

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE 1

Trash, Rubbish and Waste Materials

Sec. 7-1. Definitions.

For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meaning given in this Section.

Residential waste services means the collection and transportation of ashes, trash, waste, rubbish, garbage or any other discarded materials from sources other than industrial or commercial establishments or multi-family residences with eight (8) or more units.

Rubbish means any waste of any form, size, kind and description, including but not limited to food, paper, bottles, cans, cut plant materials including cut weeds or cut brush as those terms are defined in Section 7-21 of this Code, wood, glass, scrap metal, scrap lumber, paper products, discarded building materials, discarded furniture or furnishings, abandoned, unused, broken or inoperable machinery or machinery parts, abandoned, unused, broken or inoperable motor vehicle hulks, bodies or parts, and any other form of waste material, junk, garbage, trash, refuse, foreign substance or debris whatsoever. (Prior code 8.04.010; Ord. 374 §1, 1990; Ord. 378 §1, 1990; Ord. 669 §1, 2005)

Sec. 7-2. Rubbish – Collection requirements.

(a) All rubbish shall be drained of liquid before being deposited for collection.

(b) Rubbish containers shall be provided for each property by the owner, tenant, lessee or occupant of the property, or by the agent or contractor of any of the foregoing. Rubbish containers shall be of a kind suitable for collection purposes and shall have a tight-fitting lid. Containers shall not exceed fifty-five (55) pounds in weight when full, except that containers purchased from the City or the City's contractors that are suitable for mechanical lifting may weigh up to seventy-five (75) pounds when full, and except for dumpsters authorized in writing by the City. Rubbish containers shall be maintained in good condition and shall be similar to those offered for sale in the retail trade. Containers that have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice.

(c) No person shall place, leave, deposit or dispose of any rubbish on any street, alley or other public place, or on any private property, unless the rubbish is wholly contained within a proper rubbish container for collection. Any accumulation of rubbish in violation of this Article is declared to be a nuisance and is prohibited.

(d) Rubbish containers shall be kept off the street, curb, sidewalk and all other public ways, except on the scheduled day of collection, and then only for a maximum of twelve (12) hours before and twelve (12) hours after the scheduled time of collection. (Prior code 8.04.020; Ord. 374 §1, 1990; Ord. 378 §1, 1990; Ord. 385 §1, 1990; Ord. 669 §1, 2005)

Sec. 7-3. Rubbish disposal; burning prohibited.

(a) Rubbish shall be disposed of in the manner provided for in this Article by the owner, tenant, lessee or occupant of the property, or the agent or contractor of any of the foregoing, and each of the foregoing persons may be held jointly and severally liable for any violation of this Article.

(b) It is unlawful for any person, corporation or entity owning, occupying or managing any lot, tract or parcel of land within the City to burn or allow the burning of rubbish, the removal of which is required by this Article. The foregoing prohibition shall not apply to the burning of untreated wood in a fireplace, chiminea or fire pit or to the burning of operating irrigation ditches by those responsible for the maintenance and operation of the same. Persons undertaking a ditch burning shall give prior notice to the fire district. (Prior code 8.04.030; Ord. 378 §1, 1990; Ord. 727 §1, 2009)

Sec. 7-4. Elimination of accumulation – Courtesy notice.

(a) The Chief of Police is authorized and empowered to examine or cause to be examined every property suspected to contain an unlawful accumulation of rubbish, and if it is found, to give the person responsible for the rubbish, or the owner, tenant, lessee or occupant of the property upon which found, or the agent or contractor of any of the foregoing, a written courtesy notice stating that an unlawful accumulation of rubbish has been found upon the property, and directing the person to whom the notice is addressed to eliminate the violation within a reasonable time as specified in the notice. The time provided shall be, in the judgment of the chief of police, commensurate with the work required to be done to correct the unlawful condition. No such notice shall be required as a condition of any prosecution under section 7-2, 7-3 or 7-5 of this article, and the failure of any person to receive any such notice shall not constitute an affirmative defense to any prosecution under this article. The notice may be served by:

(1) Posting of the notice on the property;

(2) Personal service of the notice upon any of the persons named in section 7-3; or

(3) Mailing of the notice by first class mail, postage prepaid, to any of the persons named in section 7-3.

(b) It is unlawful for any person to fail to carry out the work required to be done by any such notice within the time specified by the notice.

(c) In addition to any other available remedies, if any person fails to comply with the notice referred to in subsection (a) above within the time specified in the notice, the city may cause its employees or agents to enter the property and remove the unlawful accumulation of rubbish from the property. The whole cost of such removal, including but not limited to the cost of administration, notification, recording, equipment and labor, together with five percent (5%) of such cost for inspection and other incidental costs in connection with such removal, shall be assessed against the property. The assessment shall be a lien against the property until paid and shall have priority over all other liens except general taxes and special assessments.

(d) Prior to using the remedy provided for in subsection (c) above, the chief of police or his or her designee shall cause to be mailed by first class mail, postage prepaid, to any of the persons named in

section 7-3 above, a "Notice of Intent to Enter Property and Remove Rubbish." The notice shall have attached thereto a copy of this section and shall contain at least the following information:

(1) A statement that employees or agents of the city will enter the property on a specified date, which date shall be at least ten (10) days after the date of mailing of the notice, and will remove the rubbish from the property;

(2) A description, with such specificity as is practicable, of the rubbish to be removed; and

(3) A statement that, if the person to whom the notice was issued believes that the notice was issued in error, the person shall have three (3) days from the date of mailing of the notice to request a hearing before the chief of police as provided in subsection (e) below. If the person fails to request a hearing within such time, the city may proceed to remove the materials in the manner provided in subsection (c) above on the date specified in the notice.

