

CHAPTER 7

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ARTICLE 1

Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

Abandoned motor vehicle means:

- a. Any motor vehicle left unattended on private property for a period of twenty-four (24) hours or longer without the consent of the owner, occupant or tenant of such property or his or her legally authorized agent; or
- b. Any motor vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the limits of the City for a period of twenty-four (24) hours or longer, unless the owner or driver has conspicuously affixed thereto a dated notice, or otherwise notified the Police Department of his or her intention to remove such vehicle within seventy-two (72) hours, or the vehicle is parked on a public street within fifty (50) feet of the property of the owner; or
- c. Any motor vehicle determined to be lost, stolen or unclaimed.

Antique vehicle means a motor vehicle which is:

- a. At least twenty-five (25) years old; or
- b. A make or model of motor vehicle recognized and displaying a special registration plate pursuant to Section 42-3-128, C.R.S., by the Executive Director of the Colorado Department of Revenue as being antique; or
- c. A make or model of motor vehicle recognized by the Executive Director of the Colorado Department of Revenue as having unique interest or historic value and displaying a special registration plate.

Brush means woody shrubs not part of a planned and maintained landscape of either a highly structured, manicured type or a natural appearance, including but not limited to voluntary growth of bushes and such as are growing out of place at the location where growing, all cuttings from trees and bushes and shrubbery growth which may conceal filthy deposits.

Code Enforcement Officer means the Chief of Police or any other designated agent of the City.

Garbage means wastes resulting from the handling, preparation, cooking and consumption of food and wastes from the handling, storage and sale of produce. *Garbage* includes kitchen and table refuse, offal, swill and every accumulation of animal, vegetable or any food product or other matter that attends the preparation, consumption, decay or storage of meats, fish, birds, vegetable or any other food or matter for any purpose. *Garbage* does not include animal manure, human excretion and dead animals.

Hobby means the repairing, reconditioning or rebuilding of all vehicles which is done for personal enjoyment or entertainment only, with no profits or compensation or reimbursements of any kind involved.

Junk means scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and the alloys and bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Junked vehicle means any vehicle in a nonoperating condition, or any dismantled, partially dismantled, discarded, wrecked, rusted, demolished or partially demolished vehicle.

Litter means and includes any manmade or man-used waste which, if deposited within the City otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the people of the City. *Litter* includes any garbage, trash, refuse, confetti, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container, used construction materials, motor vehicles or parts thereof, furniture, appliances such as refrigerators, freezers, ranges, stoves, washers and dryers, carcass of a dead animal, nauseous or offensive (as related to the senses of a person of ordinary intelligence and reasonableness within the community) matter of any kind, or any object which does or may tend to injure any person or create a traffic hazard.

Nonoperating condition means any vehicle which is not capable of traveling under its own power in its existing mechanical condition or any vehicle not bearing a valid current registration license plate.

Person means the owner of, or the resident of, any parcel of property, as well as any member of the household residing therein.

Property means all lots and tracts of land and any real property which is not a street or highway within the City, including all areas abutting the property to the middle of the alley, and the sidewalk areas in front of a lot or tract.

Public nuisance or *nuisance* means a thing, act, failure to act, occupation, activity, condition or use of property which:

- a. Annoys, injures or endangers the safety, health, comfort or repose of persons;
- b. Offends the public decency;
- c. Interferes with, obstructs or tends to obstruct or render dangerous for passage any lake, stream, canal or other body of water or a public park, street, alley or other public way;
- d. In any way renders persons insecure in life or use of property; or

e. Otherwise constitutes or is known or declared a public nuisance by virtue of common law or the state statutes or ordinances of the City.

Rubbish includes all garbage, junk, litter, debris, waste, rejected matter and trash.

Street or highway means the entire width between the boundary lines of every right-of-way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

Trash means combustible refuse, including but not limited to paper, cartons, boxes, barrels, wood (except stacked firewood and stacked construction materials), tree branches, yard trimmings, dead plant material, wood or upholstered furniture, bedding or similar substance or material; noncombustible refuse, including but not limited to metals, tin or aluminum cans, metal furniture, dirt, rocks, pieces of concrete, glass, crockery or other minerals or mineral wastes; and street rubbish, including but not limited to street sweepings, dirt, leaves, catch bag dirt and contents of litter receptacles; provided however, that such does not include earth and waste from building construction during the period in which a valid building permit issued by the City is active.

Vehicle means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery, and includes, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy, wagon and recreational vehicle. *Vehicle* includes any antique vehicles.

Weeds means any unsightly, useless, troublesome or injurious plants, grass, brush or other noxious vegetation, but does not include flower gardens, shrubbery, vegetable gardens or small grain plots. *Weeds* shall also include all rank vegetable growth which exhales unpleasant and noxious odors and high and rank vegetable growth that may conceal filthy deposits of rubbish, trash, garbage, junk or litter or which may conceal any health hazards or unsafe conditions. (Prior Codes 8-22, 14-1, 14-11, 14-13, 14-14; Ord. 12-08 §1, 2008)

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

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. (Ord. 12-08 §1, 2008)

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

Any person who makes or causes such nuisance to exist shall be deemed to be the author thereof. (Ord. 12-08 §1, 2008)

Sec. 7-1-40. Nuisances prohibited.

(a) It is unlawful for any person to own, occupy or have under his or her control any property, building, lot or premises with any nuisance located thereon.

(b) It is unlawful and an offense for any person to:

(1) Do any act constituting a nuisance;

- (2) Knowingly fail to act where such failure causes or continues a nuisance;
- (3) Permit any activity or condition constituting a nuisance; or
- (4) Aid or abet in the creation or maintenance of a nuisance. (Prior code 14-2; Ord. 12-08 §1, 2008)

Sec. 7-1-50. Abatement of nuisances.

(a) Purpose. The purpose of this Section is to provide for a procedure by which the City can enforce the various environmental concerns addressed by this Chapter, and to establish a policy authorizing the City to take corrective enforcement measures should any landowner, tenant or occupant of any property located within the City fail to voluntarily comply with any provision of this Chapter. Abatement of any nuisance as set forth in this Section shall be optional at the sole discretion of the City, and shall not prevent the City from availing itself of any other enforcement or criminal action, including the issuance of a summons to appear in Municipal Court.

(b) Procedure.

(1) In all cases where a nuisance shall be found in any building or upon any ground or other premises within the jurisdiction of the City, at least twenty-four (24) hours' notice shall be given in writing, signed by the Chief of Police to the owner of the premises or occupant or person in possession, charge or control of such building or other premises or person creating such nuisance where such person is known and can be found to remove such nuisance.

(2) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be corrected within the time period stated in the notice provided for in Paragraph (1) hereof, which period shall be at least seven (7) days, the Chief of Police may declare such to be a nuisance and order the abatement of such nuisance, which order shall be executed without delay, and the Chief of Police shall have the authority to call for the necessary assistance therefor.

(3) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the City, the City may abate the nuisance forthwith without such notice being given.

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

(c) If the individual responsible does not abate the nuisance within the stated period of time, the City may elect to abate the nuisance by entering upon the property and removing the condition or conditions constituting a nuisance. The City may abate any nuisance by authorizing a private contractor to enter the property and remove the condition or conditions.

