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CHAPTER 1

GENERAL PROVISIONS

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters, articles, divisions and sections shall constitute and be designated the "Code of the City of Fort Collins," and may be so cited.

Charter reference—Ordinance codification, Art. II, § 9.

Sec. 1-2. Definitions; rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall apply unless such construction would be inconsistent with the manifest intent of the City Council:

Charter. The word *Charter* shall mean the Home Rule Charter of the City of Fort Collins, Colorado, adopted by the electors on October 5, 1954, and all subsequent amendments thereto. A copy of the Charter is printed as Part I of this volume.

City. The word *City* shall mean the municipal corporation of Fort Collins, Colorado, including its physical location and boundaries, or any of its officers, employees, agents or administrative units, as the context shall require or admit.

City Council. The words *City Council* when used in this Code shall be construed to mean the City Council of the City of Fort Collins, Colorado.

Code. References to the Code shall mean the Code of the City of Fort Collins as designated in § 1-1.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceedings shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the next day which is not a Saturday, Sunday or legal holiday. Whenever the period is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall not be counted in the computation.

County. The word *County* when used in this Code shall mean the County of Larimer, Colorado.

C.R.S. The initials *C.R.S.* when used in this Code shall mean the most recent edition of the Colorado Revised Statutes.

Delegation of authority. Whenever a provision appears requiring the director of a service area, head of a department or officer of the City to do some act or make certain inspections, it is to be construed to authorize the director of the service area, head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise. If any provision assigns a duty or responsibility to a person holding a position of employment that no longer exists within the City's organizational structure, and the need arises for such duty or responsibility to be carried out, the City Manager shall designate, in a writing filed with the City Clerk, the position of employment to which the duty or responsibility is to be assigned. Such designation by the City Manager shall remain in effect until such time, if at all, that the position designated in the Code is reestablished in the City's organizational structure or the City Council amends the provision in question to specify a different position to which the duty or responsibility is to be assigned.

Department means a primary subdivision of a service area headed by a person who, regardless of title, is directly responsible to the director of the service area.

District Court shall mean the District Court for the Eighth Judicial District for the State of Colorado.

Division means a primary subdivision of a department headed by a person who is directly responsible to the head of the department.

Employee. *Employee* shall mean a person in the compensated service of the City except City Councilmembers.

Gender. A word importing the masculine or feminine gender shall extend and be applied to firms, partnerships and corporations, etc., as well as to males and females where the context of the provision permits.

Growth Management Area shall mean the Fort Collins Urban Growth Area as defined in Article XIII of the Charter of the City, namely, that geographic area within and adjacent to the City identified by the Intergovernmental Agreement between the City of Fort Collins and Larimer County as that area identified for annexation and urbanization by the City, including the Urban Growth Area as it exists on March 5, 1985, together with any amendments or changes thereto.

Interpretation. In the interpretation and application of any provisions of this Code, it shall be held to be at least the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any other provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Month. The word *month* shall mean a calendar month.

Name of the officer, department, board, etc. The naming of an officer, department, board, etc., shall be construed as if followed by the words "of the City of Fort Collins."

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

Oath. The word *oath* shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.

Office. *Office* shall mean an administrative, legislative or judicial position in the service of the City.

Owner. The word *owner*, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word *person* shall extend and be applied to individuals, corporations, associations, firms, joint ventures, estates, trusts, business trusts, syndicates, fiduciaries, partnerships and bodies politic and corporate and all other groups and combinations.

Real property. The words *real property* shall include lands, tenements and hereditaments.

Registered elector. *Registered elector* shall mean a qualified elector residing in the City who has registered to vote in City elections in the manner required by state law.

Service area means a major City administrative unit headed by a director who, regardless of title, is directly responsible to the City Manager.

Sidewalk. The word *sidewalk* shall mean any portion of a street between the curblines and the adjacent property line excluding parkways which is intended for the use of pedestrians.

State. The word *State* shall mean the State of Colorado.

Street. The word *street* shall mean a public way (whether publicly or privately owned) used or intended to be used for carrying vehicular, bicycle and/or pedestrian traffic, and shall include the entire area within the public right-of-way and/or public access easement.