(e) If the person to whom the notice was issued requests the hearing referred to in subparagraph (d)(3) above, the chief of police or his or her designee shall hold a hearing. The hearing shall be held on a date determined by the chief of police or his or her designee, but shall be held prior to the date specified on the notice as the date for removal of the materials. The hearing shall be limited to a determination whether the materials to be removed constitute rubbish as defined in this article. The person who requested the hearing shall have the burden of proof. If the chief of police or his or her designee determines that the materials constitute rubbish as defined in this article, the city may proceed to remove the materials in the manner provided in subsection (c) above, on the date specified in the notice. If the chief of police or his or her designee determines that the materials to be removed do not constitute rubbish as defined in this article, said notice shall be withdrawn and no further action shall be taken on the notice.

(f) It is unlawful for any person to interfere with or to obstruct any employee or agent of the city who enters property in accordance with this section to remove rubbish from the property.

(g) It is unlawful for any person to prevent any employee or agent of the city from entering property in accordance with this section to remove rubbish from the property.

(h) The fact that assessments have or have not been made against the property as provided in this article for removing rubbish shall not affect or prevent any punishment as provided by this code. (Prior code 8.04.050; Ord. 374 §1, 1990; Ord. 378 §1, 1990; Ord. 435 §1, 1993)

Sec. 7-5. Removal of abandoned rubbish.

(a) It is unlawful for any person to place or leave any rubbish upon any property not owned or occupied by the person, without the written consent of the owner thereof, and unless the placement or leaving of such rubbish otherwise complies with this article and other applicable ordinances of the city, and any such rubbish so placed or left shall be deemed to have been discarded and abandoned if it remains upon the property for a period exceeding seventy-two (72) hours. Discarding and abandonment of any rubbish in violation of this section shall be deemed to constitute permission by the owner thereof to the city to remove and dispose of the rubbish as provided by law for discarded, abandoned or unclaimed property, and the city and its officers and agents may remove the rubbish and dispose of the rubbish as provided by law.

(b) Notwithstanding subsection (a) above, the removal and disposal of any junked vehicle, as defined in section 8-30 of this code, shall be governed by the provisions of article 2 of chapter 8 of this code. (Prior code 8.04.060; Ord. 378 §1, 1990)

Sec. 7-6. City residential waste services.

(a) The city, its contractors or city-licensed operators shall furnish residential waste services as provided herein for all persons resident within the city, except those specifically excluded in section 7-7 below.

(b) The city, by and through its duly authorized employees, its contractors or city-licensed operators, shall be the sole agency for the provision of residential waste services within the city. No other person or entity shall provide residential waste services within the city unless expressly authorized and licensed by the city.

(c) All residential waste shall be placed in containers as provided in section 7-2 of this article by the owner, tenant or occupant of each residence. Containers shall be placed in the alley adjacent to each residence on a schedule as established by the city. If there is no adjacent alley, containers shall be placed on the street in front of the residence.

(d) Hazardous or bulky waste material not in conformance with section 7-2 shall be removed by private arrangement with the city's residential waste services provider or another licensed provider authorized to haul trash within the city, or by the resident in accordance with section 7-9 of this article. The city shall have no obligation to collect or transport hazardous materials, any waste material not in a proper container or any containers not properly placed for collection.

(e) It is unlawful for any person to set out or allow to be set out, deposited or stored for pickup any rubbish other than that which has accumulated from normal usage of the premises upon which such rubbish is set out, deposited or stored for pickup.

(f) It is unlawful for any person to place in a container for pickup any rubbish that has not been wrapped tightly and sealed in paper or plastic. (Ord. 669 §2, 2005)

Sec. 7-7. Premises excluded from service.

(a) Except as otherwise provided in this article, the city shall not provide residential waste service to those premises requiring special equipment or containers.

(b) All commercial, industrial and multi-family premises containing eight (8) or more units are excluded from city residential waste service.

(c) The city, or any agent or contractor acting on its behalf, may enter into negotiations with the owners or occupants of any such premises excluded from service for the purpose of securing a separate agreement and rate of scheduled payments, based upon the average amount of trash and the frequency of collection. (Ord. 669 §3, 2005)

Sec. 7-8. Duty of contractors to clean premises.

Nothing in this article shall relieve any contractor of the obligation to clean up premises after completion of a contract. (Ord. 669 §4, 2005)

Sec. 7-9. Rubbish hauling.

Nothing in this article shall prevent an individual from hauling the individual's own rubbish, provided that it is properly disposed of in conformity with all city and county regulations. (Ord. 669 §5, 2005)

Sec. 7-10. Residential waste services fee.

(a) The city council shall, by resolution, establish the fee to be imposed for residential waste services. The fee shall be imposed on all premises receiving water service not excluded from service pursuant to section 7-7, regardless of whether the city's residential waste services are actually utilized by such premises. The fee shall be billed at the same time as the charge for city water service to the residence, and such fee shall be due and payable at the same time and place as the charge for water service.

(b) The fee for residential waste services and the charge for water service are hereby declared to be parts of one (1) debt to the city insofar as the same affect any one (1) customer or consumer, and the refusal or failure to pay any part of such debt for any period of service shall be sufficient cause for the city to avail itself of any or all remedies as set forth and in accordance with the provisions of section 13-10 of this code. (Ord. 669 §6, 2005)

Secs. 7-11—7-19. Reserved.

ARTICLE 2

Weeds and Brush

Sec. 7-20. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given in this section:

Brush means any volunteer growth of bushes, trees or other plant, which is growing out of place at the location where growing, and shall include tree limbs and cuttings from trees and bushes, as well as any high or rank shrubbery growth which may conceal any health hazards or unsafe conditions.