(d) The expense incurred by the City in abating any nuisance may be recovered as set forth in this Chapter. (Prior code 14-3; Ord. 12-08 §1, 2008)

Sec. 7-1-60. Emergency abatement.

Where, in the opinion of the City Attorney, Mayor or Chief of Police, a nuisance constitutes an immediate and serious danger to the public health, safety or welfare or, in the case of any nuisance in or upon any street, or other public way or public ground in the City, the Mayor or designated official shall have authority to summarily abate the nuisance without notice of any kind. (Prior code 14-5)

Sec. 7-1-70. Right of entry.

The Code Enforcement Officer may, where reasonable cause exists, with or without a warrant issued by a court of competent jurisdiction, including the Municipal Court, enter upon any land to examine the same to ascertain whether any nuisance exists, or to abate a nuisance in the manner provided in this Chapter. The City and the Code Enforcement Officer shall be free from any action or liability on account thereof. Such authority does not allow entry into any building or structure without consent or a court order, or under other circumstances allowed by law. (Prior code 14-7)

Sec. 7-1-80. Report of costs.

Upon the completion of any work by the City contemplated by this Chapter, the Code Enforcement Officer shall report, in writing, to the City Manager, 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 Manager may determine the cost of such work. The Code Enforcement Officer shall make a separate report for each lot or parcel of land. (Ord. 12-08 §1, 2008)

Sec. 7-1-90. Recovery of expenses; assessment policy.

(a) Upon the City or contractor's completing eradication of the violation pursuant to Section 7-1-50, a notice of assessment, including the right to a hearing as set forth in this Section, shall be sent by certified mail return receipt requested from the City Clerk to the property owner at the address listed for the property owner in the County records and to the property address. If any such notice is returned, the property will be posted with the notice.

(b) For purposes of this Section, *property owner* shall include renters, lessees, occupants or persons in possession of the property. (Prior code 14-4; Ord. 12-08 §1, 2008)

Sec. 7-1-100. Payment of assessment.

(a) The property owner shall have forty-five (45) days from the date the notice of assessment is mailed or, if the notice is returned, from the date the property is posted, to pay the assessment.

(b) The amount of the assessment shall include, in addition to all contractors' charges, all direct City costs including inspection costs, attorneys' fees, court costs and all other associated costs. The assessment may be paid any time prior to the assessment being certified to the County Treasurer. All payments must be made directly to the City Clerk.

(c) Unpaid assessments shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the City shall have all remedies for collection thereof provided by state statutes, for the purpose of having the same placed upon the tax list and collected in the same manner as taxes

are now collected. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments. (Prior code 14-4; Ord. 12-08 §1, 2008)

Sec. 7-1-110. Objection to assessment; hearing.

(a) A property owner may file a written objection to such assessment with the City Clerk within thirty (30) days from the date the notice of assessment was mailed or, if the notice is returned, within thirty (30) days from the date the property was posted. The objection must include a phone number and address of the objecting party and must state with specificity the basis for the objection.

(b) Upon receipt of an objection, the City Clerk shall set a hearing date, which hearing shall be held within thirty (30) days from receipt of the written objection. Notice of the hearing date shall be mailed to the person making the objection. Failure to include all required information in the objection, including the address, will constitute a waiver of the right to file an objection.

(c) A property owner who requests a hearing pursuant to this Section will be charged an additional administrative cost, to be established by resolution of the City Council, should the City Clerk find in favor of the City. Failure of such person to attend the hearing at the date and time scheduled shall constitute a waiver of such right to a hearing and a determination of all issues regarding the assessment.

(d) The hearing held pursuant to this Section shall be conducted in an informal manner, and shall not strictly follow the technical rules of evidence. The City shall have the burden of establishing that there was probable cause of demonstrating a violation existed upon the property prior to abatement, and that an abatement was conducted by the City. The standard of proof at such hearing shall be by a preponderance of the evidence. A written decision shall be prepared at the conclusion of the hearing and mailed to the property owner, which decision shall be deemed effective upon execution of the written decision. (Prior code 14-4; Ord. 12-08 §1, 2008)

Sec. 7-1-120. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative. The taking of any action hereunder, including charge or conviction of a 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. 12-08 §1, 2008)

Sec. 7-1-130. Interpretation; effect on other ordinances.

Notwithstanding the provisions of any zoning ordinance or other ordinance now or hereafter enacted, authorizing certain uses or location of property, it is the intention of the City Council, and is hereby so declared, that any use, location or activity otherwise authorized by zoning ordinances or any other ordinance shall be subject to this Chapter prohibiting nuisances. (Prior code 14-8)

Sec. 7-1-140. Enforcement by Tri-County District Health Department.

Upon consent of the Mayor, the provisions of this Chapter may be enforced by the Tri-County District Health Department or the City with the assistance of the Department. (Prior code 14-9)

Sec. 7-1-150. Violations and penalties.

Any person who violates any of the provisions of this Chapter shall be punished in accordance with the provisions of this Code. (Ord. 12-08 §1, 2008)

ARTICLE 2

Nuisances

Sec. 7-2-10. Accumulation.

Whenever there exists 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 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. 12-08 §1, 2008)

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

Any handbill, poster, placard or painted or printed matter which is stuck, posted or painted upon any public or private residence 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 residence shall be deemed a nuisance and may be abated as provided in this Chapter. (Ord. 12-08 §1, 2008)

Sec. 7-2-30. Streets, streams and water supply.

(a) It is unlawful to throw or deposit in or on, cause or permit to be thrown or deposited or to litter any street, alley or public or private place with garbage, rubbish, debris, sod, earth, sand, gravel, concrete or any other construction or waste material, including but not limited to any offal composed of animal or vegetable substance or both, any dead animal, excrement or other offensive matter. Such actions shall be deemed a nuisance.

(b) Any pond, pool, stream, ditch or deposit of water or other liquid or viscous body which is unsafe, dangerous or detrimental to the public health or safety, or unwholesome or offensive in odor, shall be deemed a nuisance. No person shall throw or 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 liable to pollute the water. (Prior code 14-10; Ord. 12-08 §1, 2008)

Sec. 7-2-35. Storm sewer system.

(a) No person shall throw, drain or otherwise discharge, cause or allow others under his or her control to throw, drain or otherwise discharge into any storm water sewer system within the City any pollutants or waters containing any pollutants, other than storm water. Any such action shall be unlawful and deemed a nuisance. Any part of the foregoing prohibitions notwithstanding, this

Subsection (a) shall not apply to any discharges resulting from emergency fire-fighting activities and any discharges specifically authorized by the State of Colorado or any department of the state.

(b) The construction, use, maintenance or continued existence of any unauthorized connection to any storm water sewer system within the City is prohibited and shall be unlawful and deemed a nuisance. Said prohibition shall include, without limitation, any unauthorized connection made in the past, regardless of whether the connection was permissible under practices applicable or prevailing at the time of connection. Without limiting the generality of the foregoing provisions, it shall be unlawful and deemed a nuisance for any person owning or in control of any premises to connect a line conveying sewage to any storm sewer system within the City, or to allow such a pre-existing condition to continue. (Ord. 01-11 §1, 2011)

Sec. 7-2-40. Stagnant ponds.

