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ARTICLE 1

General Provisions

Sec. 11-1-10. Datum plane.

A horizontal plane passing through the low water mark of Platte River at Fifteenth Street in the City of Denver, being the same plane as established by ordinance of the City of Denver as a datum planum for the elevation surveys of such city, is hereby established as the datum planum for the City of Edgewater, from which elevation surveys of streets and alleys and of ditches and for the laying of sidewalks and for any other public improvement shall be made and reckoned. (Prior code 19-1)

Sec. 11-1-20. Benchmark.

Based upon the datum plane, the cross on the stone step to the door at the northwest corner of West Twenty-fifth Avenue and Sheridan Boulevard is declared to be a benchmark, with an elevation of one hundred fifty-three and forty-nine one-hundredths (153.49) feet. (Prior code 19-2)

Sec. 11-1-30. Street grades.

The grades of all streets and alleys within the City shall be established with reference to the datum planum, as is established in Section 11-1-10. (Prior code 19-3)

Sec. 11-1-40. Dumpsters and storage containers in streets; permit required.

(a) It is unlawful for any person to locate, or direct or permit to be located, any Dumpster or storage container upon any City street, highway or roadway without a valid permit issued in accordance with this Section or without having posted upon or within thirty (30) feet of said Dumpster or storage container, in a conspicuous place, such a valid permit.

(b) Upon payment of a fee of fifteen dollars (\$15.00), the owner or legal occupant of any property within the City may obtain a permit to locate a Dumpster or storage container on a street, highway or roadway within the City for a period of ten (10) consecutive days, provided that:

- (1) The permit is issued by the Chief of Police or his or her designee;
- (2) The permit states with particularity the location at which the Dumpster or storage container may be located, which location shall be:
 - a. Along the front lot line of the property owned by the owner, or occupied by the legal occupant, making the application for permit;
 - b. Between the side lot lines of such property, extended as if those lines went across the subject right-of-way;
 - c. Not within thirty (30) feet of the nearest point of any intersection of roadways; and
 - d. Not within any area in which the parking of vehicles is prohibited or limited as to the period of time during which parking is permitted;

(3) Neither the owner nor legal occupant of the property has been previously issued more than three (3) such permits within the calendar year during which the permit requested is effective for the location of a Dumpster or storage container associated with the same property; and

(4) The size of the Dumpster or storage container is such that it may be placed within that portion of the right-of-way designed and designated for the parking of vehicles without impeding the movement of traffic on that portion of the right-of-way designed or designated for the movement of vehicular traffic.

(c) For purposes of this Section, *Dumpster* means any receptacle designed and used for the collection and storage of trash, junk, debris and other refuse. For purposes of this Section, *storage container* means any receptacle designed and used for the temporary storage and transportation of household items, such as furniture and appliances. Dumpsters and storage containers may rest upon wheels, tracks or other moveable parts, so long as such wheels, tracks or other parts are capable of being locked and are locked when located upon City rights-of-way.

(d) In no event shall a Dumpster or storage container be located within an alley.

(e) The Chief of Police, or his or her designee, is authorized to immediately tow and remove from the City right-of-way any Dumpster or storage container found to be located therein without a valid permit issued pursuant to this Section. After towing such a Dumpster or storage container, the Chief of Police, or his or her designee, shall:

(1) Make reasonable efforts to determine the owner of the Dumpster or storage container, which efforts may include, but not be limited to: searching the exterior of the Dumpster or storage container itself for labels, insignia or other indicia of ownership; interviewing any parties at the location(s) apparently associated with the Dumpster or storage container; investigating the issuance of building permits for locations in the vicinity of the Dumpster or storage container; and any other investigatory methods reasonably available and calculated to lead to information concerning the ownership of the Dumpster or storage container.

(2) Issue notice to the owner of the Dumpster or storage container, if such party can be determined, which notice shall contain the following information:

a. The date, time and location from which the Dumpster or storage container was towed;

b. Contact information for both the Police Department and the entity, if not the City, that is in possession of the Dumpster or storage container, together with a statement that either may be contacted to obtain information concerning the recovery of the Dumpster or storage container;

c. A statement that the owner may request a hearing concerning the legality of the towing of his or her property pursuant to Subsection (f) below; and

d. A statement that the owner must contact the Edgewater Police Department, 5901 W. 25th Avenue, Edgewater, CO 80214, in writing, to request a hearing within ten (10) days of the date of the notice or forfeit his or her right to such hearing.

(3) Follow the applicable Edgewater Police Department policy or procedure concerning seized property for which the owner cannot be determined if the owner of the storage container or Dumpster cannot be ascertained.

(f) Any hearing requested under this Section shall be conducted in accordance with this Subsection.

(1) The hearing shall be conducted before the Municipal Judge, or a hearing officer appointed by the Municipal Judge, within seventy-two (72) hours (excluding Saturdays, Sundays and City holidays) of receipt of a written demand for such hearing, unless the requesting party waives his or her right to a speedy hearing. The sole issue before the Judge or hearing officer shall be whether the Dumpster or storage container was located within the City right-of-way without a valid permit.

(2) The hearing shall be conducted in an informal manner and shall not be governed by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the Dumpster or storage container at issue. The Police Department shall carry the burden of establishing that the Dumpster or storage container was located within the City right-of-way without a valid permit. Each party's burden of proof shall be a preponderance of the evidence. The decision of the Judge or hearing officer shall be a final judgment.

(3) Upon a finding that the Dumpster or storage container was properly located within the City right-of-way pursuant to a valid permit, towing and storage fees shall be paid by the City in accordance with arrangements made between the City and the tow operator. If the possessor if the Dumpster or storage container fails to claim his or her property from the tow operator within twenty-four (24) hours of such a decision by the Judge or hearing officer, excluding hours when the operator is not open for business, the possessor shall assume liability for all subsequent storage charges. It shall be the responsibility of the Police Department to notify the tow operator in writing of a finding in favor of the possessor immediately after such finding is made.

(4) Failure of the owner of the Dumpster or storage container to request a hearing in writing to the Police Department within ten (10) days, as required by Subparagraph (e)(2)d. above, or to attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such a hearing. (Ord. 13-10 §1, 2010)

ARTICLE 2

Sidewalks and Curbcuts

Division 1 Generally

Sec. 11-2-10. Publication of notices.

In case of the publication of the notices provided for in this Chapter, the names of two (2) or more persons may be contained in a single notice, and service shall be deemed sufficient as to all the parties

named therein and complete at the expiration of the time of publication as provided in Sections 11-2-150 and 11-2-170 of this Article. (Prior code 19-16; Ord. 12-08 §1, 2008)

Sec. 11-2-20. Reserved area for sidewalks; established.