Tense. Words used in the present or past tense include the future as well as the present or past.

Year. The word *year* shall mean a calendar year.
(Code 1972, § 1-22; Ord. No. 222, 1998, § 1, 12-15-98; Ord. No. 130, 2002, § 1, 9-17-02; Ord. No. 24, 2005, § 1, 3-1-05; Ord. No. 091, 2007, § 1, 9-4-07)
Charter reference—Definitions, Art. XIII.

Sec. 1-3. Catchlines of sections.

The catchlines which appear as the headings of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections or of any legal effect or as any part of the section, and unless expressly provided shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted in any ordinance.
(Code 1972, § 1-10)

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but merely indicate the source of matter contained in the section.
(Code 1972, § 1-11)

Sec. 1-5. References and editor's notes.

The references and editor's notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.
(Code 1972, § 1-11)

Sec. 1-6. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

Sec. 1-7. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any other ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed, nor any contract, vested right or obligation established prior to the time when the ordinances are repealed.
(Code 1972, § 1-5)

Sec. 1-8. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following which are not inconsistent with this Code:

- (1) Any ordinance promising, guaranteeing or authorizing the payment of money by or for the City or any contract, agreement, lease, deed or other instrument or obligation assumed by the City;
- (2) Any ordinance authorizing or relating to specific issuances of bonds or other evidences of indebtedness;
- (3) Any ordinance granting a franchise, vested right or permit;
- (4) Any ordinance establishing any personnel regulations;
- (5) Any ordinance levying or repealing taxes, making appropriations or adopting a budget;
- (6) Any ordinance creating specific local improvement districts, issuing bonds or assessing taxes or fees therefor;

- (7) Any ordinance making special assessments for local improvements or authorizing refunds from specific local improvement district bond proceeds;
- (8) Any ordinance vacating, closing, accepting, establishing, locating, relocating, opening, paving, repairing, widening or naming any street or public way;
- (9) Any ordinance establishing grades of specific streets, sidewalks or other public ways;
- (10) Any ordinance affecting the corporate limits of the City;
- (11) Any ordinance which is of a special or temporary nature;
- (12) Any ordinance dedicating or accepting any plat or subdivision;
- (13) Any ordinance or regulation establishing fees, permits, inspections or services;
- (14) Any ordinance establishing the amount of bond to be posted by City officials;
- (15) Any ordinance relating to federal old age and survivors' benefits for City officers or employees;
- (16) Any ordinance annexing territory to the City or excluding territory from the City and any land use or rezoning ordinance in the City or any ordinance adopting a map of zoning districts or providing for the adjustment, enforcement and amendment thereof;
- (17) Any administrative ordinance of the City Council;
- (18) Any ordinance authorizing specific contracts for purchase of water;
- (19) Any ordinance approving or authorizing specific contracts with the State or with other governmental bodies;
- (20) Any ordinance authorizing a specific lease, sale or purchase of property;
- (21) Any ordinance granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers;
- (22) Any ordinance granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys;
- (23) Any ordinance granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company;
- (24) Any ordinance levying a temporary tax or fixing a temporary tax rate;
- (25) Any ordinance calling or providing for an election;
- (26) Any ordinance prescribing traffic and parking regulations for specific streets and locations;
- (27) Any ordinance regarding the "Land Development Guidance System for Planned Unit Developments" as amended;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. These ordinances are on file in the City Clerk's office.

(Code 1972, § 1-6)

Sec. 1-9. Amendments.

(a) Additions to any of the provisions of this Code shall be made by amending such provision by specific reference to the section number of this Code in the following language: "That Section _____ of the Code of the City of Fort Collins is hereby amended to read as follows: . . ." and the amended section shall thereafter be set out in full as amended.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of the City of Fort Collins is hereby amended by adding a section, to be numbered _____, which section reads as follows: . . ." The new section shall then be set out in full.

(c) Sections requiring substantial rewording shall be repealed and reenacted with the reenacted wording set out in full.

(d) All subsections, sections, chapters, etc., desired to be repealed must be specifically repealed by subsection, section or chapter number as the case may be.