The permitting or maintaining of stagnant water on any lot or piece of ground within the City limits is hereby declared to be 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. (Ord. 12-08 §1, 2008)

Sec. 7-2-50. Sewer inlet.

No person shall deposit in or throw into any sewer (sanitary or storm) or sewer inlet any article that might cause such sewer or sewer inlet to become nauseous to others or injurious to public health. (Ord. 12-08 §1, 2008)

Sec. 7-2-60. 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. 12-08 §1, 2008)

Sec. 7-2-70. Stale matter.

No person shall keep, collect or use, or cause to be kept, collected or used, any stale, putrid or stinking fat or grease or other stale matter, other than normal weekly trash accumulation. (Ord. 12-08 §1, 2008)

Sec. 7-2-80. Annoying conditions.

The creation of dense smoke, noxious fumes or odors, gas, soot or cinders in such quantities as to render the same objectionable to the public or harmful to people or property shall be deemed a nuisance; provided however, this shall not apply to fireplaces, wood stoves and barbecue facilities. (Prior code 14-12)

Sec. 7-2-90. Garbage and manure.

(a) Any unclean, foul, unsafe, unhealthy, dangerous, defective or filthy drain, ditch, tank or gutter, or any leaking or broken sloop, garbage or manure box or receptacle of like character shall be deemed a nuisance.

(b) Any accumulation of manure on premises where animals are kept, unless the premises are kept clean and the manure kept in a box or vault which is screened from flies and emptied at least once a week, shall be deemed a nuisance.

(c) Every vehicle or trailer used to transport manure, garbage, swill or offal in any street shall be fitted with a substantially tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Prior code 14-10; Ord. 12-08 §1, 2008)

Sec. 7-2-100. 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. 12-08 §1, 2008)

Sec. 7-2-110. Graffiti.

(a) As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

Graffiti means the defacing of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any other similar method.

Owner means each person who owns, occupies or has under the person's control any building, property, lot or premises.

(b) Upon the discovery of graffiti on public or private property, the City may send a notice to the owner thereof directing the removal of the graffiti. The notice shall be on forms prepared by the Chief of Police, shall state that the owner may elect to remove the graffiti or to have the graffiti removed by the City, shall include provisions for the owner to make the election and to defend, indemnify and hold the City, its officers and its employees harmless from any and all liability, claims, and demands resulting therefrom, and shall include such other information as determined appropriate by the Chief of Police.

(c) If the owner does not remove the graffiti within the time stated in the notice, or if the owner elects to have the graffiti removed by the City, the City may proceed to enter the property and remove the graffiti.

(d) The failure of an owner to remove the graffiti within the time stated in the notice shall be conclusively deemed to be an election by the owner to have the City enter the property and remove the graffiti.

(e) Nothing in this Section shall create any duty to any person with regard to the enforcement thereof. No person shall have any civil liability remedy against the City, its officers, employees or

agents for any damages arising out of or in any way connected with the enforcement or nonenforcement of this Section, including but not limited to any acts or omissions of any City officer, employee or agent who undertakes any action to enter property and remove graffiti therefrom. (Prior code 14-10.5)

Sec. 7-2-120. 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. (Ord. 12-08 §1, 2008)

ARTICLE 3

Junked or Inoperable Vehicles

Sec. 7-3-10. Abandoned vehicles.

(a) No person shall abandon any motor vehicle upon public property in the City.

(b) It is unlawful for any person to own or have under his or her control any vehicle which is abandoned. It shall be an affirmative defense to any criminal charge arising under this Section that the vehicle was abandoned without knowledge and consent of the person charged. (Prior code 14-13)

Sec. 7-3-20. Leaving vehicles on streets, highways.

It is unlawful for any person to leave any abandoned or junked vehicle not in operating condition on any street or highway within the City. (Prior code 14-13)

Sec. 7-3-30. Vehicles on private property.

It is unlawful for any person who is the owner of any vehicle, any person who is in charge or control of private property, or any tenant, lessee, occupant, renter or otherwise, to permit or allow any abandoned or junked vehicle or a vehicle not in operating condition to remain on such property for a time period in excess of seventy-two (72) hours; provided that this Subsection shall not apply with regard to a vehicle or parts of a vehicle in a completely enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; a vehicle in an appropriate storage place or depository maintained for impounded vehicles by the City; or a vehicle that is covered by a fitted, cloth car cover manufactured for such purpose. Tarps may not be used at any time to cover vehicles within the City. (Prior code 14-13)

Sec. 7-3-40. Motor vehicle hobby repair.

It is unlawful for any person to repair, recondition, rebuild or work on any motor vehicle as a hobby, unless such hobby is conducted in and totally contained within a residential or commercial garage, and conducted in such a manner so as not to create a safety, health or fire hazard; however, this shall not apply to minor repair and maintenance activities such as, by way of illustration only, the changing of oil, sparkplugs or tires, so long as such minor work does not exceed a reasonable length of time, such as, by illustration, two (2) days. The sale and/or marketing of more than one (1) each

calendar year of any repaired, reconditioned or rebuilt motor vehicle and of more than one (1) each calendar year of any motor vehicle repair, rebuilding or reconditioning for which a person receives any compensation shall be deemed a business and must be licensed and performed in accordance with all applicable City ordinances. (Prior code 14-13)

ARTICLE 4

Garbage, Trash and Refuse

Sec. 7-4-10. Interpretation.

In the interpretation of the definitions of litter, garbage, trash and junk set forth in this Chapter, it is the express intent of the City Council that such definitions be liberally construed to include like matters, materials, objects or substances, whether or not the same are specifically identified. It is further the expressed legislative intent of the City Council that the definitions not be considered mutually exclusive and that, in the interpretation of such definitions, it is recognized that any substance, material or object may constitute litter, trash, garbage and junk at the same time. Liberal construction of definitions is deemed necessary by the City Council in order to fulfill the public purpose of this Chapter, which is to ensure that the City is maintained in a clean, healthy and attractive condition by eliminating all outside storage of garbage, trash, and junk and related matters, objects or materials as set forth in this Chapter. (Prior code 14-11)

Sec. 7-4-20. Garbage and junk.

It is unlawful for any person to:

- (1) Store upon his or her property, place upon his or her property, or allow to remain on his or her property any litter, junk, trash or garbage.
- (2) Cause or to permit to accumulate any litter, ashes or trash, or any such material that can be blown away by the wind, anywhere in the City except in a container awaiting pickup and disposal.
- (3) Display, or cause or allow to be displayed, upon his or her property any junk, unless the junk is completely shielded and screened from the view of any member of the general public by a wall, fence or other similar barrier constructed in conformance with this Code.
- (4) Store upon his or her property (or the property upon which he or she resides), or allow to be viewed by the general public or any member thereof, goods, material or substances not otherwise or specifically defined or definable as litter, trash, garbage or junk, but which goods, materials or substances are of a type, kind, quantity or description not commonly associated with the zoning classification or permitted use of the property.
- (5) Dump or deposit, or cause to be dumped or deposited, litter, garbage, trash or junk on the property of another or on property owned by the City, unless such property is clearly marked and designated as a proper dump or receptacle for the deposit of trash, garbage, junk or litter;
- (6) Place or to permit to remain anywhere in the City any garbage or other material subject to decay other than leaves or grass, except in watertight and airtight cans or containers, which neither

creates an odor or stench or is accessible to animals. No section of this Chapter shall apply to vegetable materials in any properly layered, actively working compost pile, pit or trench.