An area along each side of all streets, roads or highways in the City shall be and is hereby reserved for sidewalk areas. On all streets, roads or highways where the rights-of-way are sixty (60) feet or more in width, the sidewalk area on each side thereof shall be at least eight (8) feet wide; on all streets where the rights-of-way are less than sixty (60) feet in width, the sidewalk area on each side thereof shall be at least six (6) feet wide. (Prior code 19-17)

Sec. 11-2-30. Exclusive use by pedestrians.

The sidewalk area designated in Section 11-2-20 shall be reserved for the exclusive use of pedestrians. (Prior code 19-18)

Sec. 11-2-40. Sidewalk cleaning, generally.

(a) It shall be the duty of every owner or occupant of any lot, property or parcel of land within the City, or his or her agent, to keep the sidewalks in the public right-of-way adjacent to such lot or parcel of land free and clear of and from snow, ice, mud and all other obstructions. It is unlawful to fail to keep the sidewalks free and clear of snow, ice, mud and all other obstructions. Snow, ice, mud and other obstructions cleared from sidewalks shall not be deposited on public streets or alleys.

(b) Whenever there is an accumulation of snow, ice, mud or any other obstruction upon the sidewalk adjacent to any lot or parcel of land within the City sufficient to constitute a hazard thereon to persons or property as determined by the Chief of Police, the Chief of Police shall cause notice in writing to be served personally upon the owner or occupant of the property or his or her agent, or posted in a conspicuous place on the property, ordering such person to remove such snow, ice, mud or any other obstruction within twenty-four (24) hours from the time of serving or posting the notice. Verification of such notice shall be provided to the City Clerk. It is unlawful to fail to comply with the notice to clear sidewalks. (Prior code 19-19; Ord. 12-08 §1, 2008)

Sec. 11-2-50. Cleaning by City.

(a) After compliance with the provisions of Section 11-2-40, if the Chief of Police determines that there is a violation of the sidewalk clearance requirements and that a hazardous condition to persons or property exists, the Chief of Police is authorized to accomplish the work necessary to effect compliance with this requirement. The owner of the property shall be liable for and pay the costs of the work in addition to other costs.

(b) After causing the sidewalk to be cleared, the Chief of Police shall certify to the Director of Public Works the address or legal description of the property upon which the work was done, together with the name of the owner as provided in the public records of the County, together with a statement of the work performed, the date of performance and the cost.

(c) Upon receipt of the statement from the Chief of Police, the Director of Public Works shall cause notice to be served upon the property owner in accordance with Section 11-2-150. The notice

shall advise the owner that clearance work has been performed pursuant to this Article, stating the date of performance of the work and the nature of the work, and demanding payment of the cost, as certified by the Chief of Police, together with twenty percent (20%) for inspection and administrative expenses. The notice shall also provide that, if the amount is not paid within thirty (30) days, it shall become a special assessment on and a lien against the property of the owner, describing the same, and will be certified as an assessment against the property in the same manner as the real estate taxes upon the property.

(d) If the property owner does not pay the costs of clearance pursuant to notice as provided in this Section, the City Council shall, by ordinance, assess the amount of such expenses as a special tax against the property. Such assessment process, including notice and hearing, shall be in accordance with the provisions of Section 11-2-160. (Prior code 19-20)

Sec. 11-2-60. Damage to sidewalks.

It is unlawful for any person to damage or cause the damage of any sidewalk within the public right-of-way of the City. Any person convicted of a violation of this Section, in addition to any fine or penalty imposed, shall be assessed the costs for repairing such damages by the court with applicable jurisdiction. (Prior code 19-21)

Sec. 11-2-70. Awning or canopy permit; other permitted uses.

(a) No person shall place or cause to be placed any awning, canopy or fixed or removable furniture, including but not limited to benches, picnic tables or other outdoor dining furnishings, or portable signs such as a sandwich board that projects into any street or sidewalk in the City unless the owner or lessee of the property abutting the affected street or sidewalk first obtains a revocable permit from the City Clerk under this Section.

(b) Furnishings permitted under this Section shall comply with the following:

(1) All benches, picnic tables, chairs tables or railings must be in good maintenance and suitable for outdoor use.

(2) At no time shall the placement of outdoor dining facilities or other furniture permitted by this Section reduce the sidewalk width to less than forty-two (42) inches.

(3) The maximum length of the placement of furnishings pursuant to this Section shall not exceed the length of the structure to which the use is attached.

(c) Awnings and canopies permitted under this Section shall comply with the following:

(1) The maximum length of the awning or canopy shall be the length of the structure to which it is attached. It may be continuous around the corner of a building on a corner lot.

(2) The maximum overall height for the awning or canopy shall be as outlined in the City's Design Standards, as may from time to time be amended.

(3) The maximum projection from the building wall to which the awning or canopy is attached shall be five (5) feet.

(4) All parts of the awning or canopy shall be a minimum of eight (8) feet above any sidewalk or other walking surface.

(5) Signage on or in connection with an awning or canopy shall be considered a projecting sign and shall comply with the applicable requirements of this Code.

(d) Portable signs permitted under this Section shall conform to the following standards:

(1) A-frame or sandwich board style sign only, in good maintenance and suitable for outdoor use with a maximum area per side of eight (8) square feet, a maximum height of four (4) feet and a maximum width of two (2) feet.

(2) Permitted signs must be placed directly in front of the permittee's property.

(3) At no time shall the placement of a portable sign as permitted by this Section reduce the sidewalk width to less than forty-two (42) inches.

(4) No permittee may display more than one (1) portable sign as permitted by this Section.

(5) Permitted signs must be weighted sufficiently to prevent movement by wind.

(6) Permitted signs may only be displayed during hours the permittee's business is open to the public.

(e) Any owner or lessee desiring to place items that project into any street or sidewalk which abuts the owner's or lessee's property shall file an application with the City Clerk. The application shall be on a form prepared by the City Clerk and shall contain the following information:

(1) The applicant's name, address and telephone number.

(2) The location of the street or sidewalk affected, a legal description of the property abutting the affected street or sidewalk, and the name and address of the owner of the property.

(3) A detailed description, elevation view and site plan of the awning or canopy, including length, width, height, placement and location on the affected property, lighting, illumination and type of construction.

(4) A detailed description and site plan of any other placements of outdoor furniture or portable sign permitted by this Section, including number, dimensions and placement of furnishings on the affected property, lighting, illumination and type of construction, as well as information regarding timing of placement of furnishings if not fixed or if seasonal.