Weed means any unsightly, useless, troublesome or injurious plant, or any plant which is out of place at the location where it is growing, and shall include any rank vegetable growth which exhales unpleasant or noxious odors, and any high or rank vegetable growth which may conceal any health hazards or unsafe conditions. (Ord. 378 §4, 1990)

Sec. 7-21. Cutting and removing unlawful growth of weeds or brush; burning prohibited.

(a) Each owner, tenant, lessee or occupant of property, or the agent or contractor of any of the foregoing, shall keep cut all weeds to a height not to exceed five (5) inches from the ground level to the point where cut, except that Canadian thistle shall be completely removed forthwith any time it is found growing, and shall keep the property free from brush, and shall remove and properly dispose of the same. The duty provided for in this Section shall also apply to any sidewalk area adjoining such property, and to any alley adjoining such property, to the middle of such alley. Each of the foregoing persons may be held jointly and severally liable for any violation of this Article.

(b) It shall be unlawful for any owner, tenant, lessee or occupant of property, or the agent or contractor of the foregoing, to burn or allow the burning of weeds, grasses, brush, trees, limbs, shrubs or plants, the removal of which is required by this Section. The foregoing prohibition shall not apply to the burning of operating irrigation ditches by those responsible for the maintenance and operation of the same. Persons undertaking a ditch burning shall give prior notice to the fire district. (Ord. 378 §4, 1990; Ord. 727 §2, 2009)

Sec. 7-22. Elimination of weeds or brush – Courtesy notice.

(a) The chief of police is authorized and empowered to examine or cause to be examined every property suspected to contain an unlawful growth of weeds or brush, and if it is found, to give the person responsible for the weeds or brush, or the owner, tenant, lessee or occupant of the property upon which found, or the agent or contractor of any of the foregoing, a written courtesy notice stating that an unlawful growth of weeds or brush has been found upon the property, and directing the person to whom the notice is addressed to eliminate the violation within a reasonable time as specified in the notice. The time provided shall be, in the judgment of the chief of police, commensurate with the work required to be done to correct the unlawful condition. No such notice shall be required as a condition of any prosecution under section 7-21 of this article, and the failure of any person to receive any such notice shall not constitute an affirmative defense to any prosecution under this article. The notice may be served by:

(1) Posting of the notice on the property;

(2) Personal service of the notice upon any of the persons named in section 7-21; or

(3) Mailing of the notice by first class mail, postage prepaid, to any of the persons named in section 7-21.

(b) It is unlawful for any person to fail to carry out the work required to be done by any such notice within the time specified by the notice.

(c) In addition to any other available remedies, if any person fails to comply with the notice referred to in subsection (a) above within the time specified in the notice, the city may cause its employees or agents to enter the property and cut or remove the unlawful accumulation of weeds or brush from the property. The whole cost of such removal, including but not limited to the cost of administration, notification, recording, equipment and labor, together with five percent (5%) of such cost for inspection and other incidental costs in connection with such removal, shall be assessed against

the property. The assessment shall be a lien against the property until paid and shall have priority over all other liens except general taxes and prior special assessments.

(d) Prior to using the remedy provided for in subsection (c) above, the chief of police or his or her designee shall cause to be mailed by first class mail, postage prepaid, to any of the persons named in section 7-21 above, a "Notice of Intent to Enter Property and Cut or Remove Weeds or Brush." The notice shall have attached thereto a copy of this section and shall contain at least the following information:

(1) A statement that employees or agents of the city will enter the property on a specified date, which date shall be at least ten (10) days after the date of mailing of the notice, and will cut or remove the weeds or brush from the property;

(2) A description, with such specificity as is practicable, of the weeds or brush to be cut or removed; and

(3) A statement that, if the person to whom the notice was issued believes that the notice was issued in error, the person shall have three (3) days from the date of mailing of the notice to request a hearing before the chief of police as provided in subsection (e) below. If the person fails to request a hearing within such time, the city may proceed to cut and remove the materials in the manner provided in subsection (c) above on the date specified in the notice.

(e) If the person to whom the notice was issued requests the hearing referred to in subparagraph (d)(3) above, the chief of police or his or her designee shall hold a hearing. The hearing shall be held on a date determined by the chief of police or his or her designee, but shall be held prior to the date specified on the notice as the date for removal of the materials. The hearing shall be limited to a determination whether the materials to be cut or removed constitute an unlawful growth of weeds or brush as defined in this article. The person who requested the hearing shall have the burden of proof. If the chief of police or his or her designee determines that the materials constitute an unlawful growth of weeds or brush as defined in this article, the city may proceed to cut or remove the materials in the manner provided in subsection (c) above, on the date specified in the notice. If the chief of police or his or her designee determines that the materials to be cut or removed do not constitute an unlawful growth of weeds or brush as defined in this article, said notice shall be withdrawn and no further action shall be taken on the notice.

(f) It is unlawful for any person to interfere with or to obstruct any employee or agent of the city who enters property in accordance with this section to cut or remove an unlawful growth of weeds or brush from the property.

(g) It is unlawful for any person to prevent any employee or agent of the city from entering property in accordance with this section to cut or remove an unlawful growth of weeds or brush from the property.

(h) The fact that assessments have or have not been made against the property as provided in this article for cutting or removing weeds or brush shall not affect or prevent any punishment as provided by this code. (Ord. 378 §4, 1990; Ord. 435 §2, 1993)

Secs. 7-23—7-39. Reserved.

ARTICLE 3

Contamination of Waters and Lands

Sec. 7-40. Definitions.

Deleterious waste shall mean any hazardous substance as defined by state or federal law, or any form of sewage which the city council finds to be a potential threat to the health or welfare of humans or animals within the city. Standards for sewage constituting a deleterious waste shall be established under the article.