(7) Drive or move any loaded truck or other loaded vehicle within the City, unless such vehicle is loaded or covered so as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

(8) Operate or cause to be operated on any highway or public way in the City any truck or vehicle transporting garbage, trash or junk unless such vehicle or truck is fitted with a substantial, tight box or other container thereon so that no portion of such garbage, trash or junk shall be thrown or fall upon the highway or public way. (Prior code 14-11; Ord. 12-08 §1, 2008)

Sec. 7-4-30. Garbage and refuse removal.

(a) Discarded refuse, including automobile parts, stoves, furniture and junkyard refuse shall be removed periodically by the proprietor 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.

(b) It is unlawful for any person to keep or store any construction materials unless a valid building permit is in effect for construction at that location and such materials are covered or screened or in some manner protected so as to prevent such materials from being blown, scattered about or otherwise moved. (Prior code 14-11; Ord. 12-08 §1, 2008)

Sec. 7-4-40. Waivers.

Whenever by reason of the age or health of a person or unique circumstances of any property, the enforcement of the requirements of this Article would cause undue and oppressive hardship upon such person, then upon proper showing of the same, the Director of Public Works may waive as to that person any provision of this Article that will avoid such hardship. Waivers shall be made in furtherance and not in conflict with the intent and purpose of this Article. (Prior code 8-17)

Sec. 7-4-50. City trash and recyclables service; rates and charges.

(a) The City, its contractors or City-licensed operators shall furnish a trash and recyclables collection and disposal service for all property that is described in Section 7-4-60. This service shall be maintained under the supervision of the Department of Public Works.

(b) The City's rates and charges for trash and recyclables collection and disposal shall be as follows:

(1) Thirty-two gallon weekly trash and every other week recyclables collection service is ten dollars (\$10.00) per month;

(2) Sixty-four gallon weekly trash and every other week recyclables collection service is fifteen dollars (\$15.00) per month;

(3) Ninety-six gallon weekly trash and every other week recyclables collection service is twenty dollars (\$20.00) per month;

(4) Thirty-two gallon "super saver" every other week trash and recyclables collection service is eight dollars (\$8.00) per month; and

(5) There shall be no charge for the first two (2) bulky item pick-ups performed by the City (but not its collection contractor) at a given address during each calendar year, and there shall be a charge of thirty-seven dollars and fifty cents (\$37.50) for each additional pick-up thereafter.

Except as set forth in this Subsection, all other rates and charges for trash and recyclables collection and related services shall be as set forth in or established pursuant to the agreement between the City and its trash and recyclables collection contractor from time to time. (Prior code 8-18; Ord. 19-10 §10, 2010)

Sec. 7-4-60. Premises excluded from service.

(a) The City shall collect trash and recyclables only from single-family detached dwelling units, multiple-family attached dwelling units in complexes containing seven (7) dwelling units or less, and any commercial operation that utilizes not more than two (2) ninety-six-gallon trash carts and an unlimited number of ninety-six-gallon recyclables carts.

(b) The City, or any agent acting in its behalf, may enter into negotiations with the owners or occupants of any premises not listed above for the purpose of securing a separate agreement and rate of scheduled payments, based upon the average amount of trash and recyclables and the frequency of collection needed. (Prior code 8-19; Ord. 19-10 §11, 2010)

Sec. 7-4-70. Duty of contractors to clean premises.

Nothing in this Article shall relieve any contractor of the obligation of cleaning up premises after completion of a contract. (Prior code 8-20)

Sec. 7-4-80. Trash hauling.

Nothing in this Article shall prevent an individual from hauling the individual's own trash, provided that it is properly disposed of in conformity with all City and County regulations. (Prior code 8-21)

Sec. 7-4-90. Precollection practices.

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

(b) It is unlawful for any person to place in the trash container any garbage which has not been wrapped tightly and sealed in paper or plastic.

(c) Violations of this Section may be summarily abated by the City pursuant to Section 7-1-50, and the costs therefor shall be assessed pursuant to Section 7-1-90. (Prior code 8-22)

Sec. 7-4-100. Containers; generally.

(a) The owner, tenant or occupant of any premises within the City shall provide and keep at all times suitable containers to hold without running over, all trash which may accumulate from such premises.

(b) Each trash container shall be a watertight receptacle of a solid and durable grade of metal or plastic and must not have anything within it which would prevent the free discharge of the contents. The container shall have a lid that is sufficiently tight-fitting as to keep odors within the container, prevent rain from entering the container, prevent entry into the container by animals and avoid being blown off by wind. The lid shall be free of any cracks, holes or warps that would prevent a secure seal with the container.

(c) All containers that have deteriorated to the extent of having jagged or sharp edges, or to the extent that they are unsafe, unsuitable for holding their contents or are unreliable for the lifting or carrying of their contents, and all trash container lids that are lost or no longer in compliance with any of the requirements of Subsection (b) hereof, shall be replaced by the property owner or occupant after the City has given written notice of such defects. (Prior code 8-23; Ord. 19-10 §12, 2010)

Sec. 7-4-110. Placement.

Any person desiring to place trash for collection shall place the required container at the rear of the premises adjacent to an alley, and within ten (10) feet of the alley. On premises not adjacent to an alley, all containers shall be placed at the front of the premises at the dates and times designated by the Public Works Department. The containers shall be placed within three (3) feet of the sidewalk and in a manner that will not impair or obstruct pedestrian or vehicular traffic. (Prior code 8-24)

Sec. 7-4-120. Yard waste.

For purposes of this Section, *yard waste* means grass, leaves, flowers, stalks, stems, tree trimmings, branches and tree trunks. Except as part of the City's twice yearly green waste pickup program, or as a part of the City's or the City's contractor's bulky waste pickup program, all yard waste collected by the City shall be placed in a trash container for pickup. (Prior code 8-25; Ord. 19-10 §13, 2010)

Sec. 7-4-130. Tampering with containers.

It is unlawful for any person to tamper with the containers required by this Article or the contents thereof. (Prior code 8-26)

ARTICLE 5

Weeds and Brush

Sec. 7-5-10. 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. 12-08 §1, 2008)

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

Sec. 7-5-20. 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. 12-08 §1, 2008)

Sec. 7-5-30. Accumulation unlawful.

It is unlawful for any person to cause or permit to accumulate any grass clippings or leaves anywhere in the City except in a container or a sealed, thirty-gallon-capacity plastic bag awaiting pickup and disposal, or in any properly layered, actively working compost pile, pit or trench. (Prior code 14-11; Ord. 12-08 §1, 2008)

Sec. 7-5-40. Removal required; exceptions.