(5) Such additional information as reasonably required by the City Clerk.

(f) Before issuing a permit under this Section, the Fire Department, the Police Department, the City Engineer and the Public Works Department shall review the application to determine whether the application meets the requirements of this Code. The City Clerk may issue a permit upon a finding that the placement of the proposed item or items complies with the requirements of this Section and the ordinances of the City, would not constitute a safety hazard and does not impair or

obstruct the use of public property. The City Clerk may impose reasonable conditions in the permit to assure that the use of public property is not impaired or obstructed and to protect the public health, safety and welfare.

(g) Prior to the issuance of a permit, the applicant for a permit under this Section shall file with the City evidence of comprehensive general liability insurance with limits at least equal to the maximum liability limits of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., and shall include the City as an additional insured under the required policy.

(h) Awnings, canopies and any other items permitted pursuant to this Section shall be constructed and placed in a manner consistent with the site plan and other materials submitted with the application, shall remain the property of the lessee or owner of the building to which they are attached, and shall be maintained to prevent deterioration or safety hazard due to weather, use, or any other cause affecting the physical condition of the permitted items.

(i) The term of the permit provided for by this Section shall be no longer than one (1) year from the date of issuance. Any permit issued under this Section shall be revocable by the City at any time and without cause, and shall not preclude the City from revoking said permit at any time without liability to the City.

(j) Whenever a permit is revoked, the City Clerk shall notify the permittee to remove the formerly permitted items within such time that the City Clerk deems reasonable under the circumstances.

(k) If the permittee fails to comply with the order to remove the formerly permitted item, the City Clerk may cause such items to be removed and charge the costs thereof to the permittee. In addition to any other remedy available to the City, if the permittee fails or refuses to pay when due any charge imposed under this Section, the charge shall constitute a lien upon and against the lot, tract or parcel of land in connection with which the awning is placed and any lien may be foreclosed in the manner provided by law.

(1) Permits issued under the provisions of this Section may be renewed if the original conditions of the application and the issuance of the permit are still in existence. (Prior code 19-22; Ord. 18-04, §1, 2004)

*Division 2
Construction and Repair*

Sec. 11-2-110. Exceptions.

The City Council may grant exceptions to certain property owners from paying all or a portion of the costs or repair and reconstruction of sidewalks as required in this Division. Exceptions shall only be allowed for undue financial hardships imposed upon the property owner by the requirement of payment of all or a portion of costs for the repair and reconstruction of sidewalks. The City Council shall establish the criteria and procedures for such exceptions by resolution prior to considering requests for exceptions. The burden of proving such hardship shall be upon the property owner, who shall request a hearing pursuant to City Council procedures, to consider such exception. The property

owner shall provide documents such as, by illustration only, tax returns, financial statements, business records, personal financial records or files or bank statements to verify the undue financial hardship. (Prior code 19-36)

Sec. 11-2-120. Permit.

No person shall construct, reconstruct, remove, repair or in any manner disturb any sidewalk, driveway or curbcuts on the public right-of-way without obtaining a permit for such purpose from the City. The permit shall be issued by the Director of Public Works. The fee for any permit shall be fifteen dollars (\$15.00); provided however, that where sidewalks, driveways or curbcuts are constructed or reconstructed simultaneously, only one (1) permit and fee shall be required. (Prior code 19-37)

Sec. 11-2-130. Construction materials.

All sidewalks, curbs and gutters and curbcuts constructed on the public rights-of-way within the City shall be constructed in accordance with standards established by the City Council. (Prior code 19-38)

Sec. 11-2-140. Duty to construct, repair or reconstruct.

(a) It is the duty of every owner or occupant to construct, improve, repair or reconstruct and maintain in good order all sidewalks, curbs or gutters in the public right-of-way abutting or adjacent to his or her property. It is unlawful for any owner or occupant to fail, neglect or refuse to comply with the requirements of any notice served upon such person in accordance with the provisions of this Article regarding the aforesaid duty, within the time specified therein, and each day's neglect and refusal to comply with the terms of the notice shall constitute a separate offense.

(b) The Director of Public Works is hereby authorized to enforce this Chapter, except as specifically provided otherwise. (Prior code 19-39)

Sec. 11-2-150. Responsibility of property owner or occupant upon City notice.

(a) Whenever the owner or occupant of any property within the City is required by order of the Mayor or by order of the City Council enacted by resolution and notified by the Director of Public Works to repair or reconstruct any sidewalk adjacent to his or her premises, it shall be the duty of such owner or occupant to cause such improvement to be made in the manner and within the time provided by the order and notice.

(b) The notice to repair or reconstruct sidewalks provided for in this Section shall be in writing and similar to the following:

To the Owner of __ (Address and Legal Description) __ in the City of Edgewater:

You are hereby notified that by an order of the (Mayor) (City Council) of the City of Edgewater, you are required to _____ (a) (the) sidewalk(s) adjacent to your property at __ (address) __ in Edgewater, Colorado. Such improvement to be completed on or before the _____ day of, 20____, and the work to be done under the superintendence and to the satisfaction of the Director of Public Works, and according to the following specifications:

You will also take notice that, unless the improvement is completed within the time specified, such improvement will be made by the City, and the expenses thereof assessed as a special tax against the property, which tax (shall) (may) become a lien on the property.

Director of Public Works
Telephone:_____

Edgewater, Colorado, _____, 20____.

(c) The notice provided for in this Section shall be served by the Director of Public Works, by leaving a copy of the same with the owner, agent or occupant at his or her usual place of abode or business or by certified mail, return receipt requested, to the owner at such place. If such owner or his or her agent or occupant is unknown to the Director of Public Works, or cannot be located after reasonable efforts by the director, the notice shall be given by publication in a newspaper of general circulation in the City, and a copy of such published notice shall be mailed to the last-known address of such owner. A copy of the notice shall be filed by the Director of Public Works with the City Clerk with a return thereon in writing indicating the manner in which same had been served. (Prior code 19-40; Ord. 12-08 §1, 2008)

Sec. 11-2-160. Improvement by City upon expiration of notice.

(a) After the expiration of the time provided in the notice described in Section 11-2-150, and subject to service in the manner provided in said Section, if the owner of any property required to be improved fails to make such improvement, the Director of Public Works is authorized, under the direction of the City Council by resolution, to make the improvement. The expense of such improvement shall be paid by the City.