Sewage shall mean the combination of liquid or water carried waste conducted away from residence, business buildings, sewage treatment plants and related storage facilities and institutions.

Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

Waters shall mean water contained in any lake, pond, lagoon, reservoir, any natural or artificial channel, water temporarily impounded whether by natural or artificial means and water underground, whether in alluvium or in any other type of aquifer, consolidated or unconsolidated. (Ord. 223 §1, 1980; Ord. 374 §1, 1990)

Sec. 7-41. Unlawful to trespass upon or to pollute waters of water system.

It shall be unlawful for any person directly or indirectly to defile, pollute, contaminate, trespass upon, injure, tamper, meddle or interfere in any way or to cause, authorize or permit any trespass upon, injury, tampering, meddling, defiling, polluting, contaminating or interfering in any way with any of the works, lakes, reservoirs, dams, streams, ditches, trenches, pipes, drains, filter, valves, gauges, devices, grounds, enclosures, buildings, structures, water treatment or testing facilities, equipment, properties or works of the water system owned, controlled or managed by the city, or any waters, streams, water ways, water courses, water sheds, places, tributaries or any of the waters in or of said water system at any place in or along the same. (Ord. 223 §2, 1980)

Sec. 7-42. Improper disposal or carriage of deleterious wastes prohibited.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the city, including any water or watercourses, any human or animal excrement, garbage or other deleterious waste.

(b) It shall be unlawful to carry through or within the city, or bring into the city, in any watercourse, including ditch, lateral, channel or open container, any deleterious wastes not meeting the standards established in this article.

(c) It shall be unlawful to place, deposit or permit to be deposited, carry or permit to be carried, within, into or through the city, any deleterious waste which poses a threat to humans or livestock, crops or gardens, or to any public or private water system, whether the source of water for said system is from surface supply or from wells.

(d) This section shall not prohibit the discharge of deleterious wastes into the city's sewer system if such discharge is in compliance with the terms of all applicable laws, statutes or ordinances regulating such discharge. (Ord. 223 §3, 1980)

Sec. 7-43. Standards.

Sewage being carried through or within the city in any ditch, lateral, channel or open container shall meet such fecal coliform, ph, ammonia and suspended organic solids standards as hereinafter established and from time to time revised by the city. (Ord. 223 §4, 1980)

Sec. 7-44. Enforcement.

(a) The city attorney, upon notification that this article is being violated, shall issue an order of abatement and have issued a summons and complaint to the responsible person.

(b) The city attorney is authorized to prosecute necessary actions in any appropriate court to enforce the terms of the article, including injunctive relief, or to bring any action for damages or abatement of public nuisance. (Ord. 223 §5, 1980)

Secs. 7-45—7-59. Reserved.

ARTICLE 4

Animals

Sec. 7-60. Definitions.

The terms used in this article, unless the context otherwise indicates, are defined as follows:

Abuse. *Abuse* means the failure to provide an animal with adequate food and water, proper shelter and protection from the weather, veterinary care when necessary, or humane care and treatment. *Abuse* also means to beat, cruelly ill treat, torment or otherwise abuse any animal. *Abuse* also means to abandon any animal, to poison any animal or to distribute poison in any manner whatsoever with the intent of poisoning any animal.

Animal. *Animal* includes both the male and female, neutered or sterilized. *Animal*, as used in this Article, includes all canines, felines, livestock and fowl.

Animal Owner. Any person who owns, keeps, harbors, possesses or otherwise has custody or control of any animal in the City, whether such person is a resident or nonresident of the City, shall be deemed an *animal owner* under this Article.

Feral cat means a cat that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usual and consistent temperament of a *feral cat* is extreme fear and resistance to contact with humans. A *feral cat* is completely or substantially unsocialized to humans.

Feral cat colony means a group of cats that congregate, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate within a colony shall be deemed to be a part of the colony and the feral cat provisions in this Article shall apply to all such cats.

Harboring. The occupant of any premises on which an animal is kept or to which it customarily returns daily for food or other care for a period of ten (10) days is presumed to be harboring or keeping the animal within the meaning of this Article provided, however, when the premises is an approved feeding station under the City's TNR program, the occupant shall not be considered to be harboring feral cats during the period of time feeding is authorized by the TNR program.

Rabies vaccination means the inoculation of a dog with a rabies vaccine as approved by the state department of health.

Running at Large. An animal shall be deemed to be *running at large* if it leaves the premises of its owner while not on a leash which is in the actual control of the owner or the owner's authorized agent. However, where the owner has made reasonable provision to confine the animal on the owner's premises and the animal leaves the premises due to the acts of third persons, the owner shall not be in violation of this Article. An animal which leaves its owner's premises due to its own efforts shall be deemed to be running at large; owners shall be responsible to foil their pets' attempts to run at large. Also, an animal which is inside a vehicle of its owner or the owner's authorized agent shall be deemed to be upon the owner's premises.

Stray cat means a cat that is regularly off the property of the owner, is not under the physical control and restraint of the owner, and is not regularly provided with food by its owner.

TNR means trap, neuter and return.

TNR program means a program pursuant to which feral and stray cats are trapped, neutered or spayed and returned to the location where they congregate.

Vicious Animal. Any animal which, without provocation, bites or attacks human beings or other animals, either on public or private property or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public grounds or places, shall be deemed a *vicious animal* under this Article. (Ord. 372 §1, 1990, Ord. 693 §§1, 2, 2007)

Sec. 7-61. Rabies vaccination - Required.