It is the duty of the owner or occupant of any private property, including without limitation public and utility easements and drainageways within such private property, to keep all weeds cut or trimmed to not more than eight (8) inches in length. This requirement shall not apply to flower gardens, shrubbery or vegetable gardens. (Prior code 14-14; Ord. 12-08 §1, 2008)

Sec. 7-5-50. Notice to remove.

Whenever the Code Enforcement Officer determines that the provisions of Section 7-5-40 have not been complied with, the City may notify the owner, his or her agent or the occupant of said property, directing the removal of said weeds, brush or rubbish. Said notice shall be issued by the Code Enforcement Officer and may be sent by certified mail to the last known address of the record owner, his or her agent or the occupant of said property. In the alternative, the notice may be served personally upon the owner, agent or occupant. The notice shall also be posted on the premises or property. Said notice shall direct the removal of weeds, brush or rubbish within three (3) days from the date of receipt of the notice or posting of the notice as provided herein, whichever date is sooner. Said notice shall further advise the owner, his or her agent or the occupant that, in the event said weeds, brush or rubbish are not removed within the stated time, the City shall do the work or cause the work to be done at the expense of the owner and that said costs, if not promptly paid, shall constitute a lien against the property. (Prior code 14-14; Ord. 12-08 §1, 2008)

Sec. 7-5-60. Failure to remove.

If the owner fails to remove the weeds, brush or rubbish within the time and manner prescribed, the Code Enforcement Officer may have the weeds, brush or rubbish removed from the property pursuant to Section 7-1-50, and the costs therefor shall be collected pursuant to Section 7-1-90. (Prior code 14-14)

Sec. 7-5-70. Criminal prosecution.

The notice provided for in Section 7-5-50 shall be required only if the City elects to have weeds, brush, or rubbish removed from the property pursuant to Section 7-1-50. No such notice shall be required if the City elects to bring a criminal prosecution for a violation of Section 7-5-40. The City's removal of such weeds, brush, or rubbish pursuant to Section 7-1-50 shall not preclude or foreclose a criminal prosecution for a violation of Section 7-5-40. (Prior code 14-14)

ARTICLE 6

Animals

Division 1

General Provisions

Sec. 7-6-10. Definitions.

For purposes of this Article the following terms shall have the following meanings:

Animal means any of the kingdom (*Animalia*) of living beings typically differing from plants in capacity for spontaneous movement and rapid motor response to stimulation; consistent therewith, any one (1) of the lower animals distinguished from human beings.

Animal Control Officer means any officer or employee of the City designated by the Chief of Police to enforce the provisions of this Code regarding animals.

Animal owner or *owner* means 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.

Animal owner's authorized agent means any person who acts for or in the place of the animal owner by authority from the animal owner.

Animal shelter means any premises designated by the City for the purpose of boarding and caring for any animal impounded under the provisions of this Article or any other ordinance of the City or law of the State.

Cat means any domesticated animal of the species *Felis domesticus*.

Dog means any domesticated animal of the species *Canis familiaris* or other species of the family *Canidae*.

Guard dog means a dog disciplined, through special training, to protect persons and/or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

Harboring means the activity of the occupant of any premises on which an animal is kept or to which an animal customarily returns daily for food and care which contributes to the animal's habit or tendency to stay at or return to such premises for care and sustenance.

Rabies inoculation means the inoculation of an animal with a rabies vaccine approved by the State Department of Public Health and Environment and administered by a licensed veterinarian.

Running at large means any animal being present or located anywhere within the City except as under those circumstances allowed in Section 7-6-310 of this Article.

Stray animal means any animal, with or without a registration rabies inoculation tag, found unattended, running at large or unattached anywhere within the City.

Veterinarian means a person licensed by the state to practice veterinary medicine.

Vicious animal means any animal that, unprovoked, bites, snaps at, charges at or attacks humans or other animals on public or private property, or in a terrorizing manner approaches any person in apparent attitude of attack; provided, however, that an animal shall not be deemed a vicious animal by reason of having bitten or attacked the following:

- a. Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;
- b. Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked on the street immediately adjacent to the owner's property;
- c. Any person engaged in attacking or molesting another person;
- d. Any person engaged in attempting to stop an altercation between such animal and another animal; or
- e. Any person who deliberately and wantonly provokes such animal to bite or to attack such person, another person or another animal.

Wild animal includes any animal native to the State but does not include fish or any species of amphibians, Norway rats and common house mice.

Wild bird includes all undomesticated birds native to North America and undomesticated game birds implanted in North America by governmental agencies, and includes any domestic duck or goose released by any private person or recreational authority upon any recreational area within the City. (Prior code 4-1)

Sec. 7-6-20. City records.

The Animal Control Officer shall keep accurate and detailed records of the impoundment and disposition of all animals coming into his or her custody and of all reports of animal bites reported to him or her. (Prior code 4-2)

Sec. 7-6-30. Inspections.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of this Article or other applicable law or to perform any duty imposed herein or other applicable laws, or whenever the Animal Control Officer has reasonable cause to believe that there exists in any building or upon any premises any violation of this Code or other applicable law, the Animal Control Officer is hereby authorized to enter such building or premises at any reasonable time to inspect the same and perform any duty imposed upon him or her by this Code or other applicable law; provided that:

(1) If such building or premises are occupied, the Animal Control Officer shall first present proper credentials to the occupant and request entry, explaining his or her reasons therefor.

(2) If entry is refused, the Animal Control Officer shall give the owner or occupant, or if the owner or occupant cannot be located after reasonable effort, shall leave at the building or premises a twenty-four-hour written notice of intention to inspect. Notice given to the owner or occupant or left on the premises shall state that the property owner has the right to refuse entry and that, in the event such entry is refused, inspection may be made upon issuance of a search warrant by a Municipal Judge or by a judge of any other court having jurisdiction.

(3) After expiration of the twenty-four-hour period from the giving of such notice, the Animal Control Officer may appear before the Municipal Court and, upon a showing of a probable cause, shall obtain a search warrant entitling him or her to enter the building or upon such premises. Upon presentation of the search warrant and proper credentials, or possession of same in the case of an unoccupied building or premises, the Animal Control Officer may enter into the building or upon such premises using such reasonable force as may be necessary to gain entry therein.

(4) For the purposes of this Section, a determination of *probable cause* will be based upon reasonableness; and if a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The Animal Control Officer, when applying for such search warrant, shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises in order to obtain a search warrant. It is unlawful for any owner or occupant of the building or premises to resist reasonable force used by the Animal Control Officer acting pursuant to this Section.

(b) Notwithstanding the foregoing, if the Animal Control Officer has reasonable cause to believe that the keeping or maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the Animal Control Officer shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained. If the property be occupied, the Animal Control Officer shall first present proper credentials to the owner or occupant and demand entry, explaining his or her reasons therefor and the purpose of the inspection.

(c) No person shall fail or refuse, after proper demand has been made upon him or her as provided in Subsection (b) hereof, to permit the Animal Control Officer to make any inspection provided for therein. (Prior code 4-3)

Sec. 7-6-40. Animal shelter.