(b) It shall be the duty of the Director of Public Works, as soon as practicable after the completion of any improvement as provided for in this Section, to make a report to the City Council, which report shall set forth a description of the property so improved, the owner, if known, and the cost of the improvement, which cost shall include an additional fee of twenty-five percent (25%) for administrative expenses related to the improvement. The City Council shall, by ordinance, assess the amount of the expense as a special tax against the property so improved. The City Clerk shall certify the same to the County Clerk and Recorder or to the officer having the custody of the tax list at the time such certification is made, to be carried on to the tax roll and be collected by the County Treasurer in the manner provided by the state statutes for the collection of such assessments; provided however, that the amount of sidewalk tax so assessed shall not be certified to the County Clerk and Recorder until notice of such assessment has been served upon the property as provided in Section 11-2-150. Such notice shall give the property owner an opportunity to be heard before the City Council, at a time and place therein designated, regarding the amount so assessed. The form of the notice shall be similar to the following:

To the Owner of __ (Address and Legal Description) __ in the City of Edgewater:

You will please take notice that the amount of the special tax assessed against the property by reason of the expense incurred by the City of Edgewater in (reconstructing) (repairing) the sidewalk(s) adjacent to your property is \$_____. You may appear before the City Council of the City of Edgewater, (address), Edgewater, Colorado, on the ____ day of _____, 20____, at the hour of _____ .m., when you shall have the opportunity to be heard by the City Council regarding the amount so assessed.

City Clerk
Telephone:_____

Edgewater, Colorado, _____, 20____.

(Prior code 19-41; Ord. 12-08 §1, 2008)

Sec. 11-2-170. Repairs or reconstruction by City and property owner.

(a) The City may share the costs, according to a formula to be determined by the City Council by resolution, with property owners for the repair and reconstruction of sidewalks. The details of such shared costs may be pursuant to written agreement between the City and each property owner, which agreements shall be approved by the City Council.

(b) The City Council may by resolution also determine to share the costs of repairs or reconstruction of sidewalks with property owners and require the owners to pay a share of such costs. Council shall hold a public hearing regarding the proposal to share the costs of repairs or reconstruction of sidewalks with property owners, prior to the implementation of a proposed sidewalk improvement program. All affected property owners shall be provided notice thereof in accordance with Section 11-2-150, which notice shall describe the proposed shared program. Thereafter, the City Council may proceed to authorize the repair or reconstruction of the sidewalks, and may proceed to collect the share of costs therefor from the property owners pursuant to Section 11-2-160. (Prior code 19-42; Ord. 12-08 §1, 2008)

Sec. 11-2-180. Criteria for sidewalk repair.

Repairs and reconstruction of sidewalks shall be in compliance with the criteria for same approved by the City Council on July 17, 1986. There is hereby made part hereof a copy of the City of Edgewater Criteria Governing the Repair or Replacement of Concrete Public Sidewalk contained in a memorandum to the Mayor and Council from the Director of Public Works dated July 9, 1986. (Prior code 19-43; Ord. 12-08 §1, 2008)

ARTICLE 3

Excavations

Division 1 Generally

Sec. 11-3-10. Standards adopted.

Excavation shall be made in accordance with Rules and Regulations Governing Excavation Work adopted by the Industrial Commission of Colorado, which is hereby made a part of this Article. (Prior code 19-61; Ord. 07-10 §1, 2010)

Sec. 11-3-20. Barricades and warning lights.

(a) Any person digging or causing to be dug any hole, drain, tunnel, ditch or any other excavation in any street, alley, sidewalk or other public place within the City shall maintain sufficient warning lights and a suitable barricade or temporary fence around the excavation at all times, in order to prevent any person, animal or vehicle from sustaining injury or damage. Such warning lights, barricade or temporary fencing shall be depicted on the traffic control plan to be submitted as a part of the application required under Section 11-3-220 of this Article.

(b) It is unlawful for any person to damage, displace, remove or interfere with any barricade, warning light or any other safety appliance which is lawfully placed around or about any street, alley, sidewalk or other place of excavation or construction work in the City. (Prior code 19-62; Ord. 07-10 §1, 2010)

Sec. 11-3-30. Pavement cutting.

(a) Where trenches lie within the Portland cement concrete section of streets, alleys, driveways or sidewalks, such concrete shall be saw-cut to a depth of not less than one and one-half (1½) inches and to neat, vertical, true lines in such a manner that the adjoining surface will not be damaged.

(b) Asphalt pavement shall be clean-cut, with an air hammer spade or a circular pavement saw.

(c) No ripping or rooting will be permitted outside the limits of cuts. Surfacing materials removed shall be hauled from the job site immediately and will not be permitted in the backfill. (Prior code 19-63; Ord. 07-10 §1, 2010)

Sec. 11-3-40. Open trenches.

(a) Except where otherwise approved in writing by the City Engineer, the maximum length of open trench, where the construction is in any stage of completion (excavation, pipe laying or backfilling), shall not exceed five hundred (500) feet in the aggregate at any one (1) location.

(b) Where concrete conduit is constructed in place in a trench, the maximum length of open trench permitted will be that which is necessary to permit the uninterrupted progress of construction of the conduit, except that any one (1) of the construction operations shall not precede the next

following operation by more than five hundred (500) feet. This distance may be increased if approved in writing by the City Engineer.

(c) With the approval of the City Engineer, pipe laying may be carried on at more than one (1) separate location, the restrictions on open trench applying to each location.

(d) Trenches across streets shall be completely backfilled as soon as possible after pipe laying.

(e) Steel plates with adequate trench bracing shall be used to bridge across trenches at street crossings where trench backfill and temporary patch have not been completed during regular working hours. Safe and convenient passage for pedestrians shall be provided. The City Engineer may designate a passage to be provided at any point he or she deems necessary. Access to fire stations and fire hydrants must be maintained at all times. (Prior code 19-64; Ord. 07-10 §1, 2010)

Sec. 11-3-50. Protection of existing improvements.

Existing utilities shall be properly supported as required by the owner and protected from damage during the progress of the work. All pipelines, utilities or structures which are broken or damaged shall be reconstructed of the same material, to the satisfaction of the City Engineer. (Prior code 19-65; Ord. 07-10 §1, 2010)

Sec. 11-3-60. Property protection.

Trees, fences, mailboxes, poles and all other property shall be protected unless their removal is authorized by the City Engineer, and property damaged or removed shall be restored to the reasonable satisfaction of the City Engineer. (Prior code 19-66; Ord. 07-10 §1, 2010)

Sec. 11-3-70. Backfilling and compaction.

(a) Backfill material shall consist of soil (other than open graded rock) free from broken concrete or debris.