Each application for a dog license shall be made to the city upon a form provided for that purpose. Each application shall be accompanied by a certificate from a duly licensed veterinarian showing that the dog has been inoculated within a sufficiently recent time with a vaccine approved by the state department of public health for use in the prevention of rabies, so that such inoculation shall provide immunity from such disease during the calendar year for which the license is issued. No inoculation which was administered two (2) years prior to the date of the making of such application shall meet the requirements of this section. (Ord. 420 §1, 1992)

Sec. 7-62. Rabies vaccination – Tag - Required.

Concurrently with the issuance and delivery of the certificate of vaccination referred to in section 7-61, the owner shall attach to the collar or harness of the vaccinated dog a metal rabies tag, serially numbered and bearing the year of issuance and name of the jurisdiction and the state. (Ord. 372 §1, 1990)

Sec. 7-63. Rabies vaccination – Tag - Duplicate.

In the event of loss or destruction of the original tag provided in section 7-62, the owner of the dog shall obtain a duplicate tag from the veterinarian administering the vaccine. (Ord. 372 §1, 1990)

Sec. 7-64. Proof of vaccination required.

It is unlawful for any person who owns or harbors any dog or cat to fail or refuse to exhibit his or her copy of the certificate of vaccination upon demand to any person charged with the enforcement of this article. (Ord. 372 §1, 1990; Ord. 420 §1, 1992; Ord. 649 §2, 2005)

Sec. 7-65. Biting animal – Duty to report.

Any person having knowledge of an animal bite shall immediately report the incident to the police department, the city clerk or the animal control officer. (Ord. 372 §1, 1990)

Sec. 7-66. Biting animal – Quarantine.

Any animal which has bitten a person shall be observed for a period of ten (10) days from the date of the bite. The procedure and place of the observation shall be designated by the investigating officer. If the animal is not confined on the owner's premises, the confinement shall be in an animal shelter or at any veterinary hospital of the owner's choice. The confinement shall be at the expense of the owner. Stray animals whose owner cannot be located shall be confined in an animal shelter. The owner of any animal that has been reported as having inflicted one (1) or more bites on any person shall on demand produce the animal for quarantine and observation as described in this section. (Ord. 372 §1, 1990; Ord. 497 §1, 1997)

Sec. 7-67. Biting animal – Removal from quarantine.

It is unlawful for any person to remove from any place of isolation or quarantine any animal which has been isolated or quarantined under this article without the consent of the police department or an animal control officer. (Ord. 372 §1, 1990)

Sec. 7-68. License – Required.

Any person having had custody of any dog six (6) months of age or older for four (4) days shall procure a dog license. License fees shall be paid annually to the city clerk. License fees shall be five dollars (\$5.00) for each altered or neutered dog, and seven dollars and fifty cents (\$7.50) for each unaltered or unneutered dog. All dog licenses issued hereunder shall expire at 12:00 a.m. on April 30 of the year of issuance and the full license fee shall be paid for any fraction of the licensing year. Upon collection of the license fee by the city, a dated receipt shall be issued stating the name and address of

the owner, dog license tag number and a description of the dog together with a city dog license tag stamped with a serial number, year, county and state of issuance. (Ord. 420 §1, 1992)

Sec. 7-69. License – Display.

The license shall be attached to the licensed dog's collar or harness, shall be worn with the rabies tag by the dog at all times, and shall not be removed from the dog by an unauthorized person. The original dog license receipt and rabies vaccination certificate shall be retained by the owner or harbinger for inspection by any person charged with the enforcement of this article. (Ord. 372 §1, 1990)

Sec. 7-70. License – Proof of vaccination required.

No dog shall be licensed without proof of rabies vaccination as provided in this article. (Ord. 420 §1, 1992)

Sec. 7-71. License – Duplicate tag.

In the event of loss or destruction of the license tag, the owner shall obtain a duplicate tag from the city clerk. The duplicate tag fee shall be in the amount established pursuant to this article. (Ord. 372 §1, 1990)

Sec. 7-72. False or stolen documents.

It is unlawful for any person to make use of or to have in his or her possession or under his or her control, a stolen, counterfeit or forged dog or cat license receipt, dog or cat license tag, rabies vaccination certificate or other form issued in accordance with this article. (Ord. 372 §1, 1990; Ord. 649 §3, 2005)

Sec. 7-73. License – Transferability.

No dog or cat license shall be transferable, and it is unlawful for any person to attach a license or rabies tag to any animal other than the animal for which the tag was originally issued. (Ord. 372 §1, 1990; Ord. 649 §4, 2005)

Sec. 7-74. Running at large prohibited.

It is unlawful for any person owning, harboring or in charge of any dog to permit the dog to run at large unless the dog is restrained by a substantial leash not to exceed six (6) feet in length which is in the actual control of a person competent to restrain the dog. (Ord. 372 §1, 1990)

Sec. 7-75. Animal disturbing peace prohibited.

It is unlawful for any animal owner or keeper to harbor, maintain or permit on any premises under his or her control any animal which disturbs the peace and comfort of the inhabitants of the neighborhood or interferes with any person in the reasonable and comfortable enjoyment of life and property. (Ord. 372 §1, 1990)

Sec. 7-76. Injured animal.

An injured animal found on public property may be subject to impoundment and veterinary medical treatment pending notification of the owner. The owner shall be responsible to pay all costs of the treatment. (Ord. 372 §1, 1990)

Sec. 7-77. Running at large – Permitted on owner's premises.

The provisions of this article shall not prohibit animals running at large on the premises of the owner or other person having charge of the animal. (Ord. 372 §1, 1990)

Sec. 7-78. Dogs taken up.

Any dog observed running at large shall be taken up by a police officer or an animal control officer and impounded at a facility specializing in animal care. (Ord. 372 §1, 1990; Ord. 541 §1, 2000)

Sec. 7-79. Impoundment – Licensed – Disposition.

