2000-16 §11)

**Sec. 7-6-220. Records to be kept; duplicate; transfer of ownership.**

The City Clerk shall keep a record of the date of issuance of each dog tag provided for in this Division, the person to whom such tag is issued and the number thereof. If the dog tag is lost or destroyed, a duplicate tag may be obtained from the City Clerk upon payment of a fee established from time to time by resolution of the City Council. In the event that the ownership or possession of a dog is changed, a new dog tag shall be issued by the City Clerk. (Ord. 2000-16 §12; Ord. 2007-04 §1)

**Sec. 7-6-230. Impoundment generally.**

Except as provided in Division 1 above, any animal in violation of this Article or any state law may be taken into custody by the Animal Control Officer, police officer or other officer, employee or agent of the City and impounded in a humane manner. No animal shall be destroyed before the lapse of five (5) days, except as provided in Section 7-6-300 below, or unless it is determined that the animal is critically ill or injured and suffering and the prognosis for recovery is poor. The animal shelter may consult with a veterinarian as to the disposition of injured animals when the prognosis cannot be ascertained with reasonable certainty. It is the policy of the City that no dog shall be destroyed as provided herein except where there is no reasonable, economic alternative to such destruction. (Ord. 2000-16 §13; Ord. 2007-04 §1)

**Sec. 7-6-240. Filing of complaint.**

If a dog is impounded, it shall be the duty of the Animal Control Officer or any police officer to immediately institute proceedings in the Municipal Court on behalf of the City against the owner, possessor or keeper of such dog, if known, charging the owner, possessor or keeper with a violation of the appropriate section of this Division. Nothing herein contained shall be construed as preventing the Animal Control Officer, any police officer or any citizen from instituting a proceeding in Municipal Court in the City for violation of this Division where there is no impoundment. (Ord. 2000-16 §14)

**Sec. 7-6-250. Release of impounded dog.**

Any dog impounded under the provisions of this Division shall not be released by the animal shelter until the owner has paid all fees and charges due, including impoundment and boarding fees as established from time to time by the animal shelter and any veterinary fees incurred. (Ord. 2000-16 §15; Ord. 2007-04 §1)

**Sec. 7-6-260. Disposal of unclaimed dog.**

(a) Impounded animals remaining unclaimed after five (5) days, not counting the first day of impoundment, may be disposed of at the sole discretion of the animal shelter.

(b) Failure of the owner of any impounded animal to claim such animal from the animal shelter within five (5) days does not relieve such owner of liability for payment of impoundment, board, veterinary, euthanasia and/or disposal fees as established by the animal shelter. (Ord. 2000-16 §16)

**Sec. 7-6-270. Interference with Animal Control Officer.**

It is unlawful for any person to interfere with, molest, hinder or obstruct the Animal Control Officer or any police officer in the discharge of his or her official duties under this Division. (Ord. 2000-16 §17; Ord. 2007-04 §1)

**Sec. 7-6-280. Dog fights prohibited.**

No person shall cause, instigate or encourage any dog fight within the City. (Ord. 2000-16 §18)

**Sec. 7-6-290. Running at large.**

(a) It is unlawful for any owner, possessor or keeper of any dog in the City to permit the same to run at large within the City. It shall be the duty of all owners or keepers of dogs to keep such dogs under control or physical constraint so as to prevent such dogs from becoming a danger to persons or property or from trespassing upon the property of another without the express written consent of the owner.

(b) A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper thereof and not under the control of such owner, possessor or keeper, his or her agent or servant or a member of his or her immediate family, either by leash, cord or chain, not more than ten (10) feet in length. Additionally, a dog shall be deemed to be running at large if such dog pollutes property or vegetation belonging to someone other than the owner, or otherwise injures

or damages the property of another, whether or not under the control of the owner, possessor or keeper of such dog. (Ord. 2000-16 §19; Ord. 2007-04 §1)

**Sec. 7-6-300. Vicious dogs.**

(a) Vicious dogs shall not be kept, possessed or harbored within the City. For the purpose of this Section, a *vicious dog* is hereby defined and declared as a dog that unprovokedly bites or attacks human beings or other animals, either on public or private property other than the property of the owner, possessor or keeper of such dog; or, in a vicious or terrorizing manner, approaches any person in any public ground or place. It shall be the duty of the Animal Control Officer and any police officer to take up and impound any dog which is a vicious dog. In the event a vicious dog cannot be taken up and caught by the Animal Control Officer or police officer without such Animal Control Officer or police officer exposing himself or herself to danger or personal injury from such dog, it shall be lawful for the Animal Control Officer or any police officer to forthwith destroy such dog without notice to the owner, keeper or possessor thereof.