(b) The pipe or conduit shall be backfilled uniformly on each side with the above material to a depth of one (1) foot over the top of the pipe by a method which will ensure protection of the pipe and which is approved by the City Engineer. It shall be thoroughly worked under the pipe haunches and compacted to density hereinafter specified.

(c) The balance of the backfill shall be placed and compacted to the density specified in this Section. Backfill shall be placed in layers, and each layer shall be compacted to the density hereinafter specified for Type I and Type II backfill before the succeeding layer is placed. The depth of layer shall not exceed that which can be effectively compacted depending on type of material, type of equipment and method used.

(d) In cases within the City where the soil is composed of silts and clay with high amounts of organic material, as determined by the City Engineer, soil removed in excavation shall be removed from the site and excavation backfilled with a select, well-graded crushed gravel similar to road base. This material shall be compacted as required herein.

(e) Unless otherwise provided, the trench backfill shall be thoroughly compacted to not less than the following densities when tested and determined by A.A.S.H.O. Designation T-99, with the percent of density adjusted to compensate for the elimination of weight and volume of aggregate larger than that which will pass a three-quarter-inch-square opening. (Prior code 19-67; Ord. 07-10 §1, 2010)

Sec. 11-3-80. Density depends on backfill type.

The density required will depend on the backfill type. Density required for each type is as follows:

<i>Backfill Type</i>	<i>Location</i>	<i>From surface to 2 feet below surface</i>	<i>From 2 feet below surface to bottom of trench</i>
I.	Under any existing asphaltic or concrete pavement, curb, gutter, sidewalk or when any part of the trench excavation is within 2 feet of the above.	95%	90%
II.	On any street, road or alley right-of-way outside limits of (I).	85%	80%

(Prior code 19-68; Ord. 07-10 §1, 2010)

Sec. 11-3-90. Compaction methods.

(a) The backfill material shall be uniformly moistened to optimum moisture content, placed in sufficiently thin layers to permit the specified results and compacted with hand and/or mechanical work methods using equipment such as rollers, pneumatic tamps, hydro-hammers or other approved devices which secure uniform and required density without injury to the pipe or related structures.

(b) Except where authorized in writing by the City Engineer, water settling of backfill material will not be permitted. (Prior code 19-69; Ord. 07-10 §1, 2010)

Sec. 11-3-100. Temporary pavement.

Temporary asphaltic pavement shall be installed within a reasonable time following backfilling and compaction of trenches that have been cut through existing pavement. This temporary pavement shall be maintained in a safe and reasonable smooth condition until required backfill compaction is obtained and permanent pavement restoration is ordered by the City Engineer. Temporary paving removed shall be hauled from the job site. (Prior code 19-70; Ord. 07-10 §1, 2010)

Sec. 11-3-110. Restoring surface.

All streets, alleys, driveways, sidewalks, curbs or other surfaces, in which the surface is broken into or damaged by the installation of the new work, shall be resurfaced in kind, to the satisfaction of the City Engineer. (Prior code 19-71; Ord. 07-10 §1, 2010)

Sec. 11-3-120. Trench maintenance.

(a) The permittee under this Article shall, for a period of one (1) year after final acceptance of the work, warrant the materials and workmanship used for the excavation, backfilling and resurfacing to be free from material defects and shall maintain and repair any trench settlement which may occur and make suitable repairs to any sidewalk, resurfacing or other structure which may have become damaged as a result of the backfill settlement.

(b) If the permittee elects to perform such maintenance and repairs by subcontract, the permittee shall furnish to the City Engineer a copy of such contract or authorization as evidence of faithful intentions to perform the work. (Prior code 19-72; Ord. 07-10 §1, 2010)

Sec. 11-3-130. Restoration.

All excavations that are made in a public right-of-way must be completely restored within seven (7) days subsequent to acceptance of backfill by the City Engineer. (Prior code 19-73; Ord. 07-10 §1, 2010)

Sec. 11-3-140. Base.

A minimum of six (6) inches of select base material shall be installed and thoroughly compacted immediately beneath the paving to be installed, and no less than the base course immediately adjacent to such cut will be acceptable. In the event that asphaltic concrete base, soil cement base or other base course materials are encountered by excavation, restoration shall be made in kind subject to the approval of the City Engineer. (Prior code 19-74; Ord. 07-10 §1, 2010)

Sec. 11-3-150. Bituminous pavement.

Permanent hot mix asphalt cement patches shall in no instance be less than two and one-half (2½) inches in thickness nor less than the hot mix asphalt cement adjacent to the excavation and shall be installed in accordance with industry accepted construction practices and these specifications. Prior to replacement of the pavement, the exposed edges of the existing pavement and base course shall be neatly trimmed to a neat straight line by an air hammer spade or by a circular pavement saw. (Prior code 19-75; Ord. 07-10 §1, 2010)

Sec. 11-3-160. Gravel-surfaced streets.

In areas where existing surfacing is removed from the streets, the permittee shall replace the graveled surfacing with material at least equal in depth and quality to that removed, but in no case shall the surfacing be less than six (6) inches in thickness. The existing graveled surfacing may be salvaged and reused if handled so as to prevent mixing with other excavated materials. (Prior code 19-76; Ord. 07-10 §1, 2010)

Sec. 11-3-170. Driveways and entrances.

Resurfacing of driveways and entrances crossed by the construction shall be performed as outlined in this Article for bituminous surfaced streets and granular surfaced streets for the particular driveway and entrance involved. (Prior code 19-77; Ord. 07-10 §1, 2010)

Sec. 11-3-180. Other surface improvements.

Driveways, sidewalks or other surface improvements shall be replaced with a base course, six (6) inches minimum, and materials equal in depth and quality as that removed. (Prior code 19-78; Ord. 07-10 §1, 2010)

*Division 2
Permits*

Sec. 11-3-210. Permit required.

No person shall dig up, tunnel, open or excavate in or upon any street, alley, sidewalk or other public place without a permit from the City Clerk. (Prior code 19-86; Ord. 07-10 §1, 2010)

Sec. 11-3-220. Application.

An application for an excavation permit shall be made upon a form provided by the City Clerk and shall include a vehicular and pedestrian control plan that meets the requirements set forth in Subsections 11-3-20(a) and 11-3-40(e) of this Article, a statement of the exact location, depth, extent and nature of the excavation desired to be made, the purpose for which the privilege is requested and the duration of time required for the work. (Prior code 19-87; Ord. 07-10 §1, 2010)

Sec. 11-3-230. Persons eligible.