As soon as practicable after impoundment, written notice of impoundment shall be posted in a conspicuous place at the police department for five (5) days. If the owner of the impounded animal is known, such additional notice as is practicable shall be given to the owner by the city. Any impounded animals which are licensed may be redeemed by the owner upon payment of the impound fee established pursuant to this article, any care and feeding charges incurred, any veterinary charges incurred and any other charges incurred by the city. If the animal is not redeemed within five (5) days, it shall be deemed abandoned, and the city may euthanize the animal under the supervision of a licensed veterinarian or the animal may be adopted by persons interested in taking care of the animal, at the cost of the interested persons. Notwithstanding failure to redeem an animal as herein provided, the owner, possessor, keeper or caretaker of such animal may be prosecuted for violation of any of the provisions of this article and shall be responsible for payment of all fees and charges aforementioned. (Ord. 372 §1, 1990; Ord. 541 §2, 2000)

Sec. 7-80. Impoundment – Unlicensed - Disposition.

As soon as practicable after impoundment, written notice of the impoundment shall be posted in a conspicuous place at the police department for five (5) days. If the owner of the impounded animal is known, such additional notice as is practicable shall be given to the owner by the city. Any impounded animal which is not licensed may be redeemed by the owner upon payment of the license fee established pursuant to this article, impound fee established pursuant to this article, any care and feeding charges incurred, any veterinarian charges incurred and any other changes incurred by the city, and upon presentation of proof of rabies vaccination. If the animal is not redeemed within five (5) days, it shall be deemed abandoned, and the city may euthanize the animal under the supervision of a licensed veterinarian or the animal may be adopted by persons interested in taking care of the animal, at the cost of the interested persons. Notwithstanding failure to redeem an animal as herein provided, the owner, possessor, keeper or caretaker of such animal may be prosecuted for violation of any of the provisions of this article and shall be responsible for payment of all fees and charges aforementioned. (Ord. 372 §1, 1990; Ord. 541 §3, 2000)

Sec. 7-81. Kennels prohibited.

It is unlawful for any person, partnership or corporation to engage in the business or activity of breeding, buying, selling or boarding dogs or engage in the training of dogs for guard or sentry purposes, within the city. (Ord. 372 §1, 1990)

Sec. 7-82. Maximum number.

(a) It shall be unlawful for the occupant of any premises within the City to own or harbor more than a total of three (3) dogs, or three (3) cats, or a combination of dogs and cats not to exceed four (4) in number provided, however, when the premises is an approved feeding station under the City's TNR program, the feral cat colony shall not be counted toward the maximum number established in this section during the period of time feeding is authorized by the TNR program.

(b) When a dog or a cat has a litter, the prohibition set forth in this section shall not apply until such time as the puppies or kittens are six (6) months of age. (Ord. 420 §, 1992; Ord. 693 §3, 2007)

Sec. 7-83. Female dog in heat.

It is unlawful for the owner, harbinger or keeper of any female dog to permit it to run at large while the dog is in estrus (in heat or season) or to permit the animal to create a nuisance by attracting other dogs to the premises, and it is declared to be nuisance. If, after notice by the police department or animal control officer, the owner, harbinger or keeper of the female dog does not abate the nuisance by caring for and properly confining the female dog, the police department or animal control officer may take up and impound at the owner's expense the female dog, and the female dog shall not be released from impoundment unless the owner, possessor or keeper establishes that he or she has proper facilities for caring for and confining the female dog. (Ord. 372 §1, 1990)

Sec. 7-84. Prohibited animals.

No person shall keep or harbor within the city limits any animal that may reasonably and generally be categorized as a fowl, livestock or wild animal with the following exceptions: there shall be permitted in each household in the city no more than a total of two (2) ducks, or two (2) rabbits, or a combination of ducks and rabbits not to exceed four (4) in number. However, when a duck or a rabbit has a litter, the household shall not fall within the prohibition of this section until such time as the ducklings or bunnies are four (4) weeks of age in order to give the owners time to conform with this section. Tropical birds and fish commonly kept within the home are not banned by this section. (Ord. 421 §1, 1992)

Sec. 7-85. Vicious animals.

(a) No person shall own, keep, possess or harbor a vicious animal within the city, except as permitted by this section. Any police officer or animal control officer may take up and impound any animal which is vicious, and may, without obtaining an order from the municipal judge in the manner provided in section 7-86, forthwith destroy any animal which is determined to constitute an immediate danger to persons or property.

(b) Upon a finding under section 7-86 that an animal is a vicious animal, if such animal is not ordered destroyed, the owner shall comply with each of the following requirements. Failure of the owner of an animal found to be vicious to comply with the ownership requirements listed below will result in the animal being impounded and destroyed.

(1) The owner of the vicious animal must be at least eighteen (18) years of age and shall, within ten (10) days of the finding that the animal is vicious, register the animal with the police department as a vicious animal. At that time, the owner of a vicious animal must provide evidence of the following in a form acceptable to the chief of police:

a. The animal has been spayed or neutered; and

b. The owner has procured liability insurance in a minimum amount of one hundred thousand dollars (\$100,000.00) to cover any damages caused or which may be caused by the vicious animal during the calendar year or during the period covered by license required by section 7-68 of this Article.

(2) As soon as practicable after release of the vicious animal from impoundment, the owner shall cause the vicious animal to be confined indoors or placed and kept in a proper secure enclosure, which enclosure must have both a roof and an impenetrable floor. At all times when the vicious animal is on the property of the owner, the owner shall keep the animal confined indoors or in the secure enclosure. At all times when the vicious animal is away from the property of the owner, the owner shall keep the vicious animal muzzled and securely leashed with a leash no greater than four (4) feet in length held by a person capable of restraining the animal or in a secure temporary enclosure.