(b) No dog shall be deemed vicious for purposes of this Division if the bite or attack involved occurs in defense of the person, family or property of the owner, possessor or keeper of such dog. There shall be a rebuttable presumption that a bite or attack occurring on the property of the owner, possessor or keeper of the dog occurred in defense of the person, family or property of such owner, possessor or keeper. Nonetheless, in the case of any dog-inflicted injury requiring medical attention, the dog shall be confined and released only upon compliance with the requirements of this Division and the following conditions:

(1) The owner, possessor or keeper of the dog shall agree in writing to, at his or her expense, keep the dog under confinement as described herein, until disposition of the charges arising from the alleged violation.

(2) The owner, possessor or keeper of the dog shall post a cash bond in the amount of one hundred dollars (\$100.00), payable to the City, conditioned upon producing the dog when directed to do so by the City. (Ord. 200-16 §20)

**Sec. 7-6-310. Confinement of biting dogs.**

(a) The owner, possessor or keeper of any dog which has bitten or which is suspected to have bitten any person or which is suspected of having rabies shall immediately notify the Animal Control Officer or any police officer of such fact. Any dog which has bitten or which is suspected to have bitten any person or which is believed to have rabies or to have been exposed to rabies shall be confined, upon order of the Animal Control Officer or any police officer, for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, possessor or keeper thereof, if such confinement can be accomplished without exposing such dog to the public; or, at the option of the Animal Control Officer or police officer, such dog shall be confined at the City pound or at a veterinary hospital at the expense of the owner, possessor or keeper of the dog.

(b) It is unlawful for any owner, possessor or keeper of such dog to permit such dog during confinement to come into contact with the public. (Ord. 2000-16 §21)

**Sec. 7-6-320. Notice not required for prosecution.**

For the purpose of prosecution for violation of this Division, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Division at the time and place charged, it being the purpose and intent of this Division to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct and condition of such dog. (Ord. 2000-16 §22)

**Sec. 7-6-330. Number of dogs allowed.**

It is unlawful for any person to keep or permit to be kept more than four (4) dogs on the premises of any dwelling unit in any zoning district within the City. (Ord. 2000-16 §23)

**Sec. 7-6-340. Barking dogs.**

(a) It is unlawful for any person to own or keep any dog which, by any unreasonably loud barking, baying, yelping, crying or other utterance, disturbs the peace and quiet of the surrounding neighborhood.

(b) It shall be a defense to the violation of this Section that the complainant provoked the dog whose noise is complained of.

(c) In the event an Animal Control Officer or police officer determines that a violation of this Section has occurred, the officer shall serve the owner, possessor or keeper of the dog with a written notice of the violation. The owner, possessor or keeper of the dog shall have three (3) days following service of the written notice to correct the violation. If the violation persists or recurs for any dog at the same residence or address following the three-day period, the owner, possessor or keeper of the dog shall be subject to the penalties set forth in this Division. No enforcement action for a violation of this Division shall be taken later than six (6) months after the service of the written notice without service of a new written notice. Only one (1) notice per address shall be given during any six-month enforcement period.

(d) The written warning required by this Section may be issued and served by the officer if, upon investigation, the officer or a complaining witness personally observes the violation of this Section. The written notice shall state that a complaint has been received, that a violation of this Section has occurred, the date and approximate time of the violation, a description of the barking dog, and the name of the complaining witness or the officer observing the violation.

(e) The notice shall be served by posting the same on the property where the violation occurred or by personally delivering the notice to the owner, possessor or keeper of the dog. The City shall keep records of all notices given and such records shall constitute prima facie proof that the notice has been served.

(f) No person shall be convicted of a violation of this Section unless evidence is presented at trial corroborating the testimony of any complaining witness. A corroborating witness shall not include the complainant or a member of the complainant's family. No corroboration shall be required where the complaining witness is the Animal Control Officer or a police officer. (Ord. 2000-16 §24)

**Sec. 7-6-350. Penalties.**

Failure to comply with the terms of this Division shall constitute a civil infraction. Any person who is found guilty of, or pleads nolo contendere to the commission of, the civil infraction shall be subject to a civil penalty as set forth below. For each day, or portion thereof, during which any violation continues, a person may be cited for a separate civil infraction:

(1) For violation of Section 7-6-120, License required, the following fines shall be imposed:

- a. First offense:                      \$ 50.00
- b. Second offense:                      75.00
- c. Third and subsequent:              125.00

(2) For violation of Section 7-6-290, Running at large prohibited, the following fines shall be imposed:

- a. First offense:                      \$ 50.00
- b. Second offense:                      100.00
- c. Third offense:                      200.00
- d. Subsequent offenses:              400.00

(3) For all other violations of this Division, such fine as the Municipal Court deems proper, not to exceed monetary penalty set forth in Section 1-4-20 of this Code. (Ord. 2000-16 §25; Ord. 2007-04 §1)