An excavation permit shall be issued only to:

- (1) A person who possesses a valid contract with the City;
- (2) A franchised utility company; or
- (3) Any licensed general contractor, plumbing contractor or drain layer. (Prior code 19-88; Ord. 07-10 §1, 2010)

Sec. 11-3-240. Issuance and conditions.

All excavation permits shall be issued according to the provisions of this Article and subject to such rules, directions and limitations regarding the period of time and manner in which the work is to be performed, as the City Engineer may prescribe, including but not limited to conformance to any trench patch details that may be established by the City Engineer from time to time. Excavation permits shall be conditioned upon the permittee providing for the proper care and protection of the streets, alleys, sidewalks and other public places of the City and of persons and property thereon. (Prior code 19-89; Ord. 07-10 §1, 2010)

Sec. 11-3-250. Fee.

(a) The fee to be paid for an excavation permit authorizing street cuts in asphaltic and/or concrete pavement shall be seventy-five dollars (\$75.00) as a base administrative fee, plus two hundred twenty-five dollars (\$225.00) for excavations of fifteen (15) square feet or less, plus six dollars

(\$6.00) per square foot of that part of any excavation that exceeds fifteen (15) square feet, all to cover the costs of construction plan review and inspection incurred by the City. In addition to the foregoing fees, a fee of one dollar and fifty cents (\$1.50) per square foot of excavation shall be paid to compensate the City for the potential future degradation of pavement in each instance in which an excavation is greater than fifteen (15) square feet. The fee for alley cuts, unimproved or graveled, shall be one-half (½) of the foregoing fees; provided, however, that no additional fees shall be paid in connection with such cuts for the purpose of compensating the City for potential future degradation of pavement. This Subsection shall not apply to public utility companies, private utility companies, special improvement districts or other public entities. Any part of the foregoing requirements notwithstanding, the fees for any excavation that is solely for the purpose of the repair or reconstruction of a sidewalk that is adjacent to a residential property shall be only as set forth in Section 11-2-120 of this Chapter.

(b) Permit fees for electric, gas, sewer, water or communication utility companies or districts, which, for any reason cut, disturb or otherwise deface any public property for the purpose of installing, replacing or repairing an underground utility, shall be established by formal agreement. (Prior code 19-90; Ord. 07-10 §1, 2010)

Sec. 11-3-260. Bond.

The applicant for an excavation permit shall furnish a good and sufficient bond, in an amount equal to the City Engineer's reasonable estimate of the costs of restoration of any excavation, but in no event less than ten thousand dollars (\$10,000.00), with a surety to be approved by the City. The bond is to be a general obligation bond of such licensee or applicant made payable to the City to assure full compliance with the laws and regulations of the City by such licensee or applicant. The obligation of the surety shall be in full force and effect until the surety herein shall exercise its option to cancel the same by filing a written ninety-day notice with the City Clerk of its desire to be relieved of liability already accrued under this obligation or any liability which shall accrue before the expiration of the ninety-day period. Any part of the foregoing requirements notwithstanding, no bond shall be required of any applicant if the excavation is solely for the purpose of the repair or reconstruction of a sidewalk that is adjacent to a residential property. (Prior code 19-91; Ord. 07-10 §1, 2010)

Sec. 11-3-270. Exhibition.

Any excavation permit shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any police officer, member of the Public Works Department or other authorized City official. (Prior code 19-92; Ord. 07-10 §1, 2010)

ARTICLE 4

City Trees and Overhanging Trees

Sec. 11-4-10. City trees defined.

In this Article, *City trees* means all trees, shrubs, bushes and all other woody vegetation located in whole or in part within or overhanging any public easements, public rights-of-way, open space or public property. (Prior code 19-111)

Sec. 11-4-20. Tree Commission.

(a) There is hereby established a Tree Commission which shall serve in an advisory capacity to the City Council or as provided herein. The members of the Park and Recreation Advisory Board shall serve as the members of the Tree Commission.

(b) It shall be the responsibility of the Tree Commission to study, investigate, develop and update a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of City trees. Such plan will be presented to the City Council and, upon acceptance and approval by the City Council, shall constitute the tree plan for the City. The Tree Commission shall make recommendations to the Mayor for the retention of an arborist, forester, specialist in the planting and maintenance of trees or similarly qualified person on a consulting basis as needed. The Tree Commission may transmit information to the citizens regarding the care, preservation, pruning, planting, replanting, removal or disposition of trees. (Prior code 19-112)

Sec. 11-4-30. Arborist's license and bond.

It is unlawful for any person to engage in the business or occupation of pruning, treating or removing City trees within the City without first applying for and procuring a license. All regulations and fees for licensing described in Article 2 shall apply. No license shall be required of any public utility company or City employee doing such work in the pursuit of public service endeavors. Before any license is issued, each applicant shall first file evidence of liability insurance indemnifying the City or any person injured or damage resulting from the business or occupation. (Prior code 19-113)

Sec. 11-4-40. Trees allowed without permission of Tree Commission.

The following list constitutes the City tree species for the City. No species other than those included in this list may be planted as City trees without written permission of the Tree Commission.

Small Trees

Apricot
Crabapple, Flowering
Golden Rain Tree
Hawthorne
Pear, Bradford
Redbud
Soapberry
Lilac, Japanese Tree
Peach, Flowering
Plum, Purple Leaf

Serviceberry

Medium Trees

Ash, Green
Aspen
Hackberry
Honeylocust (thornless)
Linden or Basswood
Mulberry, Red (fruitless male)
Oak, English
Oak, Red
Pagoda Tree, Japanese
Pecan
Osage Orange (male, thornless)
Persimmon
Poplar, White
Sassafras

Large Trees

Coffee Tree, Kentucky
Maple, Silver
Maple, Sugar
Oak, Bur
Sycamore
Sycamore, London plantree
Cottonwood (cottonless, male)

(Prior code 19-114; Ord. 12-08 §1, 2008)

Sec. 11-4-50. Certain species of trees prohibited.

(a) It is unlawful to sell or import into the City or to plant or cause to be planted within the City limits any of the following:

- (1) Any cotton-bearing cottonwood tree (*Gene populus*).
- (2) Any box-elder tree (*Acer negundo*).

(b) It is unlawful to plant or cause to be planted any species of tree in the right-of-way of any street, alley, sidewalk or other public place within the City which by its habit or growth would obstruct, restrict or conflict with necessary and safe use of the public rights-of-way, including without limitation, pedestrian, bicycle and vehicular traffic, as determined by council upon advice of the Tree Commission. (Prior code 19-115)

Sec. 11-4-60. Distance from street corners and fire hydrants.