(3) The owner shall post at each possible entrance to the property where the vicious animal is kept a conspicuous and clearly legible sign warning there is a vicious animal on the property. Such sign must be at least eight (8) inches by ten (10) inches and shall contain only the words "vicious animal" not less than two (2) inches in height.

(4) The owner shall notify the police department within five (5) calendar days of any change in address or in the event that the vicious animal is lost, stolen, otherwise missing or dies. The owner of a vicious animal who transfers ownership of the animal must notify the police department of the same and provide the name, address and telephone number of the new owner. The owner additionally is required to inform the new owner that the animal has been found to be a vicious animal and that the new owner must comply with the requirements of this section within ten (10) days of acquiring the animal. It shall be unlawful for the new owner to fail to comply with the requirements of this section within ten (10) days of receipt of the animal, even if such notification by the prior owner has not been made. (Ord. 372 §1, 1990; Ord. 648 §2, 2005)

Sec. 7-86. Authority for destruction.

The municipal judge shall have the authority, upon making the finding that any animal is vicious or constitutes a nuisance, or that such animal constitutes a danger to the community, to order that such animal be destroyed in a humane manner. (Ord. 372 §1, 1990)

Sec. 7-87. Interference with officers.

It is unlawful for any person to interfere with, molest, hinder or prevent any police officer, animal control officer or the authorized representatives of any such officer in the discharge of their duties as described in this article, or to violate any of the provisions of this article. (Ord. 372 §1, 1990)

Sec. 7-88. Failure to pick up and dispose of feces.

It is unlawful for any owner to permit any animal feces to remain on any public or private property. Any such feces shall be picked up and disposed of in a trash receptacle by the owner or other person having charge of the animal immediately after the deposit of the feces by the animal. (Ord. 372 §1, 1990)

Sec. 7-89. Abuse of animal prohibited.

(a) It is unlawful for any person to abuse any animal. In addition to any other remedies, any police officer or animal control officer may enter upon any private property on which is being harbored or kept any animal that is suspected by such officer to be subject or to have been subject to abuse, and may take such measures as deemed necessary by the officer to alleviate such abuse. Except as provided in subsection (b) below, the officer shall not so enter the property until after a notice has been posted on the property to be entered, for a period of at least seventy-two (72) hours prior to the entry. The notice shall identify the address of the property, shall state the officer's intent to enter the property to inspect and to alleviate suspected abuse of an animal and shall state the date and approximate time on which such entry is intended to be made. The owner of the animal shall be responsible for the payment of any charges incurred by the city in alleviating such suspected abuse.

(b) Notwithstanding the provisions of subsection (a) above, if the police officer or animal control officer has reasonable cause to believe that the harboring or keeping of any animal is so hazardous, unsafe or dangerous as to require immediate entry and action for the safety of the animal or of the public health and welfare, such officer shall have the right immediately to enter and inspect the property, and to remove and impound the animal or take other action as the officer determines immediately necessary to safeguard the animal or the public health and welfare, and such officer shall have the right to use any reasonable means required to effect such entry and take such action, whether or not the property is occupied or unoccupied and whether or not permission for such entry has been obtained. If the property is occupied, such officer shall first present proper credentials to the owner or occupant of the property and shall demand entry, explaining the reason therefor. In the event the animal is removed and impounded pursuant to this subsection, the officer shall leave at the property a notice stating where and by whom the animal was removed, and the reason for the removal. (Ord. 372 §1, 1990; Ord. 454 §1, 1995)

Sec. 7-90. Fees and charges.

All fees and charges provided for in this article shall be in such amounts as established from time to time by resolution of the city council. (Ord. 372 §1, 1990)

Sec. 7-91. Licensure of cats – required.

(a) Any person within the city having had custody for four (4) or more days of any cat six (6) months of age or older shall procure a cat license. License fees shall be paid annually to the city clerk. License fees shall be five dollars (\$5.00) for each altered or neutered cat and twenty dollars (\$20.00) for each unaltered or unneutered cat. All cat licenses issued hereunder shall expire at 12:00 a.m. on April 30 of the year of issuance, and the full license fee shall be paid for any fraction of the licensing year. Upon collection of the license fee by the city, a dated receipt shall be issued, stating the name and address of the owner, cat license tag number and a description of the cat, together with a city cat license tag stamped with a serial number, year, county and state of issuance.

(b) No cat shall be licensed without proof of rabies vaccination as required by section 7-61 of this article.

(c) Applicants shall designate whether a cat to be licensed pursuant to this section will be allowed outdoors. No cat shall be licensed as an outdoor cat without proof that the cat has been spayed or neutered.

(d) All cats licensed pursuant to this section and designated by their owners as outdoor cats shall be required to wear a collar and comply with the license tag and vaccination tag display requirements set forth in sections 7-62, 7-63 and 7-69 of this article. (Ord. 649 §5, 2005)

Sec. 7-92. Feral cat TNR program.

The city council may adopt by resolution a feral cat TNR program that permits the feeding of feral cats at approved feeding stations for a maximum of thirty (30) days prior to scheduled TNR events. It shall be unlawful for any person to feed or otherwise harbor a feral cat except at an authorized feeding station as part of the City's TNR program. (Ord. 693 §4, 2007)

Sec. 7-93. Animal abandonment prohibited.

(a) It shall be unlawful for any animal owner or other person responsible for any animal to drop or leave such animal on a street, road, highway, in a public place or on private property, or to leave behind an animal when vacating a residence with intent to abandon without provision for its continuous care, sustenance and shelter.