Charter reference—Procedure for adoption of ordinances, Art. II, §§ 6-9.

Sec. 1-10. Supplementation of Code.

(a) A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The supplement shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to this Chapter, this Article, this Division, etc., as the case may be, or to "§§ _____ to _____" inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-11. Severability.

If any section, sentence, clause, phrase, word or other provision of this Code is for any reason held to be unconstitutional or otherwise invalid by any competent court, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Code or the validity of this Code in its entirety.

(Code 1972, § 1-17)

Sec. 1-12. Copies of Code on file.

At least three (3) copies of the Code shall be kept in the office of the City Clerk at all times, and may be inspected by any interested person at any time during regular office hours, but may not be removed from the City Clerk's office except upon proper order of a court of law.

(Code 1972, § 1-13)

Sec. 1-13. Sale of Code copies.

The codifier of this Code (the person, agency or organization authorized to print the Code and prepare supplements) shall make copies of the Code available for purchase by the public upon the payment of a fee to be set by the City Clerk.

(Code 1972, § 1-16; Ord. 036, 2009, § 1, 5-5-09)

Sec. 1-14. Codes adopted by reference.

At least one (1) copy of each code adopted by reference as they were adopted shall be kept on file in the office of the City Clerk available for public inspection. One (1) copy of each such code shall also be kept in the office of the chief enforcement officer thereof.

(Ord. 036, 2009, § 1, 5-5-09)

Cross-references—One copy of codes adopted by reference shall be kept on file in the office of the City Clerk, § 5-2; Building Code adopted, § 5-26; adoption of Uniform Code for the Abatement of Dangerous Buildings, § 5-46; adoption of the National Electrical Code, § 5-80; adoption of the Mechanical Code, § 5-106; adoption of the Plumbing Code, § 5-125; Fire Code adopted, § 9-1; Fort Collins Traffic Code adopted, § 28-16(a).

Sec. 1-15. General penalty and surcharges for misdemeanor offenses, traffic offenses and traffic and civil infractions.

(a) Except as to traffic infractions described in Subsection (b) below and any other civil infraction specified as such in this Code, any person who shall violate any provision of this Code, the Charter or any provision of any code or other regulation adopted by reference by this Code, by doing any act prohibited or declared to be unlawful thereby, or who shall engage in any business, occupation or activity for which a license or permit is required without having a valid license or permit therefor, or who shall fail to do any act required by any such provision, or who shall fail to do any act when such provision declares such failure to be unlawful or to be an offense or misdemeanor, shall be guilty of a misdemeanor and, upon conviction, shall be punished by the penalty specifically provided for such violation or, if none, then by a fine not exceeding one thousand dollars (\$1,000.) or by imprisonment not exceeding one hundred eighty (180) days, or by both such fine and imprisonment, in addition to any costs which may be assessed. No person under the age of eighteen (18) years as of the date of the offense shall be subject to imprisonment except in the case of failure to comply with a lawful order of the court, including an order to pay a fine, and then only in the manner provided in Section 13-10-113, C.R.S., and the Colorado Children's Code, Section 19-1-101, et seq., C.R.S. Each day upon which a violation continues shall constitute a separate misdemeanor offense unless some other specific time period is provided for any particular offense.

(b) A violation of any provision of Chapter 28, Vehicles and Traffic, in this Code or the Fort Collins Traffic Code, shall be deemed to be a traffic infraction if, at the time of the commission of the violation, its counterpart violation under the provisions of Article 4 in Title 42 of the Colorado Revised Statutes, if any, is designated by state law as being a traffic infraction. If no counterpart violation exists under state law, the violation shall be deemed to be a traffic infraction. All other violations under Chapter 28 of this Code or the Fort Collins Traffic Code shall be considered misdemeanors punishable as described in Subsection (a) of this Section. Any person against whom judgment is entered for a traffic infraction under this Code shall be subject to the penalty of a fine and any surcharge, the total of which is not to exceed one thousand dollars (\$1,000.), and shall not be subject to imprisonment on account of such judgment.