No large City tree shall be planted closer than twenty-five (25) feet to any street corner, measured from the point of nearest intersecting curbs or curblines to the center of the tree trunk. No small or medium City tree shall be planted closer than fifteen (15) feet to any street corner, measured from the point of nearest intersecting curbs or curblines to the center of the tree trunk. No City tree shall be planted closer than ten (10) feet of any fire hydrant measured from the center of the tree trunk. (Prior code 19-116)

Sec. 11-4-70. Distance from utility lines.

No City trees other than those species defined as small trees may be planted under or within fifteen (15) lateral feet of any overhead utility wire, measured from the center of the tree trunk, or over or within fifteen (15) lateral feet of any underground water line, sewer line, transmission line or other utility, measured from the center of the tree trunk. (Prior code 19-117)

Sec. 11-4-80. City tree care.

The Director of Public Works shall have the authority to prune, spray, maintain, protect and remove hazardous City trees, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds, as determined by the Arborist. (Prior code 19-118)

Sec. 11-4-90. Pruning and removal; corner clearances.

Every owner of any property with a City tree shall prune the branches so that such branches shall not obstruct the view of any street or alley intersection and so that there shall be a clear space of eight (8) feet above the surface of the sidewalk and a clear space of fifteen (15) feet over any street. The owner shall remove all dead, diseased or dangerous trees, stumps and broken or decayed limbs which constitute a menace to the safety of the public, as determined by the Arborist. The Director of Public Works, upon direction of the Chief of Police, shall have the right to prune any trees or shrubs on private property when it interferes with the visibility of any traffic control device or sign. (Prior code 19-119; Ord. 02-04 §1, 2004)

Sec. 11-4-100. Dead or diseased tree removal on private property.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the City, as determined by the Arborist. The City shall notify the owner in writing of such trees. Removal shall be done by the owner at his or her sole expense within thirty (30) days after the date of service of notice; provided, however, that such time may be extended by the Tree Commission for good cause following a public hearing requested by the owner within such thirty-day period. The owner shall have the burden of establishing good cause for such extension. In the event of failure of an owner to comply with such provisions, the City shall have the authority to remove such trees at the expense of the owner. (Prior code 19-120)

Sec. 11-4-110. Pruning and removal of dead or diseased trees by City.

(a) When it is determined by the Arborist that a property owner is in violation of Section 11-4-90 or 11-4-100, the City shall cause a written notice of such violation to be mailed by certified mail, return receipt requested, to the property address and the address of the property owner as shown on the tax rolls, directing the owner of the property to remove such violation as provided herein within thirty (30) days or the cost of such removal shall be assessed against the property. In the event the owner of the property does not comply with the notice, the City may cause the pruning or removal of the tree or shrub at the expense of the property owner. Such expense shall include the cost of removal, together with ten percent (10%) for inspection and incidental costs and fifteen percent (15%) penalty for costs of collection.

(b) After causing the trees or shrubs to be pruned and/or removed, the Director of Public Works shall certify to the City Clerk the legal description of the property upon which the work was done, together with the name of the owner as last shown by the tax rolls of the County, a statement of the work performed, the date of performance and the cost.

(c) Upon receipt of the statement of cost from the Director of Public Works, the City Clerk shall mail a written notice to the owner of the premises as last shown upon the tax rolls, by certified mail, return receipt requested, notifying the owner that work has been performed, stating the date of performance of the work and the nature of the work, and demanding payment of the cost, as certified by the Director of Public Works, together with ten percent (10%) for inspection and other incidental costs. The notice shall state that, if the amount is not paid within thirty (30) days of mailing the notice, it shall become an assessment on and a lien against the property of the owner, describing the same, and will be certified as an assessment against the property, together with a fifteen-percent penalty for collection, in the same manner as the real estate taxes upon the property.

(d) The City Council may grant exceptions to certain property owners from paying all or a portion of the costs of pruning or removing trees, shrubs, or bushes as required in this Section. Exceptions shall only be allowed for undue financial hardships imposed upon the property owner by the requirement of payment of all or a portion of such costs. The City Council shall establish the criteria and procedures for such exceptions by resolution prior to considering requests for exceptions. The burden of proving such hardship shall be upon the property owner, who shall request a hearing pursuant to City Council procedures; to consider such exception. The property owner shall provide documents such as, by illustration only, tax returns, financial statements, business records, personal financial records or files, or bank statements to verify the undue financial hardship.

(e) If the City Clerk does not receive payment within the period of thirty (30) days following the mailing of a notice of assessment, the City Clerk shall inform the City Council of such fact, and the City Council will thereupon consider the enactment of an ordinance assessing the whole cost of the work, including ten percent (10%) for inspection and other incidental costs, upon the lots and tracts of land from which the trees or shrubs have been pruned or removed, together with a fifteen-percent penalty for cost of collection.

(f) Following passage of an ordinance for collection of costs, the City Clerk shall certify the same to the County Treasurer, who shall collect the assessment, including the fifteen-percent penalty for cost of collection, in the same manner as other taxes are collected. Each such assessment shall be a lien against each lot or tract of land until paid, and shall have priority over all other liens except general taxes and prior special assessments. (Prior code 19-121; Ord. 12-08 §1, 2008)

Sec. 11-4-120. Stumps on public property or public rights-of-way.

(a) Any stumps of trees on public property or public rights-of-way ordered removed by the Arborist pursuant to Section 11-4-90 shall be removed below the surface of the ground so that the top of the stump is at least six (6) inches below the surface of the ground.

(b) No tree stump shall remain on public property or public rights-of-way unless all of the following criteria are met:

- (1) All bark shall be removed from the stump and the stump shall be sealed;

(2) The stump is not less than four (4) feet in height and not greater than ten (10) feet in height;

(3) No items may be attached to or hanging from the stump; and

(4) The stump is determined by the Arborist not to be a hazard to life or property due to insects, disease or other infirm condition. The Arborist is authorized to take core samples and to perform such other tests as the Arborist determines are necessary to determine whether the stump is hazardous. Prior to conducting any such testing on a stump in the public right-of-way, the Arborist shall notify in writing the owner of property adjacent to the public right-of-way, which owner shall either agree to pay the cost of such testing or remove the stump. A property owner may appeal the Arborist's decision as to the hazardous condition to the City Council. To appeal, the property owner must, in writing within ten (10) days after the date of the Arborist's initial written notice, notify the City Council and request a hearing. (Prior code 19-122; Ord. 02-04 §2, 2004)

ARTICLE 5

Park, Recreation and Open Areas

Sec. 11-5-10. Scope.