The City Clerk is hereby authorized to establish an animal shelter for the City to be operated by City personnel, or may, subject to the approval of the City Council, contract with a public or private agency, person or organization for the operation of an animal shelter for and on behalf of the City. Such animal shelter shall be constructed and operated in conformance with the regulations of the County Health Department in the county of the location of the shelter. (Prior code 4-4)

Sec. 7-6-50. Impoundment.

(a) Any animal in violation of this Article or of any other law may be taken into custody by the Animal Control Officer or any other officer or employee of the City charged with the enforcement of this Article or this Code and impounded in a humane manner. Such officer or employee is hereby authorized to go upon private property to take into custody any animal violating this Article or other applicable law, provided that such officer or employee has witnessed the violation, or in accordance with Section 7-6-30. Whenever it is necessary to make an inspection of private property to enforce any of the provisions hereof or other applicable law, such inspection shall be made pursuant to the requirements and procedures set forth by ordinance.

(b) Except for situations in which a criminal summons and complaint has already been issued for a violation of Section 7-6-90, notice of impoundment shall be given as follows:

(1) Upon the impoundment of any animal, where the owner, keeper or possessor of such animal is known, the Animal Control Officer shall, as soon as possible, notify such person of the impoundment by telephone and shall certify in writing upon a standard form therefor, the date and time when such telephone notice was given and the disposition of the animal.

(2) If the owner, keeper or possessor cannot be reached by the telephone notice or if such person fails to retrieve the animal within twenty-four (24) hours from the time such person receives the notice, then the Animal Control Officer shall send, by certified mail, return receipt requested, written notice of such impoundment to the animal owner, keeper or possessor at the last known or officially reported address. The certified mail shall require that same is to be delivered only to the addressee and shall show to whom and the date delivered.

(3) If the owner, keeper or possessor of the impounded animal and his or her address are not known and cannot be ascertained, then the Animal Control Officer shall post a notice of such impoundment in a conspicuous place in the Police Department. Such posted notice shall set forth a description of the impounded animal, the date of the impoundment and the location at which such animal was taken into custody.

(c) The failure or refusal to retrieve any impounded animal by the owner, keeper or possessor of such animal shall not relieve such person of the duty to pay the impoundment fee and other charges which have been assessed. Any animal impounded under the provisions of this Article shall not be released from such impoundment until such animal is vaccinated for rabies or shown to have been

vaccinated for rabies within the past year, and until impoundment fees have been fully paid in accordance with the fee schedule established by the governmental authority or entity operating the animal shelter. The owner, keeper or possessor of any animal who shall fail or refuse to pay such fees and charges shall be guilty of an offense of this Code.

(d) Disposition of animals:

(1) If any healthy animal has been impounded for more than five (5) days after the date said written notice of impoundment was delivered to the animal owner, keeper or possessor, said date being date of delivery as shown or entered by the United States Postal Service upon the return receipt for the certified mail by which said notice was sent, or has been impounded for more than five (5) days after the date of the notice of impoundment being posted and has not been claimed by the owner, keeper or possessor, said animal shall be deemed abandoned. Such animal shall become the property of the City and shall thereafter either be placed for adoption subject to payment of the impoundment fees and other charges or shall be humanely destroyed and disposed of at the discretion of and in such manner as may be determined by the Animal Control Officer.

(2) In the event an unhealthy or seriously injured animal is impounded and the identity of the owner, keeper or possessor is not ascertainable, and a veterinarian determines that the condition of said animal is such that a healthy recovery is precluded or that such animal will transmit serious disease to other animals, then the Animal Control Officer shall cause said animal to be humanely destroyed.

(3) The Animal Control Officer shall keep a complete and accurate record of all animals impounded, including the facts regarding the release of or method of disposal of such animals. (Prior code 4-5)

Sec. 7-6-60. Harassing, killing or injuring wildlife.

(a) It is unlawful for any person to willfully and unnecessarily shoot, throw objects at, set traps for, capture, chase, injure or destroy any wild bird or animal anywhere within the City.

(b) No person shall willfully destroy, rob or injure the nest, nesting place, burrow, eggs or young of any wild bird or wild animal anywhere within the City.

(c) The provisions of this Section do not apply to personnel of any police, fire or animal control agency, the Colorado Division of Wildlife, Department of Public Health and Environment or other state or federal agency when such persons are acting within the scope of their official duties as employees of such agencies.

(d) This Section is not intended to allow the trapping or destruction of any bird or animal protected by the laws of the State or the United States of America.

(e) This Section shall not apply to rats, mice and insects. (Prior code 4-6; Ord. 01-05 §1, 2005; Ord. 12-08 §1, 2008)

Sec. 7-6-70. Number of dogs or cats permitted.

Not more than three (3) dogs and/or cats six (6) months of age or older shall be maintained, harbored or possessed in or upon any one-family dwelling or the premises thereof (as defined in Chapter 16). Not more than one (1) such animal shall be maintained, harbored or possessed in or upon any dwelling unit located upon property used or zoned for use of greater density than single-family. (Prior code 4-7)

Sec. 7-6-80. Certain animals prohibited.

(a) It is unlawful for any person, except for a duly licensed pet shop, circus or carnival, to own, keep, control, maintain, possess or harbor any of the following species of animal whatsoever, anywhere in the City:

- (1) Any poisonous or venomous biting or injecting species of amphibian, arachnid, insect or reptile, including snakes;
- (2) Any snake not indigenous to the State;
- (3) Any snake in excess of three and one-half (3½) feet in length;
- (4) Any wild, exotic animal which includes but is not limited to bears, any species of feline other than domesticated house cats, skunks, raccoons (except as permitted under state license), deer, coyote or any species of nonhuman primate, excluding animals imported under state or federal law.

(b) The following animals shall be exceptions to Subsection (a) hereof:

- (1) Domesticated dogs and cats.
- (2) Aquarium fish and turtles.
- (3) Domesticated house birds.
- (4) Nonpoisonous or nonvenomous reptiles, including snakes indigenous to the State under three and one-half (3½) feet in length.
- (5) Domesticated rodents.
- (6) Vietnamese pot-bellied pigs weighing less than seventy (70) pounds. (Prior code 4-8)

Sec. 7-6-90. Vicious animals.

(a) It is unlawful for any person to own, possess, keep or have the control or custody of any vicious animal anywhere in the City, except for a duly authorized agent or employee of the City acting in conformance with the duties and obligations of this Section.

(b) It shall be the duty of the Animal Control Officer, Code Enforcement Officer or any police officer to seize and to impound any animal which has injured or damaged any person, property or

animal in the City or which has behaved in a manner in violation of Subsection (a) hereof in the presence of the officer. If, after making every reasonable attempt to seize such animal, including the solicitation of assistance from the animal's owner if such owner is immediately ascertainable and available, the officer determines that the animal cannot be seized without exposing the officer or other persons to danger or personal injury from the animal, and the animal presents a present danger to any person, property or other animal, it shall be lawful for the officer to destroy the animal without notice to the animal owner, keeper or possessor.

(c) Upon a finding of guilty to a violation of Subsection (a) hereof, the Municipal Court, upon its own motion or that of the City, may order the animal involved to be impounded, pending a hearing to determine if the animal should be humanely destroyed. The Municipal Court shall order the animal impounded if it is established that some danger may exist to any person, property or other animal. The defendant shall pay all costs of the impoundment of the animal.