(c) Except as provided in Subsection (d) below, a law enforcement officer, code enforcement officer, the City Attorney or their designees may request that the Municipal Judge order restitution of direct out-of-pocket costs incurred by any victim of a misdemeanor. By way of illustration, such direct out-of-pocket costs may include, but need not be limited to, costs to repair or replace damaged property, medical insurance deductibles, or medical costs directly paid and unreimbursed by any entity other than the victim or the victim's parent or guardian.

(d) Restitution through Municipal Court shall not be available for victims of traffic infractions or traffic misdemeanors.

(e) Any person convicted of violating the provisions of Chapter 4, Animals and Insects; Chapter 17, Miscellaneous Offenses; or Chapter 20, Nuisances, shall reimburse the City for costs incurred by the City or Poudre Fire Author-

ity in enforcing the provisions of said sections if such enforcement required the use of an extraordinary number of personnel, highly trained personnel, sophisticated equipment or nontraditional methods of enforcement. The amount of such restitution shall be apportioned among multiple defendants involved in the same criminal episode as deemed appropriate by the Municipal Judge, taking into consideration the behavior of the defendant(s), the amount and kind of expenses incurred by the City or Poudre Fire Authority, the number of participants involved in the criminal activity and such other circumstances as the Municipal Judge may consider relevant. Notwithstanding the foregoing, if another provision of the Code imposes a more specific restitution requirement than the requirement imposed by this Section, then the Code provision which requires the greater amount of restitution will control.

(f) Except as provided in Paragraph (4) below, any person found responsible for a violation of this Code designated as a civil infraction shall pay a civil penalty for such infraction of not more than one thousand dollars (\$1,000.) plus costs, damages and expenses as follows:

- (1) Each act of violation and every day upon which a violation occurs shall constitute a separate violation.
- (2) A person found responsible by the Municipal Court or Referee for any violation of this Code charged as a civil infraction shall pay the penalty and costs assessed, which may include all costs, direct and indirect, which the City has incurred in connection with the civil infraction. In addition, the Municipal Judge or Referee may issue any orders necessary to abate a nuisance.
- (3) If a defendant fails to answer a citation for a civil infraction or notice to appear in court or before a Referee for such infraction, a default judgment shall enter in the amount of the civil penalty plus all costs, expenses and damages. In the event a defendant fails to pay a civil penalty, costs, damages or expenses within thirty (30) days after the payment is due or fails to pay a default judgment, the City may pursue any legal means for collection and, in addition, may obtain an assessment lien against the property that was the subject of the violation if the Code violation is designated as a nuisance in Chapter 20, is a violation of any civil infraction contained in Chapter 5, 12, 20, 24 or 27, or is a violation of Land Use Code Section 3.18.16 and was committed by an owner or tenant of the property, as defined in Land Use Code Section 5.1.2.
- (4) If a person who is alleged to have committed a violation of any provision of this Code that is classified as a civil infraction has been found liable for two (2) or more such violations within the twelve-month period immediately preceding the new alleged violation, then, whether or not the previous violations were committed at the same premises as the new alleged violation, the new alleged violation may be charged as a misdemeanor criminal offense that is subject to a penalty or imprisonment, costs, fees and any other orders imposed in accordance with this Section.

(g) Assessment of traffic calming surcharge. A surcharge of thirty-five dollars (\$35.) shall be assessed by the Municipal Court as set forth in this Section and shall be in addition to court fines, costs, other surcharges and fees. Said surcharge shall be assessed against any person who:

- (1) after a trial or hearing before the Court, a hearing officer, a referee or a jury, is found guilty of operating a motor vehicle in violation of any provision of the Fort Collins Traffic Code for which the Department of Revenue has assigned a penalty of one (1) or more points, or of operating a bicycle or electric assisted bicycle in violation of any such provision, as the same has been made applicable to the operators of bicycles and electric assisted bicycles through Section 1412(1) of said Code;
- (2) pleads guilty or no contest to, or enters an *Alford* plea to, any such violation pursuant to any plea agreement; or
- (3) accepts an early payment discount in a case where the citation was issued for such a violation.