(b) If the police department finds that an animal has been abandoned in a house or within a fenced area, the chief of police or the chief's designee shall make a reasonable effort to locate the owner or manager of the property. If the property owner or manager cannot be located and there are no exigent circumstances requiring immediate action, the police department shall post the premises with a notice that the animal owner is to contact the police department within a period of not less than three (3) days, after which time the police department may enter the premises and impound the animal. (Ord. 693 §4, 2007)

Secs. 7-94—7-109. Reserved.

ARTICLE 5

Trees

Sec. 7-110. Control of disease - City constitutes area of protection - Removal, destruction of dead or dying trees.

The entire city shall be considered as the specific area or zone within which trees are to be protected. Trees or parts thereof, if in a dead or dying condition, that are or may serve as breeding places for any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the city, or which are capable of causing an epidemic spread of communicable disease or insect infestation such as Dutch elm disease, shall be considered a public nuisance and shall be removed and destroyed or buried by the owner of the trees. (Ord. 559 §1, 2000)

Sec. 7-111. Inspection of trees for signs of breeding or disease.

The city shall, or allow a representative of the State Department of Agriculture to, examine and inspect all trees within the city on public or private property for signs of breeding of elm bark beetles or other infestation or disease. (Ord. 559 §1, 2000)

Sec. 7-112. Maintenance of trees - Storage of wood furnishing breeding places for elm bark beetles prohibited.

It shall be unlawful for any owner, tenant, lessee, occupant or agent of any property to maintain trees or store wood furnishing breeding places for elm bark beetles or other pestilence. Such trees or wood shall include the following:

- (1) Dead or dying or obviously weakened trees, regardless of species or variety;
- (2) Dead or dying or obviously weakened branches in otherwise healthy trees;
- (3) Stumps of cut trees on which the bark remains;

(4) Elm wood cut from trees, whether or not they were diseased, that is cut and piled for fireplace wood, whether stored indoors or out. (Ord. 559 §1, 2000)

Sec. 7-113. Trees on private property.

(a) The city shall cause written notice to be served upon the owner, tenant, lessee, occupant or agent of the property on which is situated:

- (1) Any tree, shrub or plant discovered to have any destructive or communicable disease or other pestilence which endangers the growth or health of trees;
- (2) Any tree, shrub or plant deemed to be a public nuisance or hazard, such as any plant that obstructs street lights, traffic signs or the free passage of pedestrians or vehicles; or
- (3) Any dead or dying trees or any trees that pose a threat to safety.

(b) Such notice shall require said property owner to eradicate, remove or otherwise control such condition within thirty (30) days, and may be served by:

(1) Posting of the notice on the property;

(2) Personal service of the notice upon any owner, tenant, lessee or occupant of the property, or the agent or contractor of any of the foregoing; or

(3) Mailing of the notice by first class mail, postage prepaid, to any of the persons named in subsection (2) above. (Ord. 559 §1, 2000)

Sec. 7-114. Failure to remove trees upon notice – Removal by city – Costs charged to owner.

(a) If any owner, tenant, lessee, occupant or agent of property shall fail to cut and remove trees which constitute a public nuisance or hazard, as required by this article, within thirty (30) days after being notified to do so by the city or agent of the State Department of Agriculture, the city may cause its employees or agents to enter the property and cut or remove the same from the property. The whole cost of such removal, including but not limited to the cost of administration, notification, recording, equipment and labor, together with five percent (5%) of such cost for inspection and other incidental costs in connection with such removal, shall be assessed against the property. The assessment shall be a lien against the property until paid and shall have priority over all other liens except general taxes and prior special assessments.

(b) Prior to using the remedy provided for in subsection (a) above, the chief of police or his or her designee shall cause to be mailed by first class mail, postage prepaid, to any of the persons named in Subsection 7-113(b)(2) above, a "Notice of Intent to Enter Property and Cut or Remove Tree or Trees." The notice shall have attached thereto a copy of this section and shall contain at least the following information:

(1) A statement that employees or agents of the city will enter the property on a specified date, which date shall be at least ten (10) days after the date of mailing of the notice, and will cut or remove trees from the property;

(2) A description, with such specificity as is practicable, of the trees to be cut or removed;

(3) A statement that, if the person to whom the notice was issued believes that the notice was issued in error, the person shall have three (3) days from the date of mailing of the notice to request a hearing before the chief of police as provided in subsection (c) below. If the person fails to request a hearing within such time, the city may proceed to cut or remove the trees in the manner provided in subsection (a) above on the date specified in the notice.

(c) If the person to whom the notice was issued requests the hearing referred to in subsection (b)(3) above, the chief of police or his or her designee shall hold a hearing. The hearing shall be held on a date determined by the chief of police or his or her designee, but shall be held prior to the date specified in the notice as the date for cutting or removal of the trees. The hearing shall be limited to a determination of whether the trees to be cut or removed constitute a public nuisance or hazard as defined in this article. The person who requested the hearing shall have the burden of proof. If the chief of police or his or her designee determines that the trees constitute a public nuisance or hazard as defined in this article, the

city may proceed to cut or remove the trees in the manner provided in subsection (a) above, on the date specified in the notice. If the chief of police or his or her designee determines that the trees to be cut or removed do not constitute a public nuisance or hazard as defined in this article, said notice shall be withdrawn and no further action shall be taken on the notice.

(d) It is unlawful for any person to interfere with or to obstruct any employee or agent of the city who enters property in accordance with this section to cut or remove from the property any trees which constitute a public nuisance or hazard.

(e) The fact that assessments have or have not been made against the property as provided in this article for cutting or removing any trees shall not affect or prevent any punishment as provided by this code. (Ord. 559 §1, 2000)

Secs. 7-115—7-129. Reserved.