(d) The Municipal Court shall conduct a hearing at the earliest date available to the Municipal Court and the parties to determine if the animal shall be destroyed. The hearing may be held immediately following the trial with consent of all parties and an owner if the defendant is not an owner. At the hearing, the Colorado Rules of Evidence shall not apply, and the Municipal Court shall ensure that evidence shall be offered and questioning shall be conducted in an orderly manner and according to basic notions of fairness. At the hearing, the Municipal Court shall consider, as applicable, the following:

- (1) Any evidence presented at any trial involving the animal;
- (2) The conduct of the animal during the incident charged;
- (3) Any other evidence of dangerous or violent behavior by the animal, or threats thereof;
- (4) Any prior violations by the owner, possessor, keeper or controller of the animal of this Section or similar laws of any state or political subdivision thereof;
- (5) Any prior violations by any other owner, possessor, keeper or controller of the animal, involving the same animal, of any violation of this Section or any similar laws of any state or political subdivision thereof;
- (6) Any other conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal or property;
- (7) Any evidence of any ameliorative action taken by the owner, possessor, keeper or controller of the animal which would affect the likelihood of any danger to any person, animal or property; and
- (8) Any other evidence relevant to the issues to be determined by the Municipal Court.

(e) If the defendant is not an owner of the animal, and if the name and address of an owner is known to the City or the Municipal Court, the owner shall be notified in writing of the date, time, place and purpose of the hearing at least five (5) days before such hearing. Notice shall be sufficient if served in compliance with C.M.C.R. 206(f). If at the hearing, the City establishes by a

preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property or animals, the Municipal Court shall order the animal to be destroyed in a humane manner. Upon oral motion of the defendant or an owner, the order shall be stayed for thirty (30) days to allow the defendant or owner to appeal the order, provided the defendant or owner pays the estimated costs of impoundment within twenty-four (24) hours of the entering of the stay. If the Municipal Court determines that it is not appropriate to order the animal destroyed, the Municipal Court may order that the animal be returned and kept under such circumstances as will ensure the safety of persons, property or other animals.

(f) Upon a second or subsequent conviction of Subsection (a) hereof involving the same animal, the animal shall be immediately impounded and a hearing scheduled in accordance with this Section. Such second or subsequent conviction shall be prima facie evidence that there is a reasonable likelihood of future injury to persons, property or other animals. The stay and costs provisions in this Section shall be applicable.

(g) Nothing in this Section shall be construed to prevent the immediate destruction of any vicious animal when deemed necessary in the interest of public safety by the Animal Control Officer, Code Enforcement Officer or other law enforcement personnel, as provided by law. (Prior code 4-9)

Division 2
Rabies Control

Sec. 7-6-210. Rabies inoculation and tag required.

(a) It is unlawful for any person to own, keep, harbor or possess any dog or cat over the age of three (3) months for which such person does not have evidence of current inoculation against rabies with a rabies vaccine approved by the Colorado Department of Public Health and Environment and administered by a veterinarian licensed by the State.

(b) A person acquiring a dog or cat shall have the dog or cat vaccinated against rabies within ten (10) days after the date of acquisition, or within ten (10) days after the dog or cat reaches three (3) months of age, whichever occurs last. Any person moving into the City from a location outside of the City shall comply with this Section within ten (10) days after having moved into the City.

(c) After vaccination of approved rabies vaccine, a certificate and tag shall be issued by the veterinarian administering the vaccine.

(d) The certificate shall be on a form satisfactory to the Chief of Police and shall show:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;
- (2) The date of the vaccination and the type of vaccine used;
- (3) The expiration date of the vaccination;
- (4) The month, year and serial number of the rabies tag; and
- (5) The breed, approximate age, color and sex of the vaccinated dog or cat.

(e) The tag shall be attached to the collar or harness of the dog or cat vaccinated. It is unlawful for the owner, keeper, harborer or possessor of any animal required to be vaccinated to keep such animal within the City without the rabies vaccination tag securely affixed to the animal's collar or harness placed on the animal at all times.

(f) The requirement for rabies vaccination as set forth in this Section is intended primarily to apply to dogs and cats; provided, however, that, whenever it is deemed advisable in the interest of the public health, welfare and safety, the Mayor may order that all animals or certain specified animals within the City which are susceptible to the rabies virus be vaccinated against rabies. Such vaccination shall be performed by a licensed veterinarian. (Prior code 4-21; Ord. 26-04 §3, 2004)

Sec. 7-6-220. Reporting animal bites.

(a) Whenever any dog, cat or other animal has bitten any person, it shall be the duty of the owner of such animal or of any person having knowledge thereof to immediately report such fact to the Animal Control Officer or to the Police Department, stating, if known, where such animal may be found.

(b) Whenever any dog, cat or other animal is affected by rabies, is suspected of having rabies or has been bitten by an animal known or suspected to be affected by rabies, the owner of such animal or any person having knowledge thereof shall immediately report such fact to the Animal Control Officer or to the Police Department stating, if known, where such animal may be found.

(c) Consistent with Subsection (a) hereof, every physician or medical practitioner after his or her first professional attendance upon a person bitten by a dog, cat or other animal within the City shall, within twelve (12) hours, report to the Animal Control Officer or to the Police Department the name, age and address of the person so bitten and treated, with the permission of the person. It shall be the duty of every physician or medical practitioner to request such permission to so advise the Animal Control Officer or the Police Department.

(d) It shall be the duty of every veterinarian who diagnoses rabies in any animal to immediately report such fact to the Animal Control Officer or to the Police Department. (Prior code 4-22)

Sec. 7-6-230. Confinement; quarantine.

(a) Any animal that has bitten any person, has been exposed to rabies or in any manner is suspected of having rabies shall be immediately confined for a period of ten (10) days from the date of the incident or for a longer period of time upon the advice of the Animal Control Officer or a veterinarian. The Animal Control Officer shall serve notice of such confinement on the owner or harbinger of the animal. Confinement may be on the premises of the owner if deemed appropriate by the Animal Control Officer, but the animal must remain within the City during the confinement period. If the animal is not confined on the owner's premises, confinement shall be either in the animal shelter or at a veterinary hospital of the owner's choice. Confinement shall be at the expense of the owner.

(b) It is unlawful for the owner or harbinger of any animal that has bitten a person, has been exposed to rabies or in any manner is suspected of having rabies to destroy or to dispose of the animal before the animal can be properly confined by the Animal Control Officer.

(c) It is unlawful for the owner or for any other person to allow any animal which is under confinement to come into contact with the public or with any other animal, or to remove any such animal from the place of confinement or quarantine without the written consent of the Animal Control Officer.

(d) The owner or harbinger of any animal that has been reported to have bitten any person or is suspected of having bitten any person shall, on the demand of the Animal Control Officer produce and surrender the animal for examination and quarantine as prescribed in this Section. If there is probable cause to believe the animal has inflicted a bite upon a person, and the owner or harbinger is keeping the animal and willfully refuses to produce the animal upon demand, the owner or harbinger shall be subject to immediate arrest and shall be taken by a police officer before a Municipal Judge who may order the immediate production of the animal. If the owner or harbinger of any such animal willfully and knowingly secretes or refuses to produce the animal, each day of secretion or refusal shall constitute a separate and individual violation.