Said surcharge shall be assessed at the time of disposition by the Municipal Court and shall be dedicated by the Finance Department and exclusively spent for traffic-calming expenditures, including but not limited to training, education, signage, facilities, public education and additional traffic enforcement police officers and equipment.

(Code 1972, § 1-23; Ord. No. 157, 1986, § 1-23, 11-4-86; Ord. No. 64, 1987, § 1, 5-5-87; Ord. No. 4, 1990, 2-6-90; Ord. No. 104, 1990, §§ 1, 2, 12-18-90; Ord. No. 16, 2003, § 10, 2-18-03; Ord. No. 32, 2005, 3-15-05; Ord. No. 126,

2005, 11-15-05; Ord. No. 167, 2005, 12-20-05; Ord. No. 198, 2006, § 1, 12-19-06; Ord. No. 085, 2008, § 1, 8-19-08; Ord. No. 136, 2009, 1-5-10; Ord. No. 066, 2010, 6-15-10)

Editor's note—Section 1 of Ord. No. 104, 1990 changed the word "violations" to "infractions" in the catchline of this Section.

Charter reference—Penalties for violation of Charter, Art. IV, § 10.

Cross-references—Remedies and penalties under the alcoholic beverage chapter, §§ 3-3, 3-85; penalty for violation of the animal regulations, § 4-196; additional penalties or requirements for vicious animals, § 4-197; violations and penalties under the Building Code, § 5-29; violations and penalties under the Uniform Code for the Abatement of Dangerous Buildings, § 5-47; violations and penalties under the Mechanical Code, § 5-109; violations and penalties under the Plumbing Code, § 5-127; violations of the cable communications system franchise regulations, § 6-16; violation penalties under the Fire Code, § 9-4; violations and penalties regarding the flood prevention and protection regulations, § 10-23; violations and penalties under the hazardous materials transportation regulations, § 11-11; violations and penalties under the garbage and refuse regulations, § 12-25; violations and penalties under the landmark preservation regulations, § 14-57; violations and penalties regarding alarm systems, § 15-42; violations and penalties regarding special sales, § 15-137; violations and penalties regarding licensing for contractors, § 15-159; violations and penalties regarding secondhand dealer licensing and regulations, § 15-327; violations and penalties regarding regulations for temporary vendors, § 15-392; miscellaneous offenses, Ch. 17; Municipal Court, Ch. 19; rules for traffic infractions, §§ 19-43—19-60; violations and penalties under the noise regulations, § 20-29; penalty for violation of the prohibition for dirt, debris and construction waste on public streets and areas, § 20-66; violation of special event permit, § 23.5-15; vehicles and traffic, Ch. 28; Fort Collins Traffic Code.

Sec. 1-16. Authority to enter premises.

Law enforcement officers certified with the State, members of the Poudre Fire Authority, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the City, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the City without invitation from the occupant or occupants of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant or occupants of such premises are incapable of consenting to the entry because of such medical emergency.

(Code 1972, § 49-1)

Charter reference—Right of entry, Art. XII, § 2.

Cross-references—Right of entry to be granted to animal control officers and police officers under the animal control regulations, § 4-178; right of entry of Director of Building and Zoning, § 5-142.

Sec. 1-17. Announcement of purpose and authority to enter premises.

Unauthorized entry pursuant to § 1-16 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupants to respond before making entry.

(Code 1972, § 49-2)

Sec. 1-18. Altering or tampering with Code or ordinances; penalties for violation.

Any person who shall alter, change or amend the Code or any ordinance adopted by the City Council except in the manner prescribed by this Code or alter or tamper with the Code or any ordinances adopted by the City Council in any manner so as to cause the ordinances of the City to be misrepresented thereby, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by § 1-15.

(Code 1972, § 1-19)

Sec. 1-19. Accountability; behavior of another; complicity.

