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CHAPTER 11

HAZARDOUS MATERIALS TRANSPORTATION

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Sec. 11-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

Radioactive material means any material defined as a radioactive material in Title 49 Code of Federal Regulations (C.F.R.) Part 173.403 but does not include nuclear materials as defined in Title 40, Article 2.2, C.R.S.

Transporter includes the driver of a motor vehicle and his or her employer.
(Code 1972, § 58-2)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 11-2. Legislative intent.

In order to serve the public health, safety and general welfare, it is the declared purpose of this Chapter to prohibit, to the extent permitted by law, the transportation of hazardous and radioactive materials by motor vehicle within the City, a heavily populated area, except for the purpose of making pickups and/or deliveries within the City.
(Code 1972, § 58-1)

Sec. 11-3. Adoption of federal rules and regulations.

The following portions of the Code of Federal Regulations are hereby adopted and shall be in full force and effect within the City. Such regulations or any part thereof shall automatically be amended, modified or repealed without further action by the City Council whenever the corresponding federal provisions are amended, modified or repealed:

- (1) Code of Federal Regulations, Title 49, Parts 101—173, 177 and 178 of the Department of Transportation Regulations, as from time to time amended, relating to packaging, marking, labeling, loading, placarding and transportation of hazardous materials, as such materials are defined therein.
- (2) Code of Federal Regulations, Title 49, Parts 390—397 of the Federal Motor Carrier Safety Regulations, as from time to time amended, relating to the safe operation and maintenance of motor vehicles by motor carriers.
- (3) Code of Federal Regulations, Title 10, Part 71 of the Nuclear Regulatory Commission Regulations, as from time to time amended, relating to the packaging and transportation of radioactive materials.

(Code 1972, § 58-3)

Sec. 11-4. Restrictions on transportation of hazardous and radioactive materials by motor vehicles.

(a) Hazardous materials required to be placarded under 49 C.F.R. Part 172, as amended, may not be transported by motor vehicle within the City by any person except for the purpose of making pickups and/or deliveries within the City; provided, however, that if the Chief of Police designates a route within the City for the transportation of such materials, such route may be used.

(b) Radioactive materials subject to regulation under 10 C.F.R. § 71.5, as amended, may not be transported by motor vehicle within the City by any person except for the purpose of making pickups and/or deliveries within the City unless such routing is consistent with the requirements set forth in 49 C.F.R. § 177.825; provided, however, that if the Chief of Police designates a route within the City for the transportation of such materials, such route may be used.

(c) If no practicable alternative route exists, a transporter subject to the provisions of (a) or (b) above, may apply for an exemption pursuant to § 11-5.

(d) Motor vehicles carrying such hazardous and radioactive materials which are making local pickups and/or deliveries must be operated over the safest and most direct route to and from the origination or destination point. Such

routes shall not pass through residential areas unless there is no practicable alternative. In all instances, such vehicles shall comply with local truck routing and weight limitation restrictions and prohibitions.

(e) Signs shall be posted on all major streets leading into the City at or near the City limits giving notice of the restrictions on the transportation of hazardous and radioactive materials by motor vehicle within the City imposed by (a) and (b) above.

(Code 1972, § 58-4)

Sec. 11-5. Exemptions.

(a) The provisions of this Chapter shall not apply to farm machinery which is exempted from registration requirements pursuant to C.R.S. 42-3-102, or agricultural distribution equipment attached to or conveyed by such farm machinery, except for those provisions relating to the placarding of loads, spills and operation of motor vehicles as set out in § 11-6 and except when such vehicles are used in furtherance of any commercial business other than agriculture.

(b) The provisions of this Chapter shall not apply to any vehicle transporting gasoline or diesel fuel in tank(s) with a capacity of one hundred ten (110) U.S. gallons or less, except for those provisions relating to the placarding of loads, spills and operation of motor vehicles as set out in § 11-6. However, the provisions of this Chapter shall apply to any such vehicle if it is also transporting hazardous and radioactive materials in amounts which require placarding.