(e) When an animal under confinement and quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the Animal Control Officer or the Police Department and the applicable County health officer of such fact, and shall advise them of any reports of human contact with such rabid animal. If any animal under confinement dies while under observation, the Animal Control Officer shall immediately take action to obtain a pathological and inoculation examination of the animal. As soon as a diagnosis is made available, the Animal Control Officer shall notify the appropriate County public health officer of any reports of human contact with the animal.

(f) The requirements of this Section are in addition to any other provided by this Code. (Prior code 4-23)

Sec. 7-6-240. Emergency conditions.

Whenever the Mayor finds or has been notified by the Colorado Department of Public Health and Environment that there is imminent danger that rabies may spread within the City, he or she may require every owner, keeper or possessor of any dog, cat or other specified animals to confine such animals for such periods as may be necessary to prevent the spread of rabies within the City. (Prior code 4-24)

*Division 3
Animal Control and Protection*

Sec. 7-6-310. Animals running at large.

It is unlawful for any person to own, possess, keep or have control or custody of any animal which is running at large anywhere within the City; provided, however, that on the real property of the owner or on the real property of the person possessing, keeping or having control or custody of the animal, the animal may be constrained in one (1) of the following manners:

(1) Confined within any building or structure on the property which is designed and being maintained in a manner so as to ensure that the animal remains inside the building or structure.

(2) Confined within a fence which is constructed and maintained in such a manner that the animal stays within the fence. If the fence has a gate, portal or other mechanical opening, the person shall ensure that the animal cannot open the same. Also, if the person is aware that the same is being opened by some other means so that the animal is escaping, such person shall take the necessary steps to secure the opening.

(3) Constrained by chain, cord, rope, cable or other similar physical device sufficient to restrain the animal on the property and, if off the real property, the animal shall be so restrained and under the control of the person at all times.

(4) Confined within a vehicle. (Prior code 4-41; Ord. 12-08 §1)

Sec. 7-6-320. Removal of animal excrement.

It is unlawful for any person owning or having charge of any animal to fail to prevent the animal from defecating or voiding excrement on the property of another person, or upon any street, right-of-way, park, open space or any other public place or property; provided, however, that it is a specific defense to a charge of violating this Section that the owner or person having charge of the animal immediately removed or cleaned up such defecation or excrement and disposed of it in a receptacle ordinarily used for garbage or in an otherwise lawful and sanitary manner. (Prior code 4-42; Ord. 12-08 §1, 2008)

Sec. 7-6-330. Animals scattering trash.

It is unlawful for any person owning or having charge of any animal to fail to prevent the animal from scavenging, scattering, tearing at or rummaging through trash, garbage or rubbish, whether such is in a receptacle or not, or from scattering or littering such trash, garbage or rubbish on or around any public or private property; provided, however, that it is a specific defense to a charge of violating this Section that the owner or person having charge of the animal immediately removed or cleaned up the trash, garbage or rubbish and disposed of it securely in a receptacle ordinarily used for trash, garbage or rubbish or in an otherwise lawful manner. (Prior code 4-43)

Sec. 7-6-340. Animal disturbances.

It is unlawful for any animal owner or any person in charge of any animal to permit the animal to disturb the peace and quiet of any person or neighborhood by barking, fighting, howling, yelping, crying or emitting any other similar sound. (Prior code 4-44)

Sec. 7-6-350. Confinement during estrus.

Any unspayed female animal in the stage of estrus (heat) shall be securely confined during such period of time within a house, building or other secure enclosure which is so constructed as to prevent other animals of the same species from gaining access to the confined animal. Any owner or any person in charge of such animal who does not adequately so confine the animal during the state of estrus or whose animal during estrus causes or attracts a disturbance as defined in Section 7-6-340 hereof shall be ordered by the Animal Control Officer to remove the animal to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of such confinement shall be paid by the animal owner. Failure to comply with the Animal Control Officer's removal

order shall be a violation hereof, and the animal shall then be impounded at the owner's expense. This Section shall not apply when animals are intentionally brought together within an enclosed area of the owner's premises or an enclosed area of the owner's, authorized agent's or licensee's premises for purposes of breeding. (Prior code 4-45)

Sec. 7-6-360. Cruelty to animals.

It is unlawful for any person to commit or cause to be committed any act of cruelty, harassment, abandonment or torture of any animal. A person commits cruelty to animals if, except as authorized by law, he or she knowingly over-drives, overloads, over-works, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats, injures, inflicts pain or suffering, or neglects any animal or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it. (Prior code 4-46; Ord. 12-08 §1, 2008)

Sec. 7-6-370. Disposition of dead animals.

When any animal dies within the City, it shall be the duty of the owner or keeper thereof to remove and properly dispose of such animal within twelve (12) hours after the death thereof. If such dead animal is not so removed and disposed of, the Animal Control Officer shall be authorized to remove and dispose of such animal, with the owner or keeper of the animal being liable for all costs related to disposition of the animal. (Prior code 4-47)

Sec. 7-6-380. Picketing animals.

It is unlawful for any person to picket or tether any animal in or upon the streets or other public places of the City or upon the private property of another person without the permission of the property owner. (Prior code 4-48)

Sec. 7-6-390. Poisoning of animals.

It is unlawful for any person to poison any domesticated or any wild animal or to distribute poison in any manner whatsoever with the intent of or for the purpose of poisoning any such animals with the exception of bats, rats, mice and insects. (Prior code 4-49)

Sec. 7-6-400. Promotion of animal fights and keeping places therefor.

It is unlawful for any person to cause, instigate or encourage any animal to fight or to enter into combat in any manner. It is unlawful for any person to maintain any place where animals are permitted or encouraged to fight for exhibition, wager or sport. (Prior code 4-50)

Sec. 7-6-410. Requirements for posting guard dogs.

(a) It is unlawful to place or maintain guard dogs in any area for the protection of persons or property unless the following conditions are met:

- (1) The dogs shall be confined to an enclosed area adequate to ensure they will not escape; or

(2) They shall be under the absolute control of a handler at all times; and:

a. Warning signs shall be conspicuously posted at all access points to the property indicating the presence of guard dogs, and such signs shall plainly show a telephone number where some person responsible for controlling such dogs can be reached at all times;

b. Prior to the posting of guard dogs on any property, the person or persons responsible for the posting shall inform the Police Department in writing of their intention to post such dogs, the number of dogs to be posted, the location where such dogs will be posted, the hours of posting, and the approximate length of time dogs will be patrolling the property.

(b) In the event that the Chief of Police or his or her agent determines that the presence of the guard dogs or the circumstances of their presence constitutes a present danger to any person, property or animal, the chief or his or her agent shall issue a cease and desist order to be served upon the person notifying the Police Department under Paragraph (4) hereof. Service shall be in person or by certified mail, return receipt requested, to the address involved. The person shall have fifteen (15) days from the date of personal service or eighteen (18) days from the date of mailing to appeal the order to the Board of Adjustment. (Prior code 4-51)