(a) A person is guilty of an offense or liable for an infraction described in this Code committed by the behavior of another individual if:

- (1) Such person is made accountable for the conduct of that other individual by the Section in this Chapter which defines the violation or by any other specific provision of this Code or other ordinance of the City; or
- (2) Such person acts with the culpable mental state sufficient for the commission of the offense or infraction in question and causes an innocent individual to engage in such behavior. For the purpose of this Subsection, *innocent individual* shall mean any individual not guilty of an offense or liable for an infraction, despite his or her behavior, because of duress, legal incapacity or exemption, or because such individual was unaware of the

unlawful nature of the conduct in question or of the defendant's unlawful purpose, or because of any other factor, precluding the mental state required for the commission of the offense or infraction in question.

(b) A person is legally accountable as a principal for the behavior of another constituting an offense or infraction described in this Code if, with intent to promote or facilitate the commission of the offense or infraction, such person aids, abets, advises or encourages the other individual in planning or committing the offense or infraction.

(c) It shall be an affirmative defense under Subsection (b) of this Section if, prior to the commission of the offense or infraction, the defendant terminated his or her efforts to promote or facilitate its commission and either gave timely warning to law enforcement authorities or gave timely warning to the intended victim.

(d) In any prosecution for an offense or infraction in which criminal culpability or civil liability is based upon the behavior of another, it is no defense that the other person has not been prosecuted for or convicted of any offense or infraction based upon the behavior in question or has been convicted of a different offense or infraction, or the defendant belongs to a class of persons who by definition of the offense or infraction is legally incapable of committing the offense or infraction in an individual capacity.

(Ord. No. 113, 2003, § 1, 9-2-03; Ord. No. 198, 2006, § 2, 12-19-06)

Sec. 1-20. Liability of business entity.

(a) A business entity is guilty of an offense or liable for an infraction described in this Code if:

- (1) The conduct constituting the offense or infraction consists of a failure to discharge a specific duty of affirmative performance imposed on such entity by law; or
- (2) The conduct constituting the offense or infraction is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a managerial agent acting within the scope of his or her employment or on behalf of such entity.

(b) As used in this Section, *agent* means any partner, director, officer or employee of a business entity, or any other person who is authorized to act on behalf of the entity. *Managerial agent* means an agent who is in a position to formulate policy for the entity or who supervises any employees or contractors of the entity.

(c) *Business entity* or *entity* means any corporation, association, firm, joint venture, estate, trust, business trust, syndicate, partnership, body politic and corporate or any other group or combination of persons or entities.

(Ord. No. 113, 2003, § 1, 9-2-03; Ord. No. 198, 2006, § 3, 12-19-06; Ord. No. 056, 2007, § 1, 5-1-07)

Sec. 1-21. Liability of an individual for corporate conduct.

A person is guilty of conduct constituting an offense or liable for conduct constituting an infraction described in this Code if he or she engages in such conduct or causes such conduct to occur in the name of or in behalf of a business entity to the same extent as if that conduct were performed or caused by him or her in his or her own name or on his or her own behalf.

(Ord. No. 113, 2003, § 1, 9-2-03; Ord. No. 198, 2006, § 4, 12-19-06; Ord. No. 056, 2007, § 3, 5-1-07)

Sec. 1-22. Execution of intergovernmental agreements.

(a) Except as provided in Subsections (b) and (c) below, all intergovernmental agreements or cooperative activities between the City and other governmental entities shall be submitted to the City Council for review, and any approval thereof shall be by ordinance or resolution of the City Council.

(b) The City Manager or his or her designee is hereby authorized to execute agreements between the City and other governmental entities when the proposed agreement:

- (1) Involves the direct, monetary payment of less than five thousand dollars (\$5,000.) consideration by the City and, in the judgment of the City Manager, does not entail any significant policy considerations; or

(2) Is in furtherance of a policy, work plan item, project or agreement which has been specifically approved by the City Council, and:

a. The execution of the agreement is required by state or federal law; or

b. Any direct, monetary payment to be made by the City under the terms of the agreement does not exceed fifty thousand dollars (\$50,000.).

(c) The City Manager shall forthwith notify the City Council of the execution of any agreement under the authority granted in Subsection (b) above which entails a City expenditure of more than twenty-five thousand dollars (\$25,000.).

(Ord. No. 40, 2001, 3-20-01; Ord. No. 113, 2003, § 1, 9-2-03)