(c) Application may be made to the Chief of Police for an exemption from the provisions of Subsection 11-4(a) or (b) where no practicable alternative exists to the transporter's preferred route through the City. Application for an exemption shall be made on forms provided by the City. The burden of proving that no practicable alternative exists shall be on the applicant. Operating convenience is not a basis for determining that there is no practicable alternative. Exemptions may be requested on a single trip or annual basis. Applications for exemptions shall be acted on by the Chief of Police within thirty (30) days of receipt of the same. The decision of the Chief of Police shall be final. Written notice of approval or denial of the application shall be given to the applicant. If the application is approved, an exemption document shall be issued, stating the name of the applicant, the expiration date of the exemption, the authorized route, a general description of the categories of materials likely to be transported and any other relevant information. A copy of the exemption must be carried by the transporter while passing through the City pursuant to such exemption. Notwithstanding the fact that an exemption has been granted, transporters shall comply with the remaining provisions of this Chapter, including Subsection 11-4(d). In the event of any violation of this Chapter by such transporters, the granting of an exemption may be suspended or revoked by the Chief of Police by giving written notice of the terms thereof to the applicant.

(d) The Chief of Police may temporarily exempt all motor vehicles from the provisions of Subsection 11-4(a) or (b) when, in the opinion of the Chief of Police, no practicable alternative exists to a route through the City due to road, weather, traffic or other hazardous conditions on routes which would otherwise be practicable alternatives. Such an exemption shall be granted for a specific period of time and notice thereof shall be given to the public in the manner specified in § 11-8.

(Code 1972, § 58-5)

Sec. 11-6. Operation of motor vehicles carrying hazardous and radioactive materials.

The following requirements shall apply to motor vehicle transportation within the City of hazardous materials required to be placarded under 49 C.F.R. Part 172, as amended, and radioactive materials subject to regulation under 10 C.F.R. § 71.5, as amended:

- (1) Traffic and parking violations by transporters of hazardous and radioactive materials shall be treated as violations of the rules and regulations of this Chapter and shall be subject to the fine schedule for hazardous and radioactive material transportation violations adopted by the Municipal Court.
- (2) Transporters of hazardous and radioactive materials shall operate their motor vehicles at all times with their headlights illuminated.

- (3) Transporters of hazardous and radioactive materials shall not create a hazard to the public by the location or condition of their motor vehicles which contain such materials.

(Code 1972, § 58-6)

Cross-reference—Municipal Court, Ch. 19.

Sec. 11-7. Reporting requirements.

Incidents involving hazardous and radioactive materials are required to be reported immediately to the Poudre Fire Authority by the transporter by telephone using the 911 number or by any other effective means. The Fire Chief shall file a standing request with the Office of Hazardous Materials Transportation of the Research and Special Programs Administration, United States Department of Transportation, for routine mailing to the Poudre Fire Authority of a copy of the written report required by 49 C.F.R. § 171.16.

(Code 1972, § 58-7)

Sec. 11-8. Suspension of motor vehicle operations.

The Chief of Police may temporarily suspend the operation within the City of some or all motor vehicles carrying hazardous and radioactive materials whenever road, weather, traffic or other hazardous circumstances warrant that action. In such event, the City shall immediately endeavor to notify the public of the same by one (1) or more of the following means of communication: newspaper, television, radio or notification to appropriate law enforcement agencies. Written confirmation of such action will be provided by the City upon request.

(Code 1972, § 58-8)

Sec. 11-9. Discharging hazardous and radioactive materials.

Transporters of hazardous and radioactive materials shall not permit or cause to be permitted the discharge of such materials into or upon any street, highway, sanitary sewer, drainage canal or ditch, storm drain or flood control channel or upon the ground, including private property, except when such discharge is expressly permitted by the property owner and is otherwise legal.

(Code 1972, § 58-9)

Sec. 11-10. Authority to inspect and direct disposition of certain motor vehicles.

The law enforcement officers of Police Services are hereby authorized to inspect any motor vehicle and the shipping records carried thereon when such vehicle is transporting hazardous or radioactive materials on the streets or highways within the City and to immobilize, impound or otherwise direct the disposition of such motor vehicle when the officer deems that the motor vehicle or the operation thereof is unsafe and when such immobilization, impoundment or disposition is appropriate under or required by the provisions of this Chapter.

(Code 1972, § 58-10; Ord. No. 130, 2002, § 7, 9-17-02)

Sec. 11-11. Violations and penalty.

Any person who shall violate any of the provisions of this Chapter or the rules and regulations adopted herein, as amended, or who shall fail to comply with any of the provisions or who shall violate or fail to comply with any orders made thereunder shall, severally and for each and every violation, be guilty of a misdemeanor punishable by a fine or by imprisonment or both in the amounts stated in § 1-15. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, and all persons shall be required to correct or remedy the violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(Code 1972, § 58-11)

Cross-reference—General penalty, § 1-15.