This Article applies to City parks, recreation areas and open spaces. (Prior code 16-16)

Sec. 11-5-20. Restrictions on time of use authorized.

The Director of Parks and Recreation may restrict the hours, days and weeks of use of any recreational facility. (Prior code 16-19)

Sec. 11-5-30. Operating hours.

(a) Parks shall be opened daily until 10:00 p.m. and closed from 10:00 p.m. to 5:00 a.m., except for activities and events sponsored by the Parks and Recreation Department or authorized by permission of the Director of Parks and Recreation. It is unlawful for persons to be within the park or recreation facilities when closed as provided herein.

(b) Any park or recreation facility may be declared closed to the public by the Director of Parks and Recreation at any time and for any interval of time, for a temporary or stated interval as the Director of Parks and Recreation finds reasonably necessary. It is unlawful to go upon an area or part of any park or recreational facility of the City when it has been declared to be closed to the public by the Director of Parks and Recreation.

(c) All open and greenbelt areas shall normally be open daily from sunrise to sunset, and normally be closed from sundown to sunrise, except for:

(1) Activities and events sponsored by the Department, or authorized by permits of the Director of Parks and Recreation;

(2) Those areas within the open areas designated for pedestrian ways, bicycle ways or other means of access or travel.

(d) Artificially lighted athletic fields in the parks shall have the lights turned off at 10:00 p.m. (Prior code 16-20)

Sec. 11-5-40. Permits.

The Director of Parks and Recreation may issue permits relating to any use or accommodation of any park, open area or recreation facility of the City. The Director of Parks and Recreation shall set the requirements for the issuance of any permit and may include in those requirements any fee to cover the cost of administration and maintenance or deposit. The Director of Parks and Recreation may cancel any permit for violation of the requirements of the permit and violation of any of the rules and regulations set forth herein or elsewhere within this Code. (Prior code 16-21)

Sec. 11-5-50. Group use of parks.

Any group of more than fifteen (15) persons shall obtain a permit from the Director of Parks and Recreation allowing such a group to assemble in or use a park. (Prior code 16-22)

Sec. 11-5-60. Athletic fields.

(a) The Director of Parks and Recreation shall enforce all rules and regulations pertaining to activities upon any athletic field in any park or recreation facility of the City. The Director of Parks and Recreation shall have the power to issue rules and regulations governing such athletic fields, subject to the approval thereof by resolution of the City Council. Copies of such rules and regulations shall be on file with the Department of Parks and Recreation and the City Clerk.

(b) All teams or individuals shall relinquish play on any athletic field to any individuals or teams to whom permits for use of such facility have been issued by the Director of Parks and Recreation.

(c) The Director of Parks and Recreation may restrict or remove any player, players, teams or leagues from all public fields for a specified time for violation of rules and regulations set forth in this Section or issued by the Director of Parks and Recreation under the authority of this Chapter.

(d) The Director of Parks and Recreation may close any or all public fields or play areas when use of such area creates maintenance problems or adverse effects to the physical condition of such areas as a result of weather or other conditions. (Prior code 16-27)

Sec. 11-5-70. Shelters.

Reservation of pavilions or shelters may be obtained by a permit issued by the Director of Parks and Recreation. Otherwise, all uses of pavilions or shelters shall be on a first-come, first-served basis. (Prior code 16-28)

Sec. 11-5-80. Tents.

No tents shall be erected upon any park, open area or recreation facility except as a part of a Department-sponsored activity, or unless a permit is issued authorizing the same by the Director of Parks and Recreation. (Prior code 16-29)

Sec. 11-5-90. Fires.

Fires are permitted only in enclosed fireplaces or grills provided for this purpose under such rules and regulation as may be prescribed by the Director of Parks and Recreation, and any such fire shall be extinguished before leaving any park, open area or recreation facilities in the City. (Prior code 16-30; Ord. 12-08 §1, 2008)

Sec. 11-5-100. Equestrian activities.

Horseback riding shall be permitted only upon authorized bridle paths unless other areas are specifically designated by the Director of Parks and Recreation. (Prior code 16-31)

Sec. 11-5-110. Wildlife.

(a) It is unlawful for any person to willfully and unnecessarily shoot, capture, harass, injure or destroy any wild bird or animal or to attempt to shoot, capture, harass, injure or destroy any such wild bird or animal.

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

(c) In this Section:

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

(2) *Wild bird* includes all undomesticated birds native to North America and undomesticated game birds implanted in North America by governmental agencies and any domestic duck or goose released by any private person or recreational authority upon any recreational area within this City.

(d) The provisions of this Section do not apply to the personnel of any police, fire or animal control agency or of the State Division of Wildlife or Colorado 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.

(e) The provisions of this Section are not intended to allow the destruction of any bird or animal protected by state or federal law. (Prior code 16-32)

Sec. 11-5-120. Glass containers.

It is unlawful for any person to bring, or to have in his or her possession, any glass beverage bottle in any park or open area. (Prior code 16-34)

Sec. 11-5-130. Workers and work areas.

The use of any park or recreation area shall be relinquished to any City or park employee or agent carrying out work assignments. Public use of work and maintenance areas is not permitted. (Prior code 16-36)

Sec. 11-5-140. Dog defecation.

It is unlawful for the owner or custodian of any dog to allow such dog to defecate in any park, parkway, open area, recreation facility or other public place within the City. It is additionally unlawful for the owner or custodian of any dog, which dog has so defecated, to fail to clean up and remove from such park, parkway, open area, recreation facility or other public place such excrement or feces. (Prior code 16-37)

Sec. 11-5-150. Winter sports.

(a) No ice skating on any body of water supervised by the Department of Parks and Recreation or included in any park or recreation facility is permitted unless the specific area to be used is so posted or public announcement has been made by the Director of Parks and Recreation allowing such activity. When such areas are open for use, the same are subject to rules and regulations on program and safety as issued by the Director of Parks and Recreation.

(b) Ice hockey is not permitted except in designated areas as part of a Department-sponsored activity or by permit issued by the Director of Parks and Recreation.

(c) Within any park or recreation facility of the City, sledding is prohibited on water areas, on vehicle roadways or uphill from any water area or roadway where sleds would coast across such water areas or roadways.

(d) All vehicles of any kind and description are prohibited from any lake, stream or water.

(e) It is unlawful to use snowmobiles in any park or recreation facility or area within the City. (Prior code 16-38)

Sec. 11-5-160. Enforcement.

The Director of Parks and Recreation may enforce this Article and any rules and regulations issued in accordance with this Chapter. (Prior code